

LAND USE RESTRICTION AGREEMENT
for
LIVABLE MANATEE: MULTIFAMILY RENTAL INCENTIVE PROGRAM
between
MANATEE COUNTY,
and
ROBIN'S APARTMENTS, LLC

THIS LAND USE RESTRICTION AGREEMENT (hereinafter "Agreement") is made and entered into as of November 19, 2019, by and between Manatee County, a political subdivision of the State of Florida (hereinafter referred to as the "County"), and Robin's Apartments, LLC, for itself and its successors, assigns, and agents (hereinafter referred to as the "Owner").

RECITALS

WHEREAS, the Owner owns certain land described in Exhibit "A" attached hereto and incorporated herein by reference, hereinafter referred to as the "Property"; and

WHEREAS, the Owner agrees to comply with certain restrictions in the rental and occupancy of dwelling units constructed on the Property in order to provide affordable housing; and

WHEREAS, the County established the Livable Manatee Incentive Program under Resolution R-17-069 (the "Program") to foster the construction of new mixed-income rental communities that include in their composition affordable dwelling units; and

WHEREAS, the County has treated the development of the Property (hereinafter defined as the "Project") as an affordable housing project within the meaning of such terms under the County's Land Development Code, based upon Owner's commitment to provide affordable rental housing as provided in this Agreement; and

WHEREAS, subject to compliance with this Agreement, the Project satisfies the eligibility requirements set forth in Resolution R-17-069 and Manatee County Land Development Code (LDC), Section 545 – Housing Program, to receive the affordable housing assistance authorized therein; and

WHEREAS, the County and the Owner wish to set forth their mutual rights and obligations for the affordable housing incentives and commitments to provide affordable dwelling units as more particularly described herein.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I

Definitions

Section 1.1 General. Capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings set forth in Section 420.9071, Florida Statutes.

The following defined terms shall have the following meanings:

- (a) "Dwelling Unit" shall mean a residential accommodation located within unincorporated Manatee County and constituting a part of the Project containing separate and complete living facilities designed and intended for the primary purpose of providing decent, safe and sanitary residential units available for rental to the general public.
- (b) "Affordable Dwelling Unit" shall mean a Dwelling Unit that is Affordable to low and moderate-income households (within the meaning set forth in Section 420.9071, Florida Statutes) with total rent less landlord paid utilities not exceeding Florida Housing Finance Corporation SHIP program maximum rent limit by number of bedrooms in unit.

Additional capitalized terms defined in this Agreement shall have the meanings ascribed to them herein.

ARTICLE II

Use and Occupancy of the Property

Section 2.1 Assisted Units. The Owner shall develop and maintain the Project as a multifamily rental housing development, and shall rent and hold available for rental one hundred twenty units (120) in the Project as Affordable Dwelling Units for rent exclusively to Eligible Persons or Eligible Households at 31% to 120% of the Area Median Income (AMI) throughout the Affordability Period (as defined and established pursuant to Section 2.4 hereof). This is consistent with the Program eligibility requirement to make available (i) at least 25% of the total Project Dwelling Units in the Project to Eligible Persons or Eligible Households as Affordable Dwelling Units and (ii) no more than 50% of total Project Dwelling Units to Eligible Persons or Eligible Households as Affordable Dwelling Units. The Affordable Dwelling Units that the Owner is obligated to develop and maintain pursuant to this Section shall be referred to herein as the "Assisted Units".

Section 2.2 Long Term Occupancy Requirement. For purposes of complying with the requirements set forth in Section 2.1 above, if the income of the Eligible Persons or Eligible Household in a Dwelling Unit did not exceed the applicable income limit (adjusted for the number of persons residing in the Dwelling Unit) at the commencement of occupancy, such Eligible Person or Eligible Household may be treated as continuing to be Eligible Person or Eligible Household

throughout their occupancy notwithstanding increases in income. The respective Assisted Unit shall, upon vacancy during the Affordability Period, be rented as an Affordable Dwelling Unit, to an Eligible Person or Eligible Household with the appropriate income limits. The Owner may maintain any combination of rental or available for rental units which accumulates to 120 Dwelling Units qualifying for use by Eligible Persons or Eligible Household. If the Owner fails to comply with this requirement during the Affordability Period, the County shall have the right to pursue any or all of the remedies as set forth in Section 4 hereof.

Section 2.3 Incentives. The Owner shall be entitled to the Affordable Housing Incentives specified in Exhibit B "Incentives" of this Agreement.

