

RECORDING REQUESTED BY
AND WHEN RECORDED, RETURN TO:

Charities Housing Development Corporation
of Santa Clara County
1400 Parkmoor Ave., Suite 190
San Jose, CA 95126
Attn: Executive Director

FOR RECORDER'S USE ONLY

APNs: 481-18-064 & 481-18-065

STORMWATER EASEMENT AGREEMENT

THIS STORMWATER EASEMENT AGREEMENT (this "**Agreement**") is made as of _____, 2022, by and between HS SAN JOSE, L.P., a California limited partnership ("**Grantor**"), and ALUM ROCK, L.P., a California limited partnership ("**Grantee**"), with reference to the following facts:

A. Grantor is the fee owner of certain real property located in the City of San Jose, California, commonly known as Santa Clara County Assessor Parcel Number 481-18-065, and more particularly described on Exhibit A attached hereto (the "**Grantor Property**").

B. Grantee is the fee owner of certain real property located in the City of San Jose, California, commonly known as Santa Clara County Assessor Parcel Number 481-18-064, and more particularly described on Exhibit B attached hereto (the "**Grantee Property**").

C. Subject to the terms of this Agreement, Grantor has agreed to grant a stormwater drainage easement to Grantee over portions of the Grantor Property.

NOW, THEREFORE, in consideration of the foregoing, and for good and valuable consideration, the receipt and adequacy of which the parties hereby acknowledge, the parties hereby agree as follows:

1. Easement. Subject to terms and conditions of this Agreement, Grantor hereby establishes and grants to Grantee, its successors and assigns (collectively, the "**Grantee Parties**"), and the Grantee Property, a non-exclusive right, privilege and appurtenant easement for stormwater drainage purposes over, under, across and through those portions of the Grantor Parcel more particularly described on Exhibit C attached hereto (the "**Stormwater Easement**"). The Stormwater Easement shall burden the Grantor Parcel and benefit the Grantee Parcel.

4. Character of Easement. This Agreement shall be recorded by the parties in the Official Records of Santa Clara County (the "**Official Records**"). The Stormwater Easement shall be non-exclusive and perpetual in duration, unless terminated by an agreement executed by

the owners of the Grantor Property and the Grantee Property and recorded in the Official Records. All provisions, agreements, rights, powers, covenants, conditions and obligations contained in this Agreement shall constitute covenants running with the land pursuant to Section 1468 of the California Civil Code, as may be amended from time to time, and shall be binding upon and inure to the benefit of the parties, their respective heirs, successors and assigns, and all other persons acquiring all or any portion of any party's interest in the property described herein whether by sale, operation of law, foreclosure, deed in lieu of foreclosure, or in any manner whatsoever.

3. Indemnity. To the maximum extent permitted by law, Grantee agrees to indemnify, defend and hold Grantor, its partners, members, officers, employees, contractors, agents, successors and assigns (collectively, the "**Grantor Indemnitees**") harmless from and against all losses, actions, demands, damages, claims, costs and expenses (including, but not limited to, expert witness fees and attorneys' fees and costs) and liabilities of whatever kind or nature (collectively, "**Claims**") arising from or are in any way connected with the activities of the Grantee Parties under this Agreement or the entry on or use of the Grantor Property by the Grantee Parties, except and to the extent resulting from the gross negligence or willful misconduct of any of the Grantor Indemnitees. The provisions of this Section 3 shall survive the expiration or termination of this Agreement.

4. Amendments. This Agreement may be amended or otherwise modified only by a writing signed by Grantor and Grantee and recorded in the Official Records.

5. No Merger. The easement and covenants described and created by this Agreement shall not be extinguished by merger of any or all of the ownership interests in any one person or entity.

6. No Third-Party Beneficiaries. The provisions of this Agreement are for the exclusive benefit of the parties and their successors and assigns. This Agreement shall not be deemed to confer any rights upon members of the public or any person except the parties and their successors and assigns.

7. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of California.

8. Miscellaneous.

(a) If any provision hereof shall be held invalid or unenforceable, the remainder hereof shall not be affected thereby, and each provision hereof shall be valid and enforceable to the fullest extent permitted by law.

