

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

County of Santa Clara County

San Jose, CA 95110

Attention: \_\_\_\_\_

EXEMPT FROM RECORDING FEES PER  
GOVERNMENT CODE §§6103, 27383

Space above this line for Recorder's use.

APN: \_\_\_\_\_

**AFFORDABLE HOUSING REGULATORY AGREEMENT**

**AND**

**DECLARATION OF RESTRICTIVE COVENANTS  
(Redeveloped Park)**

by and among

**POCO WAY HDC, INC.,**

**THE CITY OF PALO ALTO,**

and

**THE COUNTY OF SANTA CLARA**

This Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants (Redeveloped Park) (this “**Agreement**”) is entered into effective as of \_\_\_\_\_, 2024 (“**Effective Date**”) by and among Poco Way HDC, Inc., a California nonprofit public benefit corporation (“**Owner**”), the City of Palo Alto, a chartered city and municipal corporation (“**City**”), and the County of Santa Clara, a political subdivision of the State of California (“**County**”). The City, the County, and the Owner are collectively referred to herein as the “**Parties**.”

## **RECITALS**

A. Owner is the owner of the real property located at El Camino Real and Los Robles Road in the City of Palo Alto, Santa Clara County, California, commonly known as the Buena Vista Mobile Home Park, known as Assessor’s Parcel Nos. 137-12-001, 137-11-102 (ptn), 137-11-071 (ptn) (the “**Park**”). The property comprising the Park has been subdivided to create two parcels. The subject of this Agreement is the parcel described in Exhibit A attached hereto and incorporated herein by reference (the “**Property**”). The adjacent second parcel is referred to herein as the “**Apartment Parcel**.” Owner intends to upgrade the Property and continue its use as an affordable mobilehome park consisting of forty-four (44) Mobilehome Spaces and related improvements (the “**Redeveloped Park**”). Owner intends to cause an affordable apartment development to be constructed on the Apartment Parcel (the “**Apartment Project**”).

B. The City, the County, and Santa Clara County Housing Authority, a public body corporate and politic (“**Authority**”) each contributed certain funds to finance the acquisition and improvement of the Property and the adjacent property (the “**Financing**”). In consideration for the Financing, the Parties have agreed that the Property will be owned, operated and maintained subject to a recorded restriction that requires Owner and its successors in interest to use the Property as an affordable housing resource, to enhance the habitability of the Property, and to avoid displacement of the persons who currently reside in the Park.

C. The purpose of this Agreement is to satisfy the foregoing requirements, the requirements of Notice PIH-2011-45 (HA) published by the U.S. Department of Housing and Urban Development (“**HUD**”) that apply to housing authorities participating in the Moving to Work demonstration program, and those additional conditions required by the City and County in connection with the Financing.

D. This Agreement replaces and supersedes in its entirety that certain Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants dated as of September 29, 2017, executed by and among the City, the County, and the Authority, and recorded in the Official Records of Santa Clara County on September 29, 2017 (the “**Original Acquisition Date**”) as Instrument No. 23766007.

E. The Parties intend the covenants set forth in this Agreement to run with the land and to be binding upon Owner and Owner’s successors and assigns for the full term of this Agreement.

**NOW THEREFORE**, in consideration of the foregoing, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties incorporate the above Recitals into the Agreement and hereby agree as follows.

1. Definitions. The following terms have the meanings set forth in this Section wherever used in this Agreement.

**"Actual Household Size"** means the actual number of persons in the applicable household.

**"Adjusted for Family Size Appropriate for the Unit"** shall be determined consistent with the Santa Clara County Housing Authority's Housing Quality Standards (HQS) and 24 CFR 982.401 (i.e., assumed household size of two (2) persons per bedroom).

**"Affordable Rent"** means the following amounts, less the following (i) a utility allowance, (ii) Mortgage Payments and property taxes, assessments, and insurance premiums payable by the Resident Household for the Mobilehome, and (iii) other fees and charges required to be paid by Resident Households on a non-optional basis in connection with the rental or lease of a Mobilehome or Mobilehome Space:

(i) for Mobilehomes/Mobilehome Spaces occupied or reserved for occupancy by households with incomes of not more than thirty (30%) of AMI ("**30% Units**"), a monthly rent that does not exceed one-twelfth of thirty percent (30%) of thirty percent (30%) of Area Median Income, Adjusted for Family Size Appropriate for the Unit,

(ii) for Mobilehomes/Mobilehome Spaces occupied or reserved for occupancy by households with incomes of greater than 30% AMI, but not more than fifty percent (50%) of AMI ("**50% Units**"), a monthly rent that does not exceed one-twelfth of thirty percent (30%) of fifty percent (50%) of Area Median Income, Adjusted for Family Size Appropriate for the Unit,

(iii) for Mobilehomes/Mobilehome Spaces occupied or reserved for occupancy by households with incomes of greater than 50% AMI, but not more than eighty percent (80%) of AMI ("**80% Units**"), a monthly rent that does not exceed one-twelfth of thirty percent (30%) of eighty percent (80%) of Area Median Income, Adjusted for Family Size Appropriate for the Unit; and

(iv) for Mobilehomes/Mobilehome Spaces occupied or reserved for occupancy by households with incomes of greater than 80% AMI, but not more than one hundred twenty percent (120%) of AMI ("**120% Units**"), a monthly rent that does not exceed one-twelfth of thirty percent (30%) of one hundred twenty percent (120%) of Area Median Income, Adjusted for Family Size Appropriate for the Unit.

**"Applicable Law"** means all local, State, and federal laws, rules and regulations that apply to the Property or the Redeveloped Park, including without limitation all laws,

rules and regulations that apply pursuant to financing provided for development or operation of the Property or the Redeveloped Park.

**"Area Median Income" or "AMI"** means the median income for Santa Clara County, California, adjusted for Actual Household Size, as determined by the U.S. Department of Housing and Urban Development ("**HUD**") pursuant to Section 8 of the United States Housing Act of 1937 and as published from time to time by the State of California Department of Housing and Community Development ("**HCD**") in Section 6932 of Title 25 of the California Code of Regulations or successor provision published pursuant to California Health and Safety Code Section 50093(c).

**"Authority"** means the Santa Clara County Housing Authority, a public body corporate and politic.

**"Eligible Household"** means a household whose Gross Household Income at initial occupancy does not exceed eighty percent (80%) of Area Median Income.

**"Existing Residents"** means households that were lawfully residing in the Park as of the Effective Date.

**"Fiscal Year"** means the reporting period commencing on January 1 and ending on December 31 of any year.

**"Government Code"** means the Government Code of the State of California.

**"Gross Household Income"** means the total anticipated annual income of all persons in a household, as calculated in accordance with Section 6914 of Title 25 of the California Code of Regulations as such Section may be revised from time to time, or pursuant to a successor State or federal housing regulation that utilizes a reasonably similar method of calculation of household income.

**"Income Certification"** is defined in Section 2.

**"Mobilehome"** means a mobilehome, manufactured home, park model RV, or other dwelling unit located on the Property.

**"Mobilehome Space"** means a space located on the Property upon which a Mobilehome is placed.

**"Mortgage Payment"** means the monthly principal, interest, and mortgage insurance premiums (if any) payable by a Resident Household for a mortgage on a Mobilehome occupied by the Resident Household. To qualify as a Mortgage Payment for the purpose of establishing Affordable Rent, any new or additional mortgage, including any refinancing of an existing mortgage must be approved by Owner or Owner's agent.