Section 2.4 Affordability Period. For purposes of this Agreement, the Affordability Period shall commence upon the project completion date as determined by the County and end on the date specified below:

Aggregate Incentive Value	Indicate Which Applies
For a Project receiving Incentives up to \$100,000, 15 years from project completion.	
For a Project receiving more than \$100,000 and less than \$300,000 in Incentives, 20 years from project completion.	X
For a Project receiving Incentives equal to or greater than \$300,000, 25 years from project completion.	

The County may, in its discretion, determine a project completion date for a specific phase of the Project, in which case the Affordability Period for the Assisted Units in that phase shall commence and conclude based on the phase-specific completion date. In the event Owner fails at any time during the Affordability Period to maintain the Assisted Units as required pursuant to this Agreement, and the County consents to the cure of such non-performance, the Affordability Period shall automatically be extended by a time period equal to the period of non-performance, to assure that the County receives the full Affordability Period for which Assisted Units received Incentives.

Section 2.5 Compliance. The Owner shall comply with all requirements of the Comprehensive Plan, all standards and requirements of the LDC, the Florida Building Code, and shall maintain the Project in compliance with the aforementioned requirements.

Section 2.6 No Conversion. During the term of this Agreement, the Owner shall not use the Project for any use other than a rental residential development.

Section 2.7 Non-Discrimination. The Owner shall not discriminate on the basis of race, creed, religion, color, sex, familial status, national origin or handicap in the use or occupancy of the Project. Age discrimination and discrimination against minor dependents, except when units are specifically being held for elderly households in accordance with applicable State and Federal law, are also not permitted.

Section 2.8 Advertisement. The Owner hereby covenants and agrees that it will immediately

withdraw from circulation any advertisement determined by the County to violate or be inconsistent with this Agreement with respect to promoting Affordable Housing. However, this Agreement does not require the Owner to market the units in any specific manner or any specific representation that the Project is or contains units that are designated as Affordable so Owner complies with this Agreement.

Section 2.9 Maintenance. The Owner shall maintain the Project in a condition which is consistent with the Land Development Code and Housing Quality Standards.

Section 2.10 Transfer of Ownership.

- (a) Should a transfer of ownership for all or any part of the Property take place during either the review or construction phases for the Project, the use shall not change and new Owner shall develop the Project pursuant to this Agreement. If a transfer of ownership for all or any part of the Property takes place during the Affordability Period, then the new Owner shall continue to keep Assisted Units affordable within the meaning set forth in this Agreement and rent exclusively to Eligible Persons or Eligible Households. Information relating to the new Owner, (developer/contractor), including name, address and telephone number, shall be forwarded by letter to the Director of the Redevelopment and Economic Opportunity Department.

Section 2.11 Successors Bound – Burden to Run with Property. This Agreement and the covenants and conditions contained herein shall run with the land and shall bind, and the benefits shall inure to, respectively, the Owner and its successors and assigns and all subsequent owners of the Property and each Assisted Unit or any interest therein, and to the County for the Affordability Period set forth in this Agreement. The Owner and each subsequent owner of an Assisted Unit shall expressly make the conditions and covenants of this Agreement a part of any deed or other instrument conveying any interest in the Property and each Assisted Unit during the Affordability Period.

ARTICLE III

Administration

Section 3.1 Annual Report. The Owner shall, during the Affordability Period, submit an Annual Report to the Manatee County Redevelopment and Economic Opportunity Department. Said report shall be submitted in accordance with the schedule established by the Redevelopment and Economic Opportunity Department. The report shall document the Owner's performance of its obligations with respect to maintaining the Assisted Units as Affordable Dwelling Units reserved for Eligible Persons and Eligible Households, including without limitation leases, applications, employment, and income certification documents. The report shall also document the Owner's performance regarding Section 2.12 of this Agreement.

Section 3.2 Omission. The omission of any regulatory requirement in this Agreement shall not relieve the Owner from the necessity of complying with any and all applicable State, County, and Federal laws, rules and regulations. In particular, the development and maintenance of the Project shall be governed by the provisions of the LDC. In interpreting any applicable requirements, the more stringent provisions shall apply.

Section 3.3 Department Review. The County shall review the Project at least every twelve (12) months to determine compliance with the terms of this Agreement. Failure of the County to conduct said review or identify violations of this Agreement shall not relieve Owner of any obligation hereunder or prevent subsequent enforcement.

