

Washoe County Affordable Housing Trust Fund Funding Agreement

This Agreement (“Agreement”) is entered on this _____ day of _____, 2024, (“Effective Date”) by and between Washoe County, a political subdivision of the State of Nevada (“the County”) and American Covenant Senior Housing Foundation, Inc., a non-profit organization, having its principal office at 431 First Ave West, Kalispell, MT 59901 (Recipient”).

Recitals

WHEREAS, the County established the Affordable Housing Trust Fund (AHTF) by approval of Ordinance No. 1632, as modified by Ordinance No. 1694;

WHEREAS, the purpose of the AHTF is to increase and improve the supply of housing projects affordable to low, very low and extremely low-income households in the County;

WHEREAS, the County is the administrator of the AHTF;

WHEREAS, the Community Foundation of Northern Nevada (“CFNN”) is the fiscal agent of the AHTF;

WHEREAS, in response to the County’s Request for Proposal, Recipient submitted an application to the County to construct a two building 170-unit housing project in Washoe County, Nevada, to be known as Sutro Senior Sanctuary, 65 units located at 696 Sutro Street, Reno, NV 89512 and 105 units located at 839 Sutro Street and 838 Quincy Street, Reno, NV 89512 (“the Project”).

WHEREAS, on _____, the Washoe County Board of County Commissioner’s approved funding for the Project in the amount of \$1,000,000 (“AHTF Funds”).

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenants set forth herein, the County and Recipient do agree, for themselves and for the respective successors and assigns, as follows:

1. Funding

- a. The County will provide the Recipient with a grant in the amount of \$1,000,000 from the AHTF, to be distributed by CFNN contingent to and in accordance with a grant Agreement. The County has determined that the Project, consistent with Washoe County Ordinance 45.495, will increase and improve the supply of housing projects affordable to low, very low, and extremely low-income households.

- b. Recipient agrees that any Project costs, unless otherwise specified in this agreement, exceeding the \$1,000,000 in AHTF Funds provided by the County, will be the responsibility of Recipient.
- c. In addition to the \$1,000,000 grant from the AHTF, a complete list of all sources of financing for the Project, including but not limited to loans, grants, and/or deferred developer fees, is included in the Request for Proposal application, attached as Exhibit A
- d. In addition to disclosing all sources of financing for the Project, Recipient further discloses the Project Budget, attached as Exhibit A. Recipient agrees to promptly notify the County of any material changes to the Project Budget, including but not limited to increases in Project costs, the receipt or availability of additional sources of funds not previously disclosed, and material changes in projections of revenue or operating expenses.
- e. AHTF Funds may only be used for approved new construction, rehabilitation, conversion, site improvements, real property acquisition, demolition, related soft costs, operating and maintenance costs, on-site supportive social services, and administrative costs. Recipient understands AHTF Funds may not be used for any purpose except those specifically set forth in this section, as described in more detail in Exhibit C, which is fully incorporated herein.
- f. Recipient will not use any portion of the AHTF Funds for any cost or expense not expressly authorized by this Agreement. If the County determines any AHTF Funds have been expended on ineligible costs, Recipient will be required to repay the County the amount of the misused Funds, along with fees, interest, or other fines.
- g. Recipient may not delegate or assign any of its rights, interests, or duties under this Agreement without the prior written consent of the County. Any such assignment or delegation made without County consent is void and may, at the option of the County, result in the forfeiture of all financial support provided by this Agreement and require the repayment of any AHTF Funds distributed and expended by Recipient up to the full amount distributed under this Agreement.
- h. Prior to the initial distribution of funds, Recipient must provide the County with final plans and specifications for the Project for County approval.
- i. If AHTF Funds are used for the purchase of vacant land or for demolition and the rebuild of low-income housing, construction must begin on the Project within 18 months of the effective date of this Agreement. The Project must be substantially completed no later than February 1, 2026. Substantial completion is demonstrated

by a Certificate of Occupancy, if applicable, or a final approved construction report for the Project.