**"MPA"** means the Mobilehome Park Act, California Health and Safety Code sections 18200 *et seq.* and related regulations, as amended or its successor.

“**MRL**” means the Mobilehome Residency Law, California Civil Code sections 798 *et seq*, and related regulations, as amended or its successor.

“**Rent**” means the total of monthly payments payable by a Resident Household for the use and occupancy of a Mobilehome and/or a Mobilehome Space.

“**Resident Household**” means a household that resides in a Restricted Unit.

“**Restricted Units**” means the forty-four (44) Mobilehomes and Mobilehome Spaces in the Redeveloped Park that are subject to rent and income eligibility restrictions pursuant to this Agreement.

“**Term**” is defined in Section 2.1.

2. Use and Affordability Restrictions. Owner hereby covenants and agrees, for itself and its successors and assigns, that throughout the Term, the Property shall be used solely for the operation of affordable housing in compliance with the requirements set forth in this Agreement.

2.1 Affordability Requirements. Subject to Section 2.11, for a term of seventy-five (75) years commencing upon the Effective Date (the “**Term**”), subject to Sections 2.4 and 2.8, all Restricted Units shall be restricted for occupancy at Affordable Rents by Eligible Households. When Mobilehomes/Mobilehome Spaces become vacant, they shall be rented to Eligible Households to satisfy the following distribution among affordability levels: (a) no less than eighteen (18) Mobilehomes/Mobilehome Spaces (i.e., 40% of the Restricted Units) shall be occupied, or if vacant made available for occupancy, by households whose Gross Household Income at initial occupancy is not more than thirty percent (30%) of AMI adjusted for Actual Household Size, (b) no less than eighteen (18) additional Mobilehomes/Mobilehome Spaces (i.e., 40% of the Restricted Units) shall be occupied, or if vacant made available for occupancy, by households whose Gross Household Income at initial occupancy is not more than fifty percent (50%) of AMI adjusted for Actual Household Size, and (c) the remainder of the Restricted Units shall be occupied, or if vacant made available for occupancy, by households whose Gross Household Income at initial occupancy is not more than eighty percent (80%) of AMI adjusted for Actual Household Size. The Parties agree to meet and confer regarding potential modifications to the requirements set forth in this Section 2.1 if Owner demonstrates that such modification is necessary to maintain the financial feasibility of the Redeveloped Park. City and County agree to consider such requests in good faith, and will not unreasonably deny consent if Owner demonstrates that the modification is necessary for financial feasibility.

2.2 Increases in Household Incomes; Filling of Vacancies. If, upon annual recertification of Gross Household Incomes, Owner determines that the requirements in Section 2.1 are not satisfied, Owner shall offer the next available vacant Mobilehome/Mobilehome Space(s) to households of the appropriate income categories until the requirements of Section 2.1 are satisfied.

2.3 Other Restrictions. Notwithstanding anything to the contrary contained in this Agreement, if lenders, investors, or regulatory agencies require stricter household income eligibility or affordability requirements than those imposed by this Agreement, the requirements of such other lenders, investors or regulatory agencies, including without limitation, the requirements associated with tax-exempt financing, if applicable, shall prevail.

2.4 Existing Residents. Notwithstanding anything to the contrary contained in this Agreement, Existing Residents who do not qualify as an Eligible Household because their Gross Household Income is more than eighty percent (80%) but less than or equal to one hundred twenty percent (120%) of Area Median Income shall be permitted to rent or lease a Mobilehome or Mobilehome Space at an Affordable Rent until: (a) the household voluntarily vacates the Mobilehome/Mobilehome Space, or (b) the tenancy is terminated consistent with the requirements of the MRL, the lease agreement and Applicable Law. Furthermore, Existing Residents who do not qualify as an Eligible Household because their Gross Household Income is more than one hundred twenty percent (120%) of Area Median Income shall be permitted to continue to rent or lease a Mobilehome or Mobilehome Space or until: (a) the household voluntarily vacates the Mobilehome/Mobilehome Space, or (b) the tenancy is terminated consistent with the requirements of the MRL, the lease agreement and Applicable Law; provided however, upon written notice in accordance with Section 2.9 of this Agreement, Owner may adjust the rent charged to such household to up to fair market rent; provided however, in no event shall any annual rent increase exceed ten percent (10%) over the rent charged to such household in the immediately preceding twelve (12) month period.

2.5 Income and Occupancy Certification. Owner or Owner's authorized agent shall obtain from each Resident Household prior to initial occupancy of a Restricted Unit, and annually thereafter, a completed income and occupancy certification ("**Income Certification**") setting forth the identity of each household member and the total Household Gross Income.

2.6 Annual Income and Occupancy Certification Requirement. Owner shall include in lease and rental agreements pertaining to the Restricted Units a requirement that each Resident Household shall be required to annually provide an Income Certification to Owner, and that failure and/or refusal to provide such Income Certification will be considered a breach of the lease or rental agreement, and may result in the loss of the right to occupy a Mobilehome/Mobilehome Space in the Redeveloped Park.

2.7 Verification of Income and Occupancy Certification. For the initial and the annual Income Certifications, Owner shall verify each Resident Household's income by requesting and reviewing such verification and documentation as Owner may reasonably require, which may include: (i) pay stubs for the most recent four (4) consecutive pay periods; (ii) if self-employed, Tax Form 1040, including Schedule C and other attachments from the prior year, (iii) an income verification form from the Social Security Administration and/or the California Department of Social Services if Resident

Household members receives assistance from either of such agencies; (iv) history of the last 12 months of child support payments, if any, (v) if anyone in the Resident Household is unemployed, a form of independent verification; and (vi) the most recent of any and all bank account statements and/or any other financial account statements.

2.8 Increased Income of Household After Recertification.

(a) If the Gross Household Income of a Resident Household is determined to have increased to be more than eighty percent (80%) but less than or equal to one hundred twenty percent (120%) of Area Median Income adjusted for Actual Household Size, such household shall be permitted to continue to rent or lease a Mobilehome or Mobilehome Space on the Property at Affordable Rent until: (a) the household voluntarily vacates the Mobilehome or Mobilehome Space, or (b) the tenancy is terminated consistent with the requirements of the MRL, the lease agreement and Applicable Law.

(b) If the Gross Household Income of a Resident Household is determined to have increased to be more than one hundred and twenty percent (120%) of Area Median Income adjusted for Actual Household Size, such household shall be permitted to continue to rent or lease a Mobilehome or Mobilehome Space on the Property until: (a) the household voluntarily vacates the Mobilehome or Mobilehome Space, or (b) the tenancy is terminated consistent with the requirements of the lease agreement, the MRL, and Applicable Law; provided however, upon written notice in accordance with Section 2.9 of this Agreement, Owner may adjust the rent charged to such household to up to fair market rent.

2.9 Notice of Rent Increase or Decrease. Each Resident Household shall be provided with notice of Rent increases or decreases consistent with the requirements set forth in the lease agreement and Applicable Law.

2.10 Intentionally omitted.

2.11 Vacancies. The Parties acknowledge and agree that notwithstanding any contrary provision of this Agreement, when a Mobilehome/Mobilehome Space is vacated, Owner shall have discretion to rent or sell the vacated Mobilehome to an Eligible Household.

3. Occupancy Requirements. Owner shall include in lease and rental agreements pertaining to the Restricted Units a requirement that each Resident Household shall be required to occupy their Mobilehome as their principal place of residence, and shall not be permitted to rent out their Mobilehome or sublease their Mobilehome or Mobilehome Space except as permitted under the MRL, the lease agreement and Applicable Law.