Section 3.4 County; Audit. The County shall have the right to review and audit the records of the Owner relating to the Property to determine compliance with this Agreement. The Owner shall be required upon written notification, to provide the necessary information to perform an audit to the satisfaction of the County. This information may include without limitation, all tenant lists, applications, leases, waiting lists, income examinations and re-examination relating to the Assisted Units. During the Affordability Period, these materials shall at all times be kept separate and identifiable from any other business of Owner which is unrelated to the Property, and shall be maintained in reasonable condition for a proper audit, subject to examination and photocopying during business hours by representatives of the County. The County shall provide at least five (5) business days prior written notice before performing such audit or examination.

Section 3.5 Monitoring and Inspection. The Owner shall permit the County or their designee to inspect all records, including but not limited to financial statements pertaining to Assisted Units upon reasonable notice and within normal working hours, and shall submit to the County such documentation as required by the County to document compliance with this Agreement. The Owner acknowledges that the County or its designee must from time to time inspect Assisted Units for compliance with state and local code requirements, and agrees to facilitate such inspections with tenants and County as necessary. The Owner acknowledges that the Property must meet County standards upon completion of the Project and for the duration of the Affordability Period.

The County shall, from time to time, make or cause to be made inspections of the Assisted Units and Property rental records to determine compliance with the conditions specified herein. The County shall notify the Owner prior to scheduled inspections, and the Owner shall make any and all necessary arrangements to facilitate the County's inspection. The County may make, or cause to be made, other reasonable entries upon and inspections of the Property, provided that the County shall give the Owner reasonable notice prior to any such inspection, specifying reasonable cause therefore, related to the County's interest in the Property.

The Owner shall comply with restrictions regarding the use of the Property, and shall ensure that all requirements are being satisfied on a continuing basis in accordance with this Agreement. Owner staff will remain updated and knowledgeable regarding procedures for filing tenant income certification forms, and compliance certificates, and for verifying compliance with this Agreement.

Section 3.6 Annual Compliance Monitoring of Project.

- (a) The County will conduct an annual review of the Owner's compliance with this Agreement. During its annual monitoring review, the County will:
1. Conduct on-site audits of the Project's tenant records of the Assisted Units and document all findings to ensure compliance with applicable regulations, terms and conditions; and
 2. Review rent rolls to ensure monthly rents are in compliance with this Agreement; and
 3. Examine leases to ensure that all occupants of the Assisted Units are listed, and that each lease is current and fully executed. The Parties acknowledge that the Owner plans to utilize month-to-month leases; and
 4. Verify that record retention requirements are being met; and units are not occupied until tenants are properly income certified; and
 5. Inspect units for compliance with local codes and housing quality standards. Annual Monitoring will be required for the Project with random selection of units to be inspected.

The Owner shall be responsible for all costs and expenses of complying with the requirements of this Agreement. At all times the Assisted Units shall be in compliance with rules and regulations of Chapter 420, Florida Statutes, and the Florida Administrative Code 67-37.

ARTICLE IV

Enforcement and Remedies

Section 4.1 Default. If Owner (including specifically any subsequent purchaser of an Assisted Unit) defaults in the performance of an obligation under this Agreement or a restriction set forth herein, and if such default remains uncured for a period of sixty (60) days after notice thereof has been given by the County, the County shall be entitled, in addition to all other remedies provided by law or in equity:

- (a) To compel specific performance by the Owner of its obligations under this Agreement, it being recognized that the beneficiaries of Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of Owner's default; and
- (b) To rescind any and all Incentives, either regulatory and/or financial, provided to Owner; and
- (c) To cause the Owner to pay to the County an amount equal to the Incentives provided for any Assisted Unit which the Owner has failed to maintain as an Affordable Dwelling Unit reserved for Eligible Persons or Eligible Households during the

Affordability Period, with interest calculated at the rate equal to the yield earned on the Florida State Board of Administration statewide government investment pool during the period of default.

ARTICLE V

Representations and Warranties of Owner

Section 5.1 Validity. Owner warrants and represents that it has validly executed this Agreement and the same constitutes the binding obligation of the Owner. Owner warrants and represents that it has full power, authority and capacity to enter into this Agreement, to carry out the Owner's obligations as described in this Agreement and to assume responsibility for compliance with all applicable Local, State and Federal rules and regulations.