2. The Project

- a. The Project, as described in Exhibit A and fully incorporated herein, will provide 17 AHTF dwelling units affordable to individuals or families who are at or below 30% of the Area Median Income for Washoe County as calculated by HUD (AMI), 14 dwelling units affordable to individuals or families who are at or below 50% of the AMI, and 139 dwelling units affordable to individuals or families who are at or below 60% of the AMI.
- b. The Project will prioritize vetted referrals from the Nevada Cares Campus and Our Place, and draw from the Community Queue taking into consideration income level, eligibility for the project, and potential for other program eligibility.
- c. Tenant selection criteria must be submitted to the County. Selection criteria will follow the United States Interagency Council on Homelessness Housing First, a best practice model approach which provides appropriate individualized services via follow-along services after housing placement. Housing is offered without preconditions or service participation requirements, and provides for leniency, acknowledging that the chronically homeless population generally experiences difficulties with credit and background checks. Supportive services will act as a counterbalance to the risk in accepting said tenants.
- d. Any on-site supportive services must be offered to tenants as voluntary services unless otherwise required for voucher programs. Tenants may not, as a condition of their lease or continued occupancy, be required to accept, participate in, or comply with the requirements of any supportive services program unless otherwise directed by other program funding. In the event of program funding that mandates specific program participation, such requirement can only be applied to the specific units that program funds such as in the case of any project-based vouchers.
- e. Recipient is solely responsible for the construction, operation, and services provided by the Project. The County will have no relationship whatsoever with the construction, operation, or services provided by the Project, except the provision of financial support, monitoring, and the receipt of reports provided for in this Agreement.
- f. Recipient agrees to abide by all applicable federal, state, and local codes, regulations, statutes, ordinances, and laws. Recipient further agrees Recipient will be the sole entity undertaking the eligible activities under this Agreement.

- g. Recipient agrees to keep and maintain in effect at all times any and all licenses, permits, notices and certifications which may be required by any county ordinance or state or federal statute.
- h. Recipient understands and agrees to utilize Washoe County's Homeless Management Information System (HMIS) to collect designated client-level information relating to tenants at the Project in AHTF funded units, and Recipient understands that they will be responsible for entering all client level data into HMIS as prescribed by Washoe County and in accordance with all Washoe County Continuum of Care Data Standards and Policies.
- i. The County may physically inspect the premises of the Project at any time during normal business hours. The County may review all documents and records relevant to this Agreement by giving 48 hours advance notice. Documents and records include, but are not limited to, all checks, payrolls, time records, invoices, contracts, vouchers, orders and other accounting documents related to this Agreement.
- j. Recipient will protect, defend, indemnify, and save and hold harmless the County from and against any and all liability, damages, demands, claims, suits, liens, and judgments of whatever nature including but not limited to claims for contribution or indemnification for injuries to or death of any person or persons, caused by the negligence, gross negligence, or intentional act of Recipient or its agents relating to this Agreement or the Project.
- k. During construction and throughout the term of this Agreement, Recipient will maintain insurance, including property insurance which will be no less than replacement value for the Project. In the event of loss, Recipient shall give prompt notice to the insurance carrier and the County.
- l. Recipient must develop, operate, and maintain the Project in accordance with all applicable federal, state, and local laws, including but not limited to:
 - i. The requirements of the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR Part 100; Executive Order 11063, as amended by Executive Order 12259 (3 CFR 1958 B1963 Comp., P. 652 and 3 CFR 1980 Comp., P. 307) (Equal Opportunity in Housing) and implementing regulations at 24 CFR Part 107; and of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1;
 - ii. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing Regulations at 24 CFR Part 146, and the prohibitions against discrimination against

- handicapped individuals under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8;
- iii. The requirements of 24 CFR 5.105(a)(2) requiring that HUD-assisted housing be made available without regard to actual or perceived sexual orientation, gender identity, or marital status and prohibiting owners (or their agents) from inquiring about the sexual orientation or gender identity of an applicant for, or occupant of, HUD-assisted housing for the purpose of determining eligibility for the housing or otherwise making such housing available. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity;
 - iv. The requirements of Executive Order 11246 (3 CFR 1964-65, Comp., p. 339) (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR Chapter 60;
 - v. The requirements of Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971-1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 139) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393 and 3 CFR, 1987 Comp., p. 245) (Women's Business Enterprise). Recipient must make efforts to encourage the use of minority and women's business enterprises in connection with AHTF Funded activities. Recipient will cooperate with the County in its minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, in the procurement of property and services including, without limitation, real estate firms, construction firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services; and
 - vi. The requirements of section 282 of the HOME Investment Partnerships Act at Title II of the Cranston-Gonzales National Affordable Housing Act, as amended. Recipient agrees to post notices containing this policy against discrimination in conspicuous places available to applicants for employment and employees. All solicitations or advertisements for employees, placed by or on the behalf of the Recipient, shall state that all qualified applicants will receive consideration for employment without regard to age, race, color, national origin, religion, or sex.
- m. Recipient is responsible for meeting planning and zoning requirements and gaining Project approval by the proper municipal, county, and state entities and related governing bodies. Recipient is responsible for completing the construction permitting process and for meeting all applicable federal and county environmental regulations or standards.

