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NEW HANOVER COUNTY,
MORGHAN GETTY COLLINS
REGISTER OF DEEDS

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DECLARATION OF RESTRICTIVE COVENANTS

made by

CYPRESS GROVE PROPERTY LLC,
as Declarant

Dated as of December 12, 2024

DECLARATION OF RESTRICTIVE COVENANTS

This DECLARATION OF RESTRICTIVE COVENANTS (this “**Declaration**”), dated as of December 12, 2024 (the “**Effective Date**”), is made and entered into by CYPRESS GROVE PROPERTY LLC, a Delaware limited liability company (“**Declarant**”), with respect to the Affordable Housing Property (as defined herein).

RECITALS

- A. Declarant is the owner of an apartment building located in New Hanover County, North Carolina and known as Cypress Grove Apartments (the “**Affordable Housing Property**”) on the real property described on EXHIBIT A attached hereto (the “**Land**”).
- B. The managing member of the sole member of Declarant is OPSC CYPRESS GROVE LLC, which is a solely owned limited liability company of Opportunity South Carolina (“**Nonprofit**”), a South Carolina nonprofit corporation and organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The charitable purposes of Nonprofit include the provision of housing for individuals and families with low or moderate income.
- C. Declarant agrees that the actual and exclusive use of the Affordable Housing Property is to provide housing for individuals or families with low or moderate incomes.
- D. For good and valuable consideration, the Declarant has agreed to enter into this Declaration in order to impose on the Affordable Housing Property certain requirements so that the Affordable Housing Property will be operated in a manner that furthers the charitable purposes of Nonprofit and in accordance with N.C. Gen. Stat § 105-278.6(a)(8) and *In re Blue Ridge Housing of Bakersville LLC*, 226 N.C. App. 42 (2013).

NOW, THEREFORE, the Declarant does hereby impose upon the Affordable Housing Property the following covenants and restrictions, which shall run with the land and shall be binding and a burden upon the Affordable Housing Property and all portions thereof:

Section 1. Definitions. Unless otherwise expressly provided herein or unless the context clearly requires otherwise, the terms defined above shall have the meanings set forth above and the following terms shall have the respective meanings set forth below for the purposes hereof.

“*Adjusted Income*” means the annual income of a person or family calculated in accordance with the rules and regulations promulgated by the U.S. Department of Housing and Urban Development as adjusted for family size.

“*Affordable Housing Property*” has the meaning assigned to such term in the recitals to this Declaration.

“*Available Units*” means residential units in the Affordable Housing Property that are actually occupied and residential units in the Affordable Housing Property that are unoccupied and have been leased at least once after becoming available for occupancy, provided that (a) if the Affordable Housing Property is an existing residential rental project at the time of Declarant’s acquisition thereof, a residential unit that (i) is occupied on the first day of the Regulatory Period is not an Available Unit and does not become an Available Unit until it has been leased for the first time to a tenant other than the tenant occupying such residential unit as of the first day of the Regulatory Period, unless otherwise determined to be an Available

Unit by the Declarant, or (ii) is unoccupied on the first day of the Regulatory Period is not an Available Unit and does not become an Available Unit until it has been leased for the first time after such date, and (b) a residential unit that is not available for occupancy due to renovations is not an Available Unit and does not become an Available Unit until it has been leased for the first time after the renovations are completed.

“*County*” means New Hanover County, North Carolina.

“*Declarant*” means, Cypress Grove Property LLC, a Delaware limited liability company, and its lawful successors and assigns as owner of the Affordable Housing Property and the Land.

“*Land*” means the real property described on EXHIBIT A attached hereto.

“*Low Income Tenants*” means persons or families with Adjusted Income which does not exceed 60% of the Median Income for the Area adjusted for household size.

“*Median Income for the Area*” means the median yearly income for households of an applicable size in the applicable “Primary Metropolitan Statistical Area” as most recently determined by the Secretary of Housing and Urban Development under Section 8(f)(3) of the United States Housing Act of 1937, as amended. If such figures are no longer available, the method of calculation is substantially altered, or the programs under Section 8(f) are terminated, the Declarant shall select another income determination that is reasonably similar to the method used by the Secretary prior to such termination.

“*Moderate Income Tenants*” means persons or families with Adjusted Income which does not exceed 80% of the Median Income for the Area adjusted for household size.

“*Regulatory Period*” means the period beginning on the one-year anniversary of the Effective Date and ending on the last day of the Term.

“*Term*” means the term of this Declaration, commencing on the Effective Date and expiring on the date that falls ten (10) years thereafter, unless extended or earlier terminated pursuant to the terms hereof.

Section 2. Covenants of Declarant. Declarant hereby represents, warrants, and covenants as follows:

(a) At all times during the Regulatory Period, 100% of the Available Units in the Affordable Housing Property will be continuously occupied or held for occupancy by Low Income Tenants or Moderate Income Tenants and the rent for such units shall be affordable to such Low Income Tenants or Moderate Income Tenants, as applicable.