(b) Time is of the essence with respect to the performance of every provision of this Agreement in which time of performance is a factor.

(c) This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one document.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

GRANTOR:

HS SAN JOSE, L.P., a California limited partnership

By: Caritas Housing, a California nonprofit public benefit corporation, its general partner

By: _____
Daniel Wu, Executive Director

By: LifeMoves, a California nonprofit public benefit corporation, its general partner

By: _____
Name: _____
Title: _____

GRANTEE:

ALUM ROCK, L.P., a California limited partnership

By: Alum Rock Charities LLC, a California limited liability company, its general partner

By: Charities Housing Development Corporation of Santa Clara County, a California nonprofit public benefit corporation, its sole member/manager

By: _____
Daniel Wu, Executive Director

[SIGNATURES MUST BE NOTARIZED]

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 _____)

On _____, before me, _____, a 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.

Signature

(Seal)

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 _____)

On _____, before me, _____, a 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.

Signature

(Seal)

EXHIBIT A

LEGAL DESCRIPTION OF GRANTOR PROPERTY

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

Lot 2, as shown upon that certain Parcel Map which was filed for record on August 24, 2001 in Book 742 of Maps, at Page(s) 3 and 4 in the Office of the Recorder of the County of Santa Clara, State of California.

APN: 481-18-065

EXHIBIT B

LEGAL DESCRIPTION OF GRANTEE PROPERTY

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

Lot 1, as shown upon that certain Parcel Map which was filed for record on August 24, 2001 in Book 742 of Maps, at Page(s) 3 and 4 in the Office of the Recorder of the County of Santa Clara, State of California.

APN: 481-18-064

EXHIBIT C
STORMWATER EASEMENT

[Attached]

LENDER CONSENT AND SUBORDINATION

The undersigned is the beneficiary under those certain deeds of trust recorded in the Official Records of Santa Clara County, California on August 24, 2001, under Serial Number 15841282, and on February 13, 2003, under Serial Number 16820332 (together, the “**Deeds of Trust**”), encumbering all or a portion of the real property described as the “Grantor Property” in the within **EASEMENT AGREEMENT**.

The undersigned beneficiary under the Deeds of Trust hereby consents to the within **EASEMENT AGREEMENT** and hereby subordinates the lien of said Deeds of Trust to the provisions of this **EASEMENT AGREEMENT**.

Dated: _____, 2022

CITY OF SAN JOSE, a municipal corporation

By: _____
Name: _____
Title: _____

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 _____)
County of _____)

On _____ before me, _____, Notary Public, personally appeared, _____, who proved to me 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.

Signature _____

LENDER CONSENT AND SUBORDINATION

The undersigned is the beneficiary under that certain deed of trust recorded in the Official Records of Santa Clara County, California on February 13, 2003, under Serial Number 16820335 (the “**Deed of Trust**”), encumbering all or a portion of the real property described as the “Grantor Property” in the within **EASEMENT AGREEMENT**.

The undersigned beneficiary under the Deed of Trust hereby consents to the within **EASEMENT AGREEMENT** and hereby subordinates the lien of said Deed of Trust to the provisions of this **EASEMENT AGREEMENT**.

Dated: _____, 2022

CITY OF SANTA CLARA, a municipal corporation

By: _____

Name: _____

Title: _____

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 _____)

County of _____)

On _____ before me, _____, Notary Public, personally appeared, _____, who proved to me 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.

Signature _____

LENDER CONSENT AND SUBORDINATION

The undersigned is the beneficiary under that certain deed of trust recorded in the Official Records of Santa Clara County, California on February 13, 2003, under Serial Number 16820336 (the “**Deed of Trust**”), encumbering all or a portion of the real property described as the “Grantor Property” in the within **EASEMENT AGREEMENT**.

The undersigned beneficiary under the Deed of Trust hereby consents to the within **EASEMENT AGREEMENT** and hereby subordinates the lien of said Deed of Trust to the provisions of this **EASEMENT AGREEMENT**.

Dated: _____, 2022

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

By: _____
Name: _____
Title: _____

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 _____)
County of _____)

On _____ before me, _____, Notary Public, personally appeared, _____, who proved to me 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.

Signature _____