Section 5.2 Conflict. To the best of Owner's knowledge, the making of this Agreement and the Owner's obligations hereunder:

- (a) Will not violate any contractual covenants or restrictions between Owner or any third party, or affecting the Property; and
- (b) Will not conflict with any of the instruments that create or establish Owner's authority; and
- (c) Will not conflict with any applicable public or private restrictions; and
- (d) Does not require any consent or approval of any public or private authority which has not already been obtained; and
- (e) Are not threatened with invalidity or unenforceability by any action, proceeding or investigation pending or threatened, by or against Owner, without regard to capacity, any person with Owner may be jointly or severally liable, or the Property or any part thereof.

Section 5.3 No Pending Action. There is no litigation pending or proceeding, or, to the best of Owner's knowledge, threatened, against Owner which if adversely determined could individually or in the aggregate have an adverse effect on title to or the use and enjoyment or value of the Property, or any portion thereof, or which could in any way interfere with the consummation of this Agreement.

Section 5.4 Insolvency. There is no pending, or to Owner's best knowledge, threatened, case or proceeding or other action in bankruptcy, whether voluntary or otherwise, any assignment for the benefit of creditors, or any petition seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for owner under any present or future federal, state or other statute, law, regulation relating to bankruptcy, insolvency, or relief from debtors, nor is there any basis therefore.

Section 5.5 Indemnification. To the extent permitted by law, and, in the case of the County, subject to the monetary limitations set forth in Section 768.28, Florida Statutes, each of the parties hereto shall indemnify, defend, save and hold harmless the other, its officers, agents, and employees from and against all suits, actions, claims, demands, costs, penalties, fines, or liability of any nature whatsoever arising out of, because of, or due to any act or occurrence of omission or commission of the indemnifying party, its consultants, contractors, officers, agents or employees in the performance of this Agreement.

ARTICLE VI

Recordation, Effective Date and Duration

Section 6.1 Recordation. This Agreement shall be recorded in the Official Records of Manatee County, Florida by the Owner at its sole expense. A certified copy of the recorded documents shall be provided to the Redevelopment and Economic Opportunity Department within ten (10) days of receipt of the executed Agreement.

Section 6.2 Effective Date. This Agreement shall become effective as of the date set forth above.

Section 6.3 Duration. This Agreement and the restrictions herein shall remain in effect from the effective date set forth above for twenty (20) years.

ARTICLE VII

Miscellaneous Provisions

Section 7.1 Amendment. This Agreement may not be amended or modified except by written instrument signed by each party hereto and approved by the County's Board of County Commissioners.

Section 7.2 Notice. Notices required to be given by this Agreement shall be in writing, certified mail through the United States Postmaster. Mail shall also have return receipt requested, addressed to the persons and places specified for giving notice below. Requirements for such other or additional parties or address as from time to time may be specified by either party shall be subject to the terms and conditions of this Agreement. This in no way impacts the requirement to provide notice to the County Administrator and to the County Attorney in the manner outlined above.

Notice shall be forwarded to the following:

FOR THE COUNTY:

**County Administrator
1112 Manatee Avenue West, Suite 902
Post Office Box 1000**

Bradenton, FL 34205-1000

with copies by U.S. Mail to:

**Office of the County Attorney
Manatee County Government
1112 Manatee Avenue West, Suite 969
Post Office Box 1000
Bradenton, FL 34205-1000**

**Director:
Department of Redevelopment and Economic Opportunity
1112 Manatee Avenue West, Suite 300
Post Office Box 1000
Bradenton, FL 34205-1000**

FOR THE OWNER:

**One Stop Housing, LLC
ATTN: Mark Vengroff
8440 N. Tamiami Trail
Sarasota, FL 34243**

with copies by U.S. Mail to:

**Patricia A. Petruff, Esq.
1206 Manatee Ave. W.
Bradenton, FL 34205**

Section 7.3 Interpretation; Headings. Both parties have played an equal and reciprocal part in the drafting of this Agreement and, therefore, no provisions of this Agreement shall be construed by any court or other judicial authority against any party hereto because such party is deemed to have drafted or structured such provisions.

Section 7.4 Severability. In the event any term or provision of this Agreement shall be held invalid, such invalid term or provisions shall not affect the validity of any other term or provision hereof and all such other terms and provisions hereof shall be enforceable to the fullest extent permitted by law as if such invalid term or provision had never been a part of this Agreement; provided, however, if any term or provision of this agreement is held to be invalid due to the scope or extent hereof, such term or provision shall automatically be deemed modified in order that it may be enforced to the maximum scope and extent permitted by law.