For purposes of satisfying the occupancy requirements set forth above, a unit occupied by a person or family who at the commencement of their occupancy qualified as a Low Income Tenant or Moderate Income Tenant shall be treated as occupied by a Low Income Tenant or Moderate Income Tenant, as applicable, until such time as any re-certification of such tenant’s income in accordance with Section 2(d) below demonstrates that such tenant’s income exceeds 140% of the applicable income limitation of such Low Income Tenant or Moderate Income Tenant.

A unit occupied by a Low Income Tenant or a Moderate Income Tenant shall be deemed, upon the termination of such tenant’s occupancy, to be continuously occupied by a Low Income Tenant or a Moderate Income Tenant, until reoccupied, other than for a temporary period (not to exceed 60 days), at which time the character of the unit shall be redetermined.

(b) The Declarant will obtain, complete, and maintain on file income certifications from each Low Income Tenant and Moderate Income Tenant, immediately prior to the initial occupancy of such tenant in the Affordable Housing Property. Such income certification shall be obtained prior to initial occupancy. The Declarant shall make a good-faith effort to verify that the income reported by an applicant in an income certification is accurate. The Declarant will maintain complete and accurate records pertaining to the occupancy of units at the Affordable Housing Property by Low Income Tenants and Moderate Income Tenants.

(c) Each lease pertaining to a unit occupied by a Low Income Tenant or a Moderate Income Tenant shall contain a provision to the effect that the Declarant have relied on the income certification and supporting information supplied by the Low Income Tenant or the Moderate Income Tenant, as applicable, in determining qualification for occupancy of such unit, respectively, and that any material misstatement in such income certification (whether or not intentional) will be cause for immediate termination of such lease.

(d) Throughout the Regulatory Period, the Declarant shall recertify each Low Income Tenant's and Moderate Income Tenant's income on or before the anniversary of the Low Income Tenant's, or Moderate Income Tenant's tenancy. In the event the re-certification demonstrates that any such tenant's household income exceeds 140% of the applicable income limit, the Declarant may determine that such tenant's lease will not be renewed.

The Declarant in its sole discretion may notify, in writing, each tenant who is no longer a Low Income Tenant or Moderate Income Tenant of such fact, and that the rent of such tenant(s) is subject to increase 30 days after receipt of such notice, or that such tenants' lease may not be renewed on the expiration of its term.

The Declarant agrees to inform all prospective Low Income Tenants and Moderate Income Tenants of the requirements for re-certification of income and of the provisions of the preceding paragraph.

Section 3. Covenants Run With the Land. Unless terminated as provided herein, Declarant hereby declares its express intent that the covenants, restrictions, charges, and easements set forth herein shall be deemed covenants running with the Land and shall pass to and be binding upon the Declarant's successors in title including any purchaser, grantee, owner, or lessee of any portion of the Affordable Housing Property and any other person or entity having any right, title, or interest therein and upon the respective heirs, executors, administrators, devisees, successors, and assigns of any purchaser, grantee, owner, or lessee of any portion of the Affordable Housing Property and any other person or entity having any right, title, or interest therein. Declarant hereby declares its understanding and intent that the burden of the covenants set forth herein touch and concern the Land in that the Declarant's legal interest in the Affordable Housing Property is rendered less valuable thereby.

Section 4. Consideration. The Declarant acknowledges and agrees that the participation of the Nonprofit in the ownership and operation of the Affordable Housing Property, are conditioned upon Declarant's execution and delivery of this Declaration. In consideration of the foregoing premises, the Declarant has entered into Declaration and have agreed to restrict the uses to which the Affordable Housing Property can be put on the terms and conditions set forth herein.

Section 5. Term. This Declaration and the terms hereof shall become effective upon its execution and delivery and shall remain in full force and effect for a term and period equal to the Term. Notwithstanding anything in this Declaration to the contrary:

(a) In connection with any foreclosure, exercise of power of sale, deed in lieu of foreclosure, or comparable proceedings with respect to the Affordable Housing Property, this Declaration shall

immediately terminate and be of no further force and effect upon completion of the foreclosure and expiration of the applicable redemption period, or recording of a deed in lieu of foreclosure.

(b) This Declaration shall immediately terminate and be of no further force and effect in the event of involuntary noncompliance with the provisions of this Declaration caused by fire or other casualty, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure or condemnation or a similar event.

(c) Declarant may elect to terminate this Declaration effective upon the recording of a notice of release hereof executed by Declarant, or their successors or assigns.

Upon the termination of the terms of this Declaration, the Declarant, its successors or assigns, may execute, deliver, and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of this Declaration in accordance with its terms.