4. Construction of Improvements. Owner shall obtain all necessary permits and approvals for development of the Property and the Redeveloped Park, as required by Applicable Law, local zoning, and other applicable regulations.

## 5. Relocation.

Persons residing on the Property as of the Effective Date shall not be displaced before suitable replacement housing is available. Owner or Owner's agent shall be solely responsible for ensuring that all such persons receive all notices, benefits and assistance to which they are entitled in accordance with California Relocation Assistance Law (Government Code Section 7260 *et seq.*); Government Code sections 65863.7 and 65863.8; MPA section 798.56, the State and local regulations implementing such laws, and all other applicable local, State and federal laws, regulations and policies, including but not limited to the Uniform Relocation Act (42 U.S.C. §4601 *et seq.*) and implementing regulations (collectively "**Relocation Laws**") relating to the displacement and relocation of eligible persons as defined in such Relocation Laws. All costs incurred in connection with the temporary and/or permanent displacement and/or relocation of occupants of the Property, including without limitation payments to a relocation consultant, moving expenses, and payments for temporary and permanent relocation benefits pursuant to Relocation Laws shall be paid by Owner. County and City shall have no responsibility for payment therefor.

## 6. Owner's Reporting Obligations to the City and County.

6.1 Annual Report. Within sixty (60) days following the close of each Fiscal Year, Owner shall submit to the City and the County a report ("**Annual Report**") that includes the following information for each Restricted Unit: (a) the unit number, (b) the number of bedrooms in the Mobilehome Home, (c) the affordability category for the Mobilehome/Mobilehome Space, (d) the number of persons occupying the Mobilehome, (e) the Gross Household Income of the Resident Household, (f) the lease commencement date, (g) the current rent, utility, and other charges payable for the Mobilehome/Mobilehome Space, and (h) the projected rent increase (if any) for the Mobilehome/Mobilehome Space. To satisfy the requirement to provide an Annual Report, Owner may provide copies of forms submitted to the California Debt Limit Allocation Committee, the State Department of Housing and Community Development, or other California governmental agencies. In addition to the above, the Annual Report shall state the date the occupancy commenced, the initial rental rate, if a Mobilehome was purchased, then the purchase price paid by the resident (if such information is available) and such other information as the City or the County may be required by law to obtain.

6.2 Financial Audit. The Owner is responsible for obtaining a financial audit annually and shall provide the same to the City and County within one-hundred twenty (120) after the end of the Fiscal Year.

6.3 Additional Information. The Owner shall provide any additional information reasonably requested by the City or County. The City or County shall have right to examine and make copies of all books, records or other documents of the Owner pertaining to the Property.

#### 6.4 Retention and Inspection of Documents.

(a) Owner shall maintain complete, accurate and current records pertaining to the Restricted Units, the Redeveloped Park, and the Property, including copies of Income Certifications and Rent calculations for all Resident Households, and financial, management and maintenance records for the Redeveloped Park and the Property. Records shall be maintained for at least five (5) years from the date of their creation.

(b) Owner shall permit duly authorized representatives of the City and County to inspect Property records, including, without limitation, records pertaining to household income and household size of Resident Households; provided however, confidential and sensitive information relating to any Resident Household (such as account numbers, social security numbers, driver's license numbers) may be redacted or marked out to protect the confidentiality of such information.

(c) The City or County or any duly authorized representative thereof shall have the right to review and request copies of documents. In either the City or County's discretion, it shall have the right to audit such records, to determine the Owner's compliance with the requirements of this Agreement.

#### 7. Operation of the Property.

7.1 Residential Use. The Property shall be operated only for residential use; however, this restriction shall not prohibit the operation of community, recreational, educational, or similar facilities that are open to the public, provided that these uses are consistent with applicable zoning.

#### 7.2 Non-Discrimination; Compliance with Fair Housing Laws.

7.2.1 Fair Housing. Owner and Owner's agent shall comply with state and federal fair housing laws in the marketing and rental of the Mobilehomes and Mobilehome Spaces located on the Property. Owner shall 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 Section 8 program or any successor thereto.

7.2.2 Non-Discrimination. Neither Owner nor Owner's agent shall restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, or any portion thereof, on the basis of race, color, religion, creed, sex, sexual orientation, disability, marital status, ancestry, or national origin of any person. Owner covenants for itself and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the condition 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) or (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 or part thereof, nor shall Owner or any person claiming under or through Owner 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 in, of, or for the Property or part thereof. Owner shall include such provision in all deeds, leases, contracts and other instruments executed by Owner, and shall enforce the same diligently and in good faith.

7.3 Preference for Palo Alto Residents and Employees. In order to ensure that there is an adequate supply of affordable housing within the City of Palo Alto for residents and employees of businesses within the City, to the extent permitted by law and consistent with the program regulations for funding sources used for development of the Project, Owner shall give a preference in the rental of the residential units in the [Apartment Project] [Redeveloped Park] to Eligible Households that include at least one member who lives or works in the City of Palo Alto. Notwithstanding the foregoing, in the event of a conflict between this provision and rules and regulations applicable to the [Apartment Project] [Redeveloped Park], the provisions of such rules and regulations shall control, including, if applicable, any prohibition of preferences for units receiving Section 8 assistance. Owner shall comply with City's affirmative marketing policies or other rental policies and procedures as they may be amended from time to time to ensure that City residents and people who work in the City of Palo Alto are provided reasonable notice and opportunity to rent units in the Project.

## 8. Property Management and Maintenance

8.1 Management Responsibilities. The Owner and Owner's agent shall be responsible for all management functions with respect to the Property including, but not limited to, the selection of Resident Households, certification of household income and size, certification of the ages of all household members, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, security and management of household relocation, if required. The Owner shall retain a professional property management company to perform its management duties hereunder. City and County hereby approve John Stewart Company as the property manager, and subject to the rights of senior lenders and investors, City and County shall have the right to review and approve any subsequent property manager, which approval shall not be unreasonably withheld or delayed. A resident manager shall also be retained, if required by law or by Owner.

8.2 Performance Review. The City and County reserve the right to conduct jointly or separately an annual (or more frequently, if deemed reasonably necessary by the City or County) review of the management practices and financial status of the Property. The purpose of the performance review will be to enable the City and County to determine if the Property is being operated and managed in accordance with the requirements and standards of this Agreement. The Owner shall cooperate with the City and County in such reviews.

9. Indemnification

In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a Party shall not be shared pro rata but, instead, the Owner, County and City agree that, pursuant to Government Code Section 895.4, each of the Parties hereto shall fully indemnify and hold each of the other Parties, their officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with or arising out of any work, authority, or jurisdiction delegated to such party under this Agreement. No Party, nor any officer, board member or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Parties thereto, their officers, board members, employees, or agents, under or in connection with or arising out of any work authorized or delegated to such other Parties under this Agreement.

Notwithstanding the foregoing, the Owner, and its assigns, shall indemnify, defend, and hold harmless the County and City, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, the relocation of residents of the Property, the construction of improvements on the Property, and the operation or maintenance of the Redeveloped Park the Property, excepting only loss, injury or damage caused by the negligence or willful misconduct of the County or the City. The Owner, and its assigns, shall reimburse the County and City for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Owner is obligated to indemnify, defend and hold harmless the County and City under this Agreement.

Each Party agrees that all obligations under this Section 9 shall survive the termination or assignment of this Agreement and shall remain binding on all Parties notwithstanding the Agreement's termination or assignment.