Section 7.5 Governing Law; Venue. This Agreement shall be construed, and the rights and

obligations of the County, and Owner hereunder shall be determined, in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be in Manatee County, Florida.

Section 7.6 Fees and Costs. In any litigation between the parties hereto arising out of this Agreement, each party shall be responsible for paying its own attorneys' fees and costs.

Section 7.7 No General Obligation. The obligations of the County hereunder are subject to annual appropriation of legally available funds by the County's Board of County Commissioners, and shall not constitute or create a pledge, lending of credit or lien, either legal or equitable, of or on any of the County's ad valorem revenues or funds, or upon any other revenues or funds of the County, as may be construed under the laws or the Constitution of the State of Florida. Neither the Owner nor any other person or entity shall ever have the right to compel any exercise of the ad valorem taxing power of the County to make the payments herein provided, nor shall this Agreement constitute a charge, lien or encumbrance, either legal or equitable, upon any property or funds of the County. Notwithstanding anything contained herein, the County reserves the right, in its sole discretion, to pay the obligations contained in this Agreement from any funds legally available for such purpose.

Section 7.8 Entire Agreement. This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

Section 7.9 No Partnership or Joint Venture; Owner's Risk. This Agreement is solely for the benefit of the parties hereto and no right or cause for action shall accrue to, or for the benefit of, any third party not a party hereto. This Agreement shall not be construed to create a joint venture or partnership between the parties hereto. By execution of this Agreement, the Owner expressly acknowledges and agrees that the Incentives for Assisted Units provided by the County pursuant to this Agreement are provided solely to serve the public purpose set forth in Chapter 420, Florida Statutes, to provide Affordable Housing to the community, and that the County assumes no responsibility to assure the financial feasibility or success of the Owner's Project. Owner acknowledges that it is a sophisticated developer of housing projects, and has entered into this Agreement, and committed to develop its Project, based upon its independent business judgment and experience and its independent assumption of risk and responsibility for the financial feasibility and success of its Project.

Section 7.10 Force Majeure. No party shall be liable for any failure to perform, or delay in the performance of, any obligation under this Agreement if such failure is caused directly by hurricane, tornado, fire, earthquake, civil commotion or failure or disruption of utility services, or other like cause beyond the reasonable control of the party obliged to perform.

IN WITNESS WHEREOF, the Owner, and the County have entered into this Agreement, as of the date set forth above.

WITNESSES:

[Signature]
[Signature]

OWNER:

Robin's Apartments, LLC
One Stop Housing - Manager

Mark Vengroff

By: [Signature]

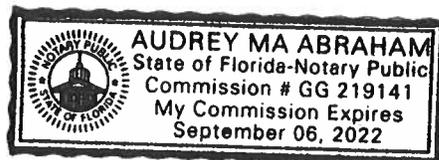
As its Manager/President

STATE OF FLORIDA
COUNTY OF MANATEE

SWORN AND SUBSCRIBED before me this 25th day of October, 2019, by Mark Vengroff, Manager of One Stop Housing, LLC which manages Robin's Apartments, LLC, who is personally known to me and/or provided _____ as identification, and who did take an oath (or affirm). If no type of identification is indicated, the above named person is personally known to me.

(Stamp and Seal)

[Signature]
Signature of Notary Public



**MANATEE COUNTY, a political subdivision of
the State of Florida**

By: its Board of County Commissioners

By: _____
Chairperson

Date: _____

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: _____
Deputy Clerk

EXHIBIT "A"

Legal Description

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EXHIBIT "B"

Incentives

Per Manatee County Resolution R-17-069 and Manatee County Land Development Code, Section 545 – Housing Program, Program Incentives to be provided to the Owner for qualifying affordable units shall be specified within the Agreement. The following Incentives apply to this Project. [Indicate with "X" all that apply, and supply per-unit dollar value]:

Incentive	Indicate Which Apply
Expedited Review and Permitting	
Review Fees	
Educational Facilities Impact Fee	X*
County Impact Fees	X*
Facility Investment Fees	
Sidewalk Location	
Tree Protection Trust Fund	
Density Bonus (maximum number of units which can be built in the Project subject to the density bonus is Dwelling Units).	
Transfer of Development Rights	
Site Improvement Incentives	
Infill Development	

*Livable Manatee Estimated at \$113,724 (Impact Fee for 50% of Total Affordable Units)