Section 6. Enforcement. There shall be no default under the terms of the Declaration unless the Available Units are not continuously occupied or held for occupancy by Low Income Tenants and Moderate Income Tenants. None of the Low Income Tenants, Moderate Income Tenants, the general public, any political subdivision, governmental agency or authority, nor any person not a party to this Declaration are intended to be third-party beneficiaries of this Declaration and such persons shall have no rights to enforce any provision herein; provided, however, that any lender making a loan to Declarant which is secured by the Affordable Housing Property is a third-party beneficiary of this Agreement specifically with respect to Section 5(c) of this Declaration and may exercise Declarant's right to terminate this Declaration.

Section 7. Amendment. The provisions hereof shall not be amended or revised except by an instrument in writing duly executed by the Declarant, and duly recorded.

Section 8. Governing Law. This Declaration shall be governed by and construed in accordance with the laws and judicial decisions of the State of North Carolina, except as such laws may be preempted by any federal rules, regulations, and laws.

(The remainder of this page is intentionally left blank.)

Exhibit A**Real Property Description**

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Wilmington, County of New Hanover, State of North Carolina.

BEGINNING at an old iron pipe in the run of a small branch, the Northwestern corner of Lot 20 as shown on the map of Medical Arts Center, dated February, 1965, by Howard M. Loughlin, Registered Surveyor, recorded in Map Book 8 at Page 86 of the New Hanover County Registry, said pipe also shown on the map of Survey of Tract for Walter L. Crouch, dated January 1965, by Howard M. Loughlin, Registered Land Surveyor, recorded in Book 763 at Page 448 1/2 of said registry; running thence from said Beginning Point South 3 degrees 25 1/2 minutes East along the Western line of Lots 20, 21, and 22 of Medical Arts Center 451.73 feet to an iron pipe at the Southwestern corner of said Lot 22; thence South 50 degrees 30 minutes West along a line of Lot 23 of Medical Arts Center and said line extended 150.23 feet to an iron pipe in the Southwestern line and at the Northwestern end of a sixty (60) foot un-named street that leads from Doctors Circle; thence South 39 degrees 30 minutes East along said line of said street 122.51 feet to an iron pipe at the Northwestern end of Curve No. 2 as shown on said Medical Arts Center map; thence Southeastwardly along said line of said street as it curves to the East to an iron pipe at the Northwestern corner of Lot 25 of Medical Arts Center, said point being South 57 degrees 57 minutes East 127.05 feet from the preceding point; thence South 13 degrees 39 1/2 minutes West along the Western line of Lots 25 and 26 of Medical Arts Center 237.55 feet to a concrete monument, the Southwestern corner of said Lot 26 in the Northeastern line of Tract A as shown on the map of Greenfield Lake Estates, dated December 23, 1950, by E. M. Scars, Jr., Land Surveyor, recorded in Map Book 5 at Page 33 of said registry; said monument being North 39 degrees 30 minutes West 135.4 feet from a concrete monument at the Eastern-most corner of said Tract A; thence North 39 degrees 30 minutes West along the Northeastern line of said Tract A 101.16 feet to an iron pipe where the dividing line of Lots 59 and 60 of Greenfield lake Estates (if extended Northeastwardly) would intersect; thence South 50 degrees 30 minutes West along said extended dividing line of Lots 59 and 60, 276.66 feet to an iron pipe in the Southwestern line of said Tract A, the common corner of said Lots 59 and 60; thence North 39 degrees 30 minutes West along the Southwestern line of said Tract A 952.23 feet to an old iron pipe; thence North 77 degrees 30 minutes East 23.65 feet to an iron pipe; thence North 12 degrees 38 minutes West with Dixon's Eastern line 150.0 feet to an old iron pipe in the Southern line of Lake Shore Drive; thence North 76 degrees 50 minutes East with the Southern line of said drive 97.64 feet to an iron pipe at the beginning of a curve; thence Eastwardly with said line of said drive as it curves to the North to a point in the Northern end of said curve that is located North 62 degrees 35 minutes East 99.76 feet from the aforementioned point at the beginning of said curve; thence Northwardly along the Eastern right of way line of Lake Shore Drive to a point that is located North 21 degrees 38 minutes East 168.3 feet from the preceding point; thence North 1 degree 52 minutes East along said line of said road 75.2 feet to an iron pipe in the center of the run of Clay Bottom Branch (now a prong of Greenfield Lake) ; thence up the run of said branch in an Easterly direction to a point that bears North 64 degrees 08 1/2 minutes West from said Beginning point (said bearing being along the center of the aforementioned small branch and said point being a corner of the aforementioned Walter L. Crouch tract) ; thence South 64 degrees 08 1/2 minutes East along a line of said Crouch tract to the point of Beginning.

NOTE FOR INFORMATION: Being Parcel No. R06010-005-001-000, of the City of Wilmington, County of New Hanover.