10. Binding on Successors.

10.1 Effectiveness Succeeds Conveyance of Property. This Agreement shall remain effective and fully binding for the full Term regardless of any sale, assignment, transfer, or conveyance of the Property or any part thereof or interest therein. The Parties acknowledge that Owner may transfer the Property to (a) the Authority or to an entity affiliated with the Authority, (b) a limited partnership or limited liability company whose general partner or managing member is Owner or another nonprofit public benefit corporation or limited liability company that is controlled by or affiliated with Owner or the Authority, or (c) a nonprofit public benefit corporation controlled by or affiliated with Owner or the Authority.

10.2 Reconveyance. Upon the termination of this Agreement, the Parties agree to execute and record appropriate instruments to release and discharge this

Agreement; provided, however, the execution and recordation of such instruments shall not be necessary or a prerequisite to the termination of this Agreement upon the expiration of the term.

11. Binding Upon Successors; Covenants to Run with the Land. Owner hereby subjects its interest in the Property to the covenants and restrictions set forth in this Agreement. The Parties hereby declare their express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land and shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, transferees, and assigns of the Parties, regardless of any sale, assignment, conveyance or transfer of the Property or any part thereof or interest therein. Any successor-in-interest to Owner, including without limitation any purchaser, transferee or lessee of the Property shall be subject to all of the duties and obligations imposed hereby for the full term of this Agreement. Each and every contract, deed, ground lease or other instrument affecting or conveying the Property or any part thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, restrictions, duties and obligations set forth herein, regardless of whether such covenants, restrictions, duties and obligations are set forth in such contract, deed, ground lease or other instrument.

12. Recordation. This Agreement shall be recorded against the Property in the Official Records of Santa Clara County.

13. Mortgagee Protection. No violation of any provision contained herein shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon all or any portion of the Property, and the purchaser at any trustee's sale or foreclosure sale shall not be liable for any violation of any provision hereof occurring prior to the acquisition of title by such purchaser.

14. Default and Remedies. Owner's default in the performance of any term, provision or covenant under this Agreement and failure to cure such default within ninety (90) days following receipt of notice of default to Owner, or if the nature of any such non-monetary default is such that it cannot be cured within ninety (90) days, Owner's failure to commence to cure the default within ninety (90) days and thereafter prosecute the curing of such default with due diligence and in good faith shall constitute an Event of Default hereunder. Upon the occurrence of an Event of Default and its continuation beyond any applicable cure period, City or County may bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking declaratory relief, or pursue any other remedy allowed under law or in equity.

15. Reinvestment of Proceeds from Sale of Property. The Parties acknowledge and agree that a material consideration for the City and County to approve the financing described herein is for the proceeds of any subsequent sale of the Fee Property to be reinvested in the City to create affordable housing. In the event that the Fee Property is sold to a third party that is not an affiliate of the Authority and in

connection with such sale the Fee Property will not be required to be used for affordable housing, the Parties shall cause an amount equal to: a) the amount not repaid to the City and County for any loans made by the City and County that are secured by the Fee Property, and b) at least fifty-two percent (52%) of the total appreciation of the value of the Fee Property since the Effective Date, to be reinvested in the City to create additional affordable housing. In the event that the Fee Property is sold to a third party that is not an affiliate of the Authority and in connection with such sale the Fee Property will continue to be used for affordable housing, the Parties agree that a) fifty-two percent (52%) of the total appreciation of the value of the Fee Property since the Effective Date shall be applied as a reduction to the purchase price of the Fee Property and b) the Owner shall cause to repay to the City and County any loan amount outstanding or the loan shall be assigned to the next Owner of the Fee Property. For the purposes of this paragraph, an "affiliate of the Authority" shall mean any entity that, directly or indirectly, controls, is controlled by, or is under common control with Authority. For the purposes of this paragraph, "affordable housing" shall mean the Fee Property is subject to occupancy and affordability restrictions which are substantially similar, including in length and levels of affordability, to the restrictions imposed under this Agreement and to which the City and County are parties.

Each Party agrees that all obligations under this Section 15 shall survive the termination or assignment of this Agreement and shall remain binding on all Parties notwithstanding the Agreement's termination or assignment.

16. Miscellaneous.

16.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by all of the Parties.

16.2 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by: (i) personal delivery, in which case notice is effective upon delivery; (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt if delivery is confirmed by a return receipt; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service.

**City:** City of Palo Alto  
250 Hamilton Avenue

Palo Alto, CA 94301  
Attention: \_\_\_\_\_

With a copy to:

City of Palo Alto  
250 Hamilton Avenue  
Palo Alto, CA 94301  
Attention: City Attorney

**County:** County of Santa Clara  
70 W. Hedding Street, East Wing, 10<sup>th</sup> floor  
San Jose, CA 95110  
Attention: \_\_\_\_\_

With a copy to:

County of Santa Clara  
Office of Supportive Housing  
3180 Newberry Drive, Suite 150  
San Jose, CA 95118  
Attention: \_\_\_\_\_

**Owner:** Poco Way HDC, Inc.  
c/o Santa Clara County Housing Authority  
505 W. Julian Street  
San Jose, CA 95110  
Attention: Preston Prince, Executive Director

16.3 Further Assurances. The Parties shall execute, acknowledge and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement.

16.4 Parties Not Co-Venturers. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another. The relationship of the Parties shall not be construed as a joint venture, equity venture, partnership or any other relationship.

16.5 Headings; Construction. The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party.

16.6 Governing Law; Venue. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior

Court of Santa Clara County, California or in the Federal District Court for the Northern District of California.

16.7 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, understandings, representations or statements of the Parties with respect thereto.

16.8 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby.

16.9 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

**SIGNATURES ON FOLLOWING PAGES.**

IN WITNESS WHEREOF, the Parties have executed this Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants as of the date first written above.

**CITY:**

CITY OF PALO ALTO, a municipal corporation

By: \_\_\_\_\_

Print Name:\_\_\_\_\_

Title:\_\_\_\_\_

Attest:\_\_\_\_\_

City Clerk

Approved as to form:

\_\_\_\_\_

City Attorney

**COUNTY:**

COUNTY OF SANTA CLARA, a political subdivision of the State of California

By: \_\_\_\_\_

Print Name:\_\_\_\_\_

Title:\_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_

County Counsel

**OWNER:**

POCO WAY HDC INC., a California nonprofit public benefit corporation

By:\_\_\_\_\_

Preston Prince, President







Exhibit A

**PROPERTY**

The land is situated in the County of Santa Clara, City of Palo Alto, State of California, and is described as follows:

[insert legal description of Redeveloped Park parcel.]

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

County of Santa Clara

San Jose, CA 95110

Attention: \_\_\_\_\_

EXEMPT FROM RECORDING FEES PER  
GOVERNMENT CODE §§6103, 27383

Space above this line for Recorder's use.

APN: \_\_\_\_\_

**AFFORDABLE HOUSING REGULATORY AGREEMENT**

**AND**

**DECLARATION OF RESTRICTIVE COVENANTS  
(Apartments)**

by and among

**POCO WAY HDC, INC.,**

**THE CITY OF PALO ALTO,**

and

**THE COUNTY OF SANTA CLARA**

This Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants (Apartments) (this “**Agreement**”) is entered into effective as of \_\_\_\_\_, 2024 (“**Effective Date**”) by and among Poco Way HDC, Inc., a California nonprofit public benefit corporation (“**Owner**”), the City of Palo Alto, a chartered city and municipal corporation (“**City**”), and the County of Santa Clara, a political subdivision of the State of California (“**County**”). The City, the County, and the Owner are collectively referred to herein as the “**Parties**.”