3. Term of Affordability

- a. The Project will be maintained as a low-income housing project for not less than 30 years, which will continue irrespective of any payment of the loan or full expenditure of the grant (“the Affordability Period”). The Affordability Period, which will be secured by a Declaration of Restrictive Covenant, attached as Exhibit D and fully incorporated herein, which will be recorded in the Washoe County Recorder’s Office, begins on the date the Project is available for occupancy. As used in this paragraph, low-income housing project means a housing complex that provides housing to 17 tenants at or below 30% of the Area Median Income (AMI) for Washoe County, 14 tenants at or below 50% AMI for Washoe County, and 139 tenants at or below 60% AMI for Washoe County.
- b. Grantee agrees that if, at any point during the Affordability Period, the Project ceases to comply with this Agreement or the Declaration of Restrictive Covenant, Grantee shall repay the total amount of AHTF Funds received pursuant to this Agreement.
- c. To ensure compliance with the Affordability Period, Recipient must file annual reports, due one year from the effective date of this agreement and annually thereafter for the duration of the Affordability Period, via electronic mail to the designee in this Agreement, containing the following:
 - i. Total number of units in the Project, broken down by number of separate bedrooms in each unit
 - ii. Number of months each unit was occupied
 - iii. Rent charged for each unit, separately identified by month
 - iv. Average length of tenancy at the Project
 - v. Number of evictions at the Project
 - vi. Number of renewed leases at the Project
- d. Additionally, quarterly reports must be submitted to the County, pulled directly from HMIS to the extent possible, via electronic mail to the designee in this Agreement by the 15th day of the month following each calendar quarter, including the following for all AHTF funded units:
 1. Description of supportive services provided
 2. Number of staff including job title, rate of pay, and hours worked
 3. Number and description of households served with each described supportive service, including
 - a. Household size
 - b. Number of adults and minors in assisted household
 - c. Number of assisted households with one or more members identified as chronically homeless
 - d. Number of households served with one or more members identified as a veteran

- e. Number of households served with one or more members identified as a transition-age youth (18-24 years of age)
- f. Racial demographics for assisted household
- g. Ethnic demographics for assisted household
- h. Gender of head of household
- i. Household Income
- j. Length of tenancy at funded project for assisted household
- k. Number of successful exits to other permanent housing for assisted households

- 4. Number of months each unit was occupied
- 5. Rent charged for each unit, by month

- e. Throughout the term of this Agreement, Recipient must maintain the Project in compliance with all applicable State and local codes and ordinances, including but not limited to fire codes, health codes, property maintenance codes, or other habitability codes, through the Affordability Period.

4. Modification or Revocation of Agreement

- a. The County and Recipient may amend or otherwise revise this Agreement, on consent of both parties, should such modification be necessary.
- b. The County may suspend or terminate this Agreement if Recipient fails to comply with any of its terms. If the Agreement is terminated by the County, Recipient has no claim of benefit for any incomplete activities undertaken under this Agreement.
- c. The County may terminate this Agreement for any reason on thirty days written notice prior to the initial disbursement of AHTF Funds under this Agreement. In the event of termination under this provision, Recipient shall have no claim of payment or claim of benefit for any incomplete project activities undertaken under this Agreement and shall not be entitled to, and hereby waives, all claims for lost profits and all other damages and expenses.

