



El Dorado, County Recorder  
 William Schultz Co Recorder Office  
**DOC- 2009-0037552-00**

REGD BY EL DORADO CO DEPT OF HUMAN SERV

Tuesday, JUL 28, 2009 13:57:41

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Nbr-0001191724

JLR/C1/1-24

RECORDING REQUESTED BY AND  
 WHEN RECORDED MAIL TO:

El Dorado County  
 Department of Human Services  
 Housing Programs  
 937 Spring Street  
 Placerville, CA 95667

No fee for recording pursuant to  
 Government Code Section 27383

*(Space above for Recorder's Use)*

**AFFORDABLE HOUSING AGREEMENT  
 FOR TIM FEE OFFSET PROGRAM  
 (Offset Agreement)**

**HAINES SECOND DWELLING UNIT**

This AFFORDABLE HOUSING AGREEMENT ("Agreement") is entered into as of this 22 day of May 2009, by and between EL DORADO COUNTY, (the "County"), and DOUGLAS A. HAINES AND ANGELA R. HAINES AND ORLANDO E. HAINES (the "Developer"), with reference to the following facts:

- A. Developer is the owner of certain real property in El Dorado County, California described in Exhibit A attached hereto and incorporated herein by this reference (the "Property"). Developer has received County approval for an offset of applicable TIM fees for the Property pursuant to Board Policy B-14: "Traffic Impact Mitigation (TIM) Fee Offset Program for Developments with Affordable Housing Units."
- B. On OCTOBER 7, 2008, the Board of Supervisors approved the recommendations of the TIM Fee Offset Program committee and Chief Executive Officer to award a TIM Fee Offset in the amount of TWENTY EIGHT THOUSAND ONE HUNDRED EIGHTY DOLLARS (\$28,180) for the Developer to provide ONE (1) unit(s) as affordable or inclusionary units and required the Developer to provide an affordable housing plan to the County prior to receiving the TIM Fee Offset.
- C. Developer is entering into this Agreement in order to satisfy conditions pursuant to Board Policy B-14. Developer and County are entering into this Agreement to articulate the requirements for certain unit(s) to be "deed restricted" as provided herein.
- D. Developer is required to enter into this Agreement as a condition of Board Policy B-14 and the County's approval to award a TIM Fee Offset to assure the development of the

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- A. Developer is the owner of certain real property in El Dorado County, California described in Exhibit A attached hereto and incorporated herein by this reference (the "Property"). Developer has received County approval for an offset of applicable TIM fees for the Property pursuant to Board Policy B-14: "Traffic Impact Mitigation (TIM) Fee Offset Program for Developments with Affordable Housing Units."
- B. On OCTOBER 7, 2008, the Board of Supervisors approved the recommendations of the TIM Fee Offset Program committee and Chief Executive Officer to award a TIM Fee Offset in the amount of TWENTY EIGHT THOUSAND ONE HUNDRED EIGHTY DOLLARS (\$28,180) for the Developer to provide ONE (1) unit(s) as affordable or inclusionary units and required the Developer to provide an affordable housing plan to the County prior to receiving the TIM Fee Offset.
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- D. Developer is required to enter into this Agreement as a condition of Board Policy B-14 and the County's approval to award a TIM Fee Offset to assure the development of the

Affordable Housing Unit(s) and sale or occupancy of the required Affordable Housing Unit(s) to Eligible Income Households, specifically LOW INCOME HOUSEHOLDS EARNING NOT MORE THAN 80% OF THE ANNUAL AREA MEDIAN INCOME.

E. Developer intends to meet the requirements of Board Policy B-14 by constructing or otherwise providing ONE (1) unit(s) (Deed Restricted Unit(s)) which will be RENTED to income eligible households as defined in Section 1(e) herein at Affordable Purchase Prices or at Affordable Rental Prices as specified herein.