## RECITALS

A. Owner is the owner of the real property located at El Camino Real and Los Robles Road in the City of Palo Alto, Santa Clara County, California, commonly known as the Buena Vista Mobile Home Park, known as Assessor’s Parcel Nos. 137-12-001, 137-11-102 (ptn), 137-11-071 (ptn) (the “**Park**”). The property comprising the Park has been subdivided to create two parcels. The subject of this Agreement is the parcel described in Exhibit A attached hereto and incorporated herein by reference (the “**Property**”). The adjacent second parcel is referred to herein as the “**Park Parcel**”. Owner intends to redevelop the Property and construct thereon a sixty-one (61) unit multifamily residential rental project consisting of sixty (60) affordable apartments and one unrestricted manager’s unit, with related improvements (the “**Apartment Project**”). Owner intends to upgrade the Park Parcel and continue its use as an affordable mobilehome park.

B. The City, the County, and Santa Clara County Housing Authority, a public body corporate and politic (“**Authority**”) each contributed certain funds to finance the acquisition and improvement of the Property and the adjacent property (the “**Financing**”). In consideration for the Financing, the Parties have agreed that Property will be owned, operated and maintained subject to a recorded restriction that requires Owner and its successors in interest to use the Property as an affordable housing resource, to enhance the habitability of the Property, and to avoid displacement of the persons who currently reside at the Property.

C. The purpose of this Agreement is to satisfy the foregoing requirements, the requirements of Notice PIH-2011-45 (HA) published by the U.S. Department of Housing and Urban Development (“**HUD**”) that apply to housing authorities participating in the Moving to Work demonstration program, and those additional conditions required by the City and County in connection with the Financing.

D. This Agreement replaces and supersedes in its entirety that certain Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants dated as of September 29, 2017, executed by and among the City, the County, and the Authority, and recorded in the Official Records of Santa Clara County on September 29, 2017 (the “**Original Acquisition Date**”) as Instrument No. 23766007.

E. The Parties intend the covenants set forth in this Agreement to run with the land and to be binding upon Owner and Owner’s successors and assigns for the full term of this Agreement.

**NOW THEREFORE**, in consideration of the foregoing, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties incorporate the above Recitals into the Agreement and hereby agree as follows.

1. Definitions. The following terms have the meanings set forth in this Section wherever used in this Agreement.

**"Actual Household Size"** means the actual number of persons in the applicable household.

**"Adjusted for Family Size Appropriate for the Unit"** shall be determined consistent with the Santa Clara County Housing Authority's Housing Quality Standards (HQS) and 24 CFR 982.401 (i.e., assumed household size of two (2) persons per bedroom).

**"Affordable Rent"** means the following amounts, less a utility allowance and other fees and charges required to be paid by tenants on a non-optional basis:

(i) for Dwelling Units occupied or reserved for occupancy by households with incomes of not more than thirty (30%) of AMI ("**30% Units**"), a monthly rent that does not exceed one-twelfth of thirty percent (30%) of thirty percent (30%) of Area Median Income, Adjusted for Family Size Appropriate for the Unit,

(ii) for Dwelling Units occupied or reserved for occupancy by households with incomes of greater than 30% AMI, but not more than fifty percent (50%) of AMI ("**50% Units**"), a monthly rent that does not exceed one-twelfth of thirty percent (30%) of fifty percent (50%) of Area Median Income, Adjusted for Family Size Appropriate for the Unit,

(iii) for Dwelling Units occupied or reserved for occupancy by households with incomes of greater than 50% AMI, but not more than eighty percent (80%) of AMI ("**80% Units**"), a monthly rent that does not exceed one-twelfth of thirty percent (30%) of eighty percent (80%) of Area Median Income, Adjusted for Family Size Appropriate for the Unit; and

(iv) for Dwelling Units occupied or reserved for occupancy by households with incomes of greater than 80% AMI, but not more than one hundred twenty percent (120%) of AMI ("**120% Units**"), a monthly rent that does not exceed one-twelfth of thirty percent (30%) of one hundred twenty percent (120%) of Area Median Income, Adjusted for Family Size Appropriate for the Unit.

**"Applicable Law"** means all local, State, and federal laws, rules and regulations that apply to the Property or the Apartment Project, including without limitation all laws, rules and regulations that apply pursuant to financing provided for development or operation of the Property or the Apartment Project.

**"Area Median Income" or "AMI"** means the median income for Santa Clara County, California, adjusted for Actual Household Size, as determined by the U.S.

Department of Housing and Urban Development (“**HUD**”) pursuant to Section 8 of the United States Housing Act of 1937 and as published from time to time by the State of California Department of Housing and Community Development (“**HCD**”) in Section 6932 of Title 25 of the California Code of Regulations or successor provision published pursuant to California Health and Safety Code Section 50093(c).

“**Authority**” means the Santa Clara County Housing Authority, a public body corporate and politic.

“**Dwelling Unit**” means each of the residential apartments developed on the Property.

“**Eligible Household**” means a household whose Gross Household Income at initial occupancy does not exceed eighty percent (80%) of Area Median Income.

“**Existing Residents**” means households that were lawfully residing in the Park as of the Effective Date.

“**Fiscal Year**” means the reporting period commencing on January 1 and ending on December 31 of any year.

“**Government Code**” means the Government Code of the State of California.

“**Gross Household Income**” means the total anticipated annual income of all persons in a household, as calculated in accordance with Section 6914 of Title 25 of the California Code of Regulations as such Section may be revised from time to time, or pursuant to a successor State or federal housing regulation that utilizes a reasonably similar method of calculation of household income.

“**Income Certification**” is defined in Section 2.

“**Rent**” means the total of monthly payments payable by a Resident Household for the use and occupancy of a Dwelling Unit.

“**Resident Household**” means a household that resides in a Restricted Unit.

“**Restricted Units**” means the sixty (60) Dwelling Units in the Apartment Project that are subject to rent and income eligibility restrictions pursuant to this Agreement.

“**Term**” is defined in Section 2.1.

2. Use and Affordability Restrictions. Owner hereby covenants and agrees, for itself and its successors and assigns, that throughout the Term, the Property shall be used solely for the operation of affordable housing in compliance with the requirements set forth in this Agreement.

2.1 Affordability Requirements. For a term of seventy-five (75) years commencing upon the Effective Date (the “**Term**”), subject to Sections 2.4 and 2.8, all

Restricted Units shall be restricted for occupancy at Affordable Rents by Eligible Households. When Dwelling Units becomes vacant, they shall be rented to Eligible Households to satisfy the following distribution among affordability levels: (a) no less than 24 Dwelling Units (40% of the Restricted Units) shall be occupied, or if vacant made available for occupancy, by households whose Gross Household Income at initial occupancy is not more than thirty (30%) of AMI adjusted for Actual Household Size, (b) no less than 24 additional Dwelling Units (40% of the Restricted Units) shall occupied, or if vacant made available for occupancy, by households whose Gross Household Income at initial occupancy is not more than fifty (50%) of AMI adjusted for Actual Household Size, and (c) the remainder of the Restricted Units shall be occupied, or if vacant made available for occupancy, by households whose Gross Household Income at initial occupancy is not more than eighty percent (80%) of AMI adjusted for Actual Household Size. The Parties agree to meet and confer regarding potential modifications to the requirements set forth in this Section 2.1 if Owner demonstrates that such modification is necessary to maintain the financial feasibility of the Apartment Project. City and County agree to consider such requests in good faith, and will not unreasonably deny consent if Owner demonstrates that the modification is necessary for financial feasibility.