5. Default and Remedies

- a. Any breach of this Agreement, the Financing Agreement, or of the Declaration of Restrictive Covenant, shall constitute an event of default under this Agreement.
- b. Upon the occurrence of an event of default, the County will provide Recipient notice of the default in writing and Recipient will have 30 days from the date of the notice

to cure the default. If Recipient does not cure the default, Recipient must repay the total amount granted pursuant to this Agreement, including principal and interest.

- c. In the event of default, the County may protect and enforce its rights by mandamus or other suit, actions, or proceedings at law or in equity. No remedy conferred by this Agreement is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and shall be in addition to any other remedy existing at law or equity. No delay or omission of the County to exercise any right or remedy accruing on an event of default shall impair any such right or remedy or constitute a waiver of any such event of default.

6. Insurance, Indemnification and Limitation of Liability

- a. Washoe County has established specific indemnification and insurance requirements to help ensure that reasonable insurance coverage is maintained. Indemnification and hold harmless clauses are intended to ensure that contractors are aware of and accept the responsibility for losses or liabilities related to their activities. Exhibit C, Pages 1-4, is attached and included by reference. All conditions and requirements identified in this Exhibit shall be completed prior to the commencement of any work under this contract/agreement. County will not waive and intends to assert available defenses and limitations contained in Chapter 41 of the Nevada Revised Statutes. Contract liability of both parties shall not be subject to punitive damages.

7. Miscellaneous Terms

- a. All notices, demands, requests, or other communications required or permitted under this Agreement shall be in writing and sent by first class, regular, registered, or certified mail, by electronic mail, or hand delivered to the party to be notified as follows:

To the County: Washoe County
Housing and Homeless Services
Human Services Agency
350 S. Center Street
Reno, Nevada 89502
Email: HSA-Contracts@washoecounty.gov
RegionalHomelessServices@washoecounty.gov

To Recipient: American Covenant Senior Housing Foundation, Inc.
431 First Ave West
Kallispell, MT 59901

- b. Notice will be deemed to have been given and received for all purposes under this agreement three business days after notice is deposited in any official depository or receptacle of the United States Postal Service; on the date of transmission of a notice delivered by electronic mail, except that a notice delivered after 4 p.m. on a business day or at any time on a non-business day will be deemed to have been given and received the following business day; and on the date notice was actually delivered in writing by personal delivery, except that a notice personally delivered after 4 p.m. on a business day or at any time on a non-business day will be deemed to have been given and received the following business day.
- c. This Agreement constitute the legal, valid, and binding obligations of the Parties enforceable against the Parties in accordance with its respective terms.
- d. This Agreement shall be governed by and enforceable in accordance with the laws of the State of Nevada.
- e. If any provision of this Agreement is deemed invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining portions shall not in any way be affected or impaired.
- f. In connection with any litigation arising under this Agreement or any related agreement contemplated or incorporated herein, the prevailing party or parties in such litigation should be entitled to recover reasonable attorney fees and other legal costs and expenses from the non-prevailing Party.
- g. Each Party irrevocably and unconditionally waives any right it may have to a trial by jury with respect to any legal action arising out of or relating to this Agreement or the transactions contemplated by this Agreement.
- h. The transactions described in this Agreement may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files, and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.
- i. Each Party represents and warrants to the other Party that:
 - 1. It has the full right, power, and authority to enter into this Agreement, to grant any rights and licenses hereunder and to perform its obligation hereunder;

- 2. The execution of this Agreement by its representative whose signatures are set forth at the end hereof has been dully authorized by all methods or corporate action of the Parties; and
- 3. Execution and delivery by such Party of this Agreement shall constitute the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed and intend to be legally bound.

Dated on this _____ day of _____ 2024

Washoe County:

By: _____

Name: _____

Title: _____

Dated on this _____ day of _____ 2024

GRANTEE:

American Covenant Senior Housing Foundation, Inc.

By: _____

Title: _____

Exhibit A – Request for Proposal Application detailing the Project Description including a breakdown of units and on-site services, if any, specific identification of how County funds will be spent, schedule for completion/opening, budget.



AMERICAN
COVENANT SENIOR



AMERICAN
COVENANT SENIOR

Exhibit B – Declaration of Restrictive Covenant detailing affordability definition and period, and legal description of land.

Exhibit C – any insurance/waivers of liability Risk Management deems necessary.



Washoe County
Affordable Housing