2.2 Increases in Household Incomes; Filling of Vacancies. If, upon annual recertification of Gross Household Incomes, Owner determines that the requirements in Section 2.1 are not satisfied, Owner shall offer the next available vacant Dwelling Unit(s) to a households of the appropriate income categories until the requirements of Section 2.1 are satisfied.

2.3 Other Restrictions. Notwithstanding anything to the contrary contained in this Agreement, if lenders, investors, or regulatory agencies require stricter household income eligibility or affordability requirements than those imposed by this Agreement, the requirements of such other lenders, investors or regulatory agencies, including without limitation, the requirements associated with tax-exempt financing, if applicable, shall prevail. In addition, notwithstanding any contrary provision of this Agreement, the rent and household income limitations applicable to the use of federal low-income housing tax credits shall prevail over any inconsistent provision of this Agreement if federal low-income housing tax credits are used to finance the Apartment Project.

2.4 Existing Residents. Notwithstanding anything to the contrary contained in this Agreement, Existing Residents who do not qualify as an Eligible Household because their Gross Household Income is more than eighty percent (80%) but less than or equal to one hundred twenty percent (120%) of Area Median Income shall be permitted to rent or lease a Dwelling Unit at an Affordable Rent until: (a) the household voluntarily vacates the Dwelling Unit, or (b) the tenancy is terminated consistent with the requirements of the lease agreement and Applicable Law. Furthermore, Existing Residents who do not qualify as an Eligible Household because their Gross Household Income is more than one hundred twenty percent (120%) of Area Median Income shall be permitted to continue to rent or lease a Dwelling Unit until: (a) the household voluntarily vacates the Dwelling Unit, or (b) the tenancy is terminated consistent with the requirements of the lease agreement and Applicable Law; provided however, upon

written notice in accordance with Section 2.9 of this Agreement, Owner may adjust the rent charged to such household to up to fair market rent; provided however, in no event shall any annual rent increase exceed ten percent (10%) over the rent charged to such household in the immediately preceding twelve (12) month period.

2.5 Income and Occupancy Certification. Owner or Owner's authorized agent shall obtain from each Resident Household prior to initial occupancy of a Restricted Unit, and annually thereafter, a completed Income and Occupancy Certification ("**Income Certification**") setting forth the identity of each household member and the total Household Gross Income.

2.6 Annual Income and Occupancy Certification Requirement. Owner shall include in lease and rental agreements pertaining to the Restricted Units a requirement that each Resident Household shall be required to annually provide an Income Certification to Owner, and that failure and/or refusal to provide such Income Certification will be considered a breach of the lease or rental agreement, and may result in the loss of the right to occupy a Dwelling Unit.

2.7 Verification of Income and Occupancy Certification. For the initial and the annual Income Certification, Owner shall verify each Resident Household's income by requesting and reviewing such verification and documentation as Owner may reasonably require, which may include: (i) pay stubs for the most recent four (4) consecutive pay periods; (ii) if self-employed, Tax Form 1040, including Schedule C and other attachments from the prior year, (iii) an income verification form from the Social Security Administration and/or the California Department of Social Services if Resident Household members receives assistance from either of such agencies; (iv) history of the last 12 months of child support payments, if any, (v) if anyone in the Resident Household is unemployed, a form of independent verification; and (vi) the most recent of any and all bank account statements and/or any other financial account statements.

2.8 Increased Income of Household After Recertification.

(a) If the Gross Household Income of a Resident Household is determined to have increased to be more than eighty percent (80%) but less than or equal to one hundred twenty percent (120%) of Area Median Income adjusted for Actual Household Size, such household shall be permitted to continue to rent or lease a Dwelling Unit at Affordable Rent until: a) the household voluntarily vacates the Dwelling Unit, or b) the tenancy is terminated consistent with the requirements of the lease agreement and Applicable Law.

(b) If the Gross Household Income of a Resident Household is determined to have increased to be more than one hundred and twenty percent (120%) of Area Median Income adjusted for Actual Household Size, such household shall be permitted to continue to rent or lease a Dwelling Unit until: a) the household voluntarily vacates the Dwelling Unit, or b) the tenancy is terminated consistent with the requirements of the lease agreement and Applicable Law; provided however, upon written notice in

accordance with Section 2.9 of this Agreement, Owner may adjust the rent charged to such household to up to fair market rent.

2.9 Notice of Rent Increase or Decrease. Each Resident Household shall be provided with notice of Rent increases or decreases consistent with the requirements set forth in the lease agreement and Applicable Law.

2.10 Managers' Units. One (1) Dwelling Unit may be used as a resident manager's unit, and shall be exempt from the occupancy and rent restrictions set forth in this Agreement.

3. Occupancy Requirements. Owner shall include in lease and rental agreements pertaining to the Restricted Units a requirement that each Resident Household shall be required to occupy their Dwelling Unit as their principal place of residence, and shall not be permitted to sublease their Dwelling Unit .

4. Construction of Improvements. Owner shall obtain all necessary permits and approvals for development of the Property and construction of the Apartment Project, as required by Applicable Law, local zoning, and other applicable regulations. City maintains and reserves full authority and discretion under State and local law in the processing of entitlements and permit applications.

5. Relocation.

Persons residing on the Property as of the Effective Date shall not be displaced before suitable replacement housing is available. Owner or Owner's agent shall be solely responsible for ensuring that all such persons receive all notices, benefits and assistance to which they are entitled in accordance with California Relocation Assistance Law (Government Code Section 7260 *et seq.*); Government Code sections 65863.7 and 65863.8; the State and local regulations implementing such laws, and all other applicable local, State and federal laws, regulations and policies, including but not limited to the Uniform Relocation Act (42 U.S.C. §4601 *et seq.*) and implementing regulations (collectively "**Relocation Laws**") relating to the displacement and relocation of eligible persons as defined in such Relocation Laws. All costs incurred in connection with the temporary and/or permanent displacement and/or relocation of occupants of the Property, including without limitation payments to a relocation consultant, moving expenses, and payments for temporary and permanent relocation benefits pursuant to Relocation Laws shall be paid by Owner. County and City shall have no responsibility for payment therefor.

6. Owner's Reporting Obligations to the City and County.

6.1 Annual Report. Within sixty (60) days following the close of each Fiscal Year, Owner shall submit to the City and the County a report ("**Annual Report**") that includes the following information for each Restricted Unit: (a) the unit number, (b) the number of bedrooms in the Dwelling Unit, (c) the affordability category for the Dwelling Unit, (d) the number of persons occupying the Dwelling Unit, (e) the Gross Household

Income of the Resident Household, (f) the lease commencement date, (g) the current rent, utility, and other charges payable for the Dwelling Unit, and (h) the projected rent increase (if any) for the Dwelling Unit. To satisfy the requirement to provide an Annual Report, Owner may provide copies of forms submitted to the California Tax Credit Allocation Committee, the State Department of Housing and Community Development, or other California governmental agencies. In addition to the above, the Annual Report shall state the date the occupancy commenced, the initial rental rate, and such other information as the City or the County may be required by law to obtain.

6.2 Financial Audit. The Owner is responsible for obtaining a financial audit annually and shall provide the same to the City and County within one-hundred twenty (120) after the end of the Fiscal Year.

6.3 Additional Information. The Owner shall provide any additional information reasonably requested by the City or County. The City or County shall have right to examine and make copies of all books, records or other documents of the Owner pertaining to the Property.

6.4 Retention and Inspection of Documents.

(a) Owner shall maintain complete, accurate and current records pertaining to the Dwelling Units, the Apartment Project, and the Property, including copies of Income Certifications and Rent calculations for all Resident Households, and financial, management and maintenance records for the Apartment Project and the Property. Records shall be maintained for at least five (5) years from the date of their creation.

(b) Owner shall permit duly authorized representatives of the City and County to inspect Property records, including, without limitation, records pertaining to household income and household size of Resident Households; provided however, confidential and sensitive information relating to any Resident Household (such as account numbers, social security numbers, driver's license numbers) may be redacted or marked out to protect the confidentiality of such information.

(c) The City or County or any duly authorized representative thereof shall have the right to review and request copies of documents. In either the City or County's discretion, it shall have the right to audit such records, to determine the Owner's compliance with the requirements of this Agreement.

7. Operation of the Property.

7.1 Residential Use. The Property shall be operated only for residential use; however, this restriction shall not prohibit the operation of community, recreational, educational, or similar facilities that are open to the public, provided that these uses are consistent with applicable zoning, subject to any use restrictions that may apply pursuant to Apartment Project financing.

## 7.2 Non-Discrimination; Compliance with Fair Housing Laws.

7.2.1 Fair Housing. Owner and Owner's agent shall comply with state and federal fair housing laws in the marketing and rental of the Dwelling Units. Owner shall 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 Section 8 program or any successor thereto.

7.2.2 Non-Discrimination. Neither Owner nor Owner's agent shall restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, or any portion thereof, on the basis of race, color, religion, creed, sex, sexual orientation, disability, marital status, ancestry, or national origin of any person. Owner covenants for itself and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the condition 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) or (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 or part thereof, nor shall Owner or any person claiming under or through Owner 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 in, of, or for the Property or part thereof. Owner shall include such provision in all deeds, leases, contracts and other instruments executed by Owner, and shall enforce the same diligently and in good faith.

7.3 Preference for Palo Alto Residents and Employees. In order to ensure that there is an adequate supply of affordable housing within the City of Palo Alto for residents and employees of businesses within the City, to the extent permitted by law and consistent with the program regulations for funding sources used for development of the Project, Owner shall give a preference in the rental of the residential units in the [Apartment Project] [Redeveloped Park] to Eligible Households that include at least one member who lives or works in the City of Palo Alto. Notwithstanding the foregoing, in the event of a conflict between this provision and rules and regulations applicable to the [Apartment Project] [Redeveloped Park], the provisions of such rules and regulations shall control, including, if applicable, any prohibition of preferences for units receiving Section 8 assistance. Owner shall comply with City's affirmative marketing policies or other rental policies and procedures as they may be amended from time to time to ensure that City residents and people who work in the City of Palo Alto are provided reasonable notice and opportunity to rent units in the Project.

## 8. Property Management and Maintenance

8.1 Management Responsibilities. The Owner and Owner's agent shall be responsible for all management functions with respect to the Property including, but not limited to, the selection of Resident Households, certification of household income and size, certification of the ages of all household members, evictions, collection of rents

and deposits, payment for operating and other expenses, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, security and management of household relocation, if required. The Owner shall retain a professional property management company to perform its management duties hereunder. City and County hereby approve John Stewart Company as the property manager, and subject to the rights of senior lenders and investors, City and County shall have the right to review and approve any subsequent property manager, which approval shall not be unreasonably withheld or delayed. A resident manager shall also be retained, if required by law or by Owner.

8.2 Performance Review. The City and County reserve the right to conduct jointly or separately an annual (or more frequently, if deemed reasonably necessary by the City or County) review of the management practices and financial status of the Property. The purpose of the performance review will be to enable the City and County to determine if the Property is being operated and managed in accordance with the requirements and standards of this Agreement. The Owner shall cooperate with the City and County in such reviews.

## 9. Indemnification

In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a Party shall not be shared pro rata but, instead, the Owner, County and City agree that, pursuant to Government Code Section 895.4, each of the Parties hereto shall fully indemnify and hold each of the other Parties, their officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with or arising out of any work, authority, or jurisdiction delegated to such party under this Agreement. No Party, nor any officer, board member or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Parties thereto, their officers, board members, employees, or agents, under or in connection with or arising out of any work authorized or delegated to such other Parties under this Agreement.

Notwithstanding the foregoing, the Owner, and its assigns, shall indemnify, defend, and hold harmless the County and City, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, the relocation of residents of the Property, the construction of improvements on the Property, and the operation or maintenance of the Apartment Project and the Property, excepting only loss, injury or damage caused by the negligence or willful misconduct of the County or the City. The Owner, and its assigns, shall reimburse the County and City for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Owner is obligated to indemnify, defend and hold harmless the County and City under this Agreement.

Each Party agrees that all obligations under this Section 9 shall survive the termination or assignment of this Agreement and shall remain binding on all Parties notwithstanding the Agreement's termination or assignment.

10. Binding on Successors.

10.1 Effectiveness Succeeds Conveyance of Property. This Agreement shall remain effective and fully binding for the full Term regardless of any sale, assignment, transfer, or conveyance of the Property or any part thereof or interest therein. The Parties acknowledge that Owner may transfer the Property to (a) the Authority or to an entity affiliated with the Authority, (b) a limited partnership whose general partner is Owner, or another nonprofit public benefit corporation or limited liability company that is controlled by or affiliated with Owner or the Authority, or (c) a nonprofit public benefit corporation controlled by or affiliated with Owner or the Authority.

10.2 Reconveyance. Upon the termination of this Agreement, the Parties agree to execute and record appropriate instruments to release and discharge this Agreement; provided, however, the execution and recordation of such instruments shall not be necessary or a prerequisite to the termination of this Agreement upon the expiration of the term.

11. Binding Upon Successors; Covenants to Run with the Land. Owner hereby subjects its interest in the Property to the covenants and restrictions set forth in this Agreement. The Parties hereby declare their express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land and shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, transferees, and assigns of the Parties, regardless of any sale, assignment, conveyance or transfer of the Property or any part thereof or interest therein. Any successor-in-interest to Owner, including without limitation any purchaser, transferee or lessee of the Property shall be subject to all of the duties and obligations imposed hereby for the full term of this Agreement. Each and every contract, deed, ground lease or other instrument affecting or conveying the Property or any part thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, restrictions, duties and obligations set forth herein, regardless of whether such covenants, restrictions, duties and obligations are set forth in such contract, deed, ground lease or other instrument.

12. Recordation. This Agreement shall be recorded against the Property in the Official Records of Santa Clara County.

13. Mortgagee Protection. No violation of any provision contained herein shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon all or any portion of the Property, and the purchaser at any trustee's sale or foreclosure sale shall not be liable for any violation of any provision hereof occurring prior to the acquisition of title by such purchaser.

14. Default and Remedies. Owner's default in the performance of any term,

provision or covenant under this Agreement and failure to cure such default within ninety (90) days following receipt of notice of default to Owner, or if the nature of any such non-monetary default is such that it cannot be cured within ninety (90) days, Owner's failure to commence to cure the default within ninety (90) days and thereafter prosecute the curing of such default with due diligence and in good faith shall constitute an Event of Default hereunder. Upon the occurrence of an Event of Default and its continuation beyond any applicable cure period, City or County may bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking declaratory relief, or pursue any other remedy allowed under law or in equity.

15. Reinvestment of Proceeds from Sale of Property. The Parties acknowledge and agree that a material consideration for the City and County to approve the financing described herein is for the proceeds of any subsequent sale of the Fee Property to be reinvested in the City to create affordable housing. In the event that the Fee Property is sold to a third party that is not an affiliate of the Authority and in connection with such sale the Fee Property will not be required to be used for affordable housing, the Parties shall cause an amount equal to: a) the amount not repaid to the City and County for any loans made by the City and County that are secured by the Fee Property, and b) at least fifty-two percent (52%) of the total appreciation of the value of the Fee Property since the Effective Date, to be reinvested in the City to create additional affordable housing. In the event that the Fee Property is sold to a third party that is not an affiliate of the Authority and in connection with such sale the Fee Property will continue to be used for affordable housing, the Parties agree that a) fifty-two percent (52%) of the total appreciation of the value of the Fee Property since the Effective Date shall be applied as a reduction to the purchase price of the Fee Property and b) the Owner shall cause to repay to the City and County any loan amount outstanding or the loan shall be assigned to the next Owner of the Fee Property. For the purposes of this paragraph, an "affiliate of the Authority" shall mean any entity that, directly or indirectly, controls, is controlled by, or is under common control with Authority. For the purposes of this paragraph, "affordable housing" shall mean the Fee Property is subject to occupancy and affordability restrictions which are substantially similar, including in length and levels of affordability, to the restrictions imposed under this Agreement and to which the City and County are parties.

Each Party agrees that all obligations under this Section 15 shall survive the termination or assignment of this Agreement and shall remain binding on all Parties notwithstanding the Agreement's termination or assignment.

16. Miscellaneous.

16.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by all of the Parties.

16.2 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by: (i) personal delivery, in which case notice is effective upon delivery; (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt if delivery is confirmed by a return receipt; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service.

**City:** City of Palo Alto  
250 Hamilton Avenue  
Palo Alto, CA 94301  
Attention: \_\_\_\_\_

With a copy to:  
City of Palo Alto  
250 Hamilton Avenue  
Palo Alto, CA 94301  
Attention: City Attorney

**County:** County of Santa Clara  
70 W. Hedding Street, East Wing, 10<sup>th</sup> floor  
San Jose, CA 95110  
Attention: \_\_\_\_\_

With a copy to:  
County of Santa Clara  
Office of Supportive Housing  
3180 Newberry Drive, Suite 150  
San Jose, CA 95118  
Attention: \_\_\_\_\_

**Owner:** Poco Way HDC, Inc.  
c/o Santa Clara County Housing Authority  
505 W. Julian Street  
San Jose, CA 95110  
Attention: Preston Prince, Executive Director

16.3 Further Assurances. The Parties shall execute, acknowledge and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement.

16.4 Parties Not Co-Venturers. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one

another. The relationship of the Parties shall not be construed as a joint venture, equity venture, partnership or any other relationship.

16.5 Headings; Construction. The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party.

16.6 Governing Law; Venue. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of Santa Clara County, California or in the Federal District Court for the Northern District of California.

16.7 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, understandings, representations or statements of the Parties with respect thereto.

16.8 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby.

16.9 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

IN WITNESS WHEREOF, the Parties have executed this Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants as of the date first written above.

**CITY:**

CITY OF PALO ALTO, a municipal corporation

By: \_\_\_\_\_

Print Name:\_\_\_\_\_

Title:\_\_\_\_\_

Attest:\_\_\_\_\_

City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

**COUNTY:**

COUNTY OF SANTA CLARA, a political subdivision of the State of California

By: \_\_\_\_\_

Print Name:\_\_\_\_\_

Title:\_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_  
County Counsel

**OWNER:**

POCO WAY HDC INC., a California nonprofit public benefit corporation

By:\_\_\_\_\_

Preston Prince, President



**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 )  
 ) ss  
County of Santa Clara )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
(Name of Notary)

notary public, 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.

\_\_\_\_\_  
(Notary Signature)



Exhibit A

**PROPERTY**

The land is situated in the County of Santa Clara, City of Palo Alto, State of California, and is described as follows:

[insert legal description of Apartment Project parcel.]

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

Santa Clara County Housing Authority  
505 W. Julian Street  
San Jose, CA 95110  
Attention: Executive Director

EXEMPT FROM RECORDING FEES PER  
GOVERNMENT CODE §§6103, 27383

Space above this line for Recorder's use.

**TERMINATION OF REGULATORY AGREEMENT**

THIS TERMINATION OF REGULATORY AGREEMENT (“**Termination**”), dated as of \_\_\_\_\_, 2024, is executed by and among Poco Way HDC, Inc., a California nonprofit public benefit corporation (“**Owner**”), the City of Palo Alto, a chartered city and municipal corporation (“**City**”), the County of Santa Clara, a political subdivision of the State of California (“**County**”) and the Santa Clara County Housing Authority, a public body corporate and politic (“**Authority**”). The City, the County, the Owner, and the Authority are collectively referred to herein as the “**Parties**.”

A. Owner is the owner of the real property located at El Camino Real and Los Robles Road in the City of Palo Alto, Santa Clara County, California, commonly known as the Buena Vista Mobile Home Park, known as Santa Clara County Assessor’s Parcel Nos. 137-12-001, 137-11-102 (ptn), 137-11-071 (ptn), and more particularly described in Exhibit A attached hereto (the “**Property**”).

B. In connection with certain financing provided to assist in the acquisition and redevelopment of the Property, the City, the County, and the Authority entered into that certain Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants dated as of September 29, 2017, and recorded in the Official Records of Santa Clara County (“**Official Records**”) on September 29, 2017, as Instrument No, 23766007 (the “**Original Regulatory Agreement**”).

C. Owner has succeeded to the interests of the Authority in the Property.

D. Owner intends to subdivide the Property into two separate parcels that will be redeveloped respectively as an affordable apartment project (the “**Apartments**”) and an affordable mobilehome park (the “**Park**”).

E. Concurrently with the recordation of this Termination, the City, the County, and Owner intend to enter into and record new regulatory agreements that will subject the Apartments and the Park to occupancy and rent restrictions, and that will supersede and replace the Original Regulatory Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The Original Regulatory Agreement is hereby terminated effective as of the date of this Termination.
2. This Termination shall be recorded in the Official Records.
3. This Termination may be executed in multiple counterparts each of which shall be an original, and all of which shall together constitute one and the same instrument.

*SIGNATURES ON FOLLOWING PAGE.*

**IN WITNESS WHEREOF**, the Parties hereto have executed this Termination as of the date first set forth above.

**CITY:**

CITY OF PALO ALTO, a municipal corporation

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

**COUNTY:**

COUNTY OF SANTA CLARA, a political subdivision of the State of California

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_  
Clerk of the Board of Supervisors

Approved as to form and legality:

\_\_\_\_\_  
County Counsel

**AUTHORITY:**

SANTA CLARA COUNTY HOUSING AUTHORITY, a public body, corporate and politic

By: \_\_\_\_\_  
Preston Prince, Executive Director

**OWNER:**

POCO WAY HDC INC., a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Preston Prince, President

*SIGNATURES MUST BE NOTARIZED.*





Exhibit A

**PROPERTY**

The land is situated in the County of Santa Clara, City of Palo Alto, State of California, and is described as follows:

PARCEL 1, AS SHOWN ON THAT CERTAIN MAP FILED SEPTEMBER 7, 2017 IN BOOK 906 OF MAPS, PAGES 29-35, SANTA CLARA COUNTY RECORDS.

APN: 137-12-001, 137-11-102 (ptn), and 137-11-071(ptn)