F. This Agreement is consistent with Section 6 of the Housing Element of the El Dorado County General Plan.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. **Definitions.** In addition to those terms defined in the Recitals to this Agreement, the following terms have the following meanings in this Agreement:

(a) "Affordable" means average total monthly housing expenses during the first calendar year of a household's occupancy, including but not limited to property taxes, homeowner's insurance, homeowner's association dues, if any, mortgage loan principal and interest, mortgage insurance, and Mello Roos or other applicable assessments, which are equal to or less than one-twelfth (1/12<sup>th</sup>) of thirty-five percent (35%) of [insert target income group definition specific to offset award] of Median Family Income, adjusted for household size based on an occupancy standard of one-person per bedroom, plus one additional person (for example, a three-bedroom home will be priced based on the income of a four-person family). The monthly housing cost factors required to be included in the calculation of the Affordable Housing Price shall be provided by the County.

(b) "Affordable Rental Price" means a rental dwelling for which the total monthly expense (rent plus the standard El Dorado County Housing Authority utility allowance) does not exceed forty (40) percent of the maximum monthly income limit for target income households in El Dorado County as established and updated yearly by the state Department of Housing and Community Development. (California Government Code Section 65915(c)(1))

(c) "Deed Restricted" means single-family units or second dwelling units that are income-restricted for purchase or rent by very low-, low-, or moderate-income households for a term of at least twenty (20) years through an Affordable Housing Agreement Deed Restricted for-sale units are further secured through a Buyer's Occupancy and Resale Restriction Agreement.

(d) "Eligible Buyer" means a targeted income household who is eligible to purchase a Deed Restricted Unit as provided herein.

(e) "Income Eligible Household" means a household with all income that, at the time of eligibility, meets the definition of the target income group of Very-low, Low-, or Moderate income household as specified above in Section D.

(f) "Household Income" means the combined adjusted gross income for all adult persons living in a unit, as calculated for the purpose of the Housing Choice Voucher Section 8 program under the United States Housing Act of 1937, as amended, or its successor.

(g) "Low-Income Household" means a household with all income that, at the time of eligibility, does not exceed eighty percent (80%) of the median monthly income for El Dorado County, as defined by the U.S. Department of Housing and Urban Development.

(h) "Moderate Income Household" means a household with all income that, at the time of eligibility, is between 80 percent and 120 percent of the area median family income for El Dorado County adjusted by household size.

(i) "Maximum Initial Sales Price" means the maximum purchase price for a Deed Restricted Unit that is Affordable to the targeted Household Income level (Very Low, Low, or Moderate) as provided in Section D. An estimate of the Maximum Sales Prices will be prepared on an annual basis by the Program Operator as an attachment to these guidelines.

(j) "Median Family Income" means the median household income in El Dorado County published periodically by the State of California pursuant to California Code of Regulations, Title 25, Section 6932 (or successor provisions).

(k) "Resale Restriction" means an Affordable Housing Buyer's Occupancy and Resale Restriction Agreement (Buyer's Agreement), in the form provided by the County, to be executed by each buyer of a Deed Restricted Unit and recorded against the Deed Restricted Unit at the time of purchase by the buyer.

(l) "Second Dwelling Unit" means the expansion of an existing single-family dwelling by not more than thirty percent (30%) of the floor area to provide an attached second residential unit. This unit shall be attached by a common wall to the primary dwelling unit, or attached to a garage by a common wall which shares a common wall with the primary dwelling and shall be provided with a separate entrance; or the construction of a detached single family residential unit not to exceed 1,200 square feet of enclosed habitable living area.

(m) "Very Low-Income Households" means a household with all income that, at the time of eligibility, does not exceed fifty percent (50%) of the median monthly income for El Dorado County, as defined by the U. S. Department of Housing and Urban Development.

2. **Development of Project.** Developer shall construct the Residential Project or second dwelling unit in accordance with the entitlements and permits approved and issued by the County and shall sell, or if a second dwelling unit rent, the Deed Restricted Units at an Affordable Price to income eligible households in accordance with this Agreement.

3. **Covenants.**

(a) This Agreement shall be recorded against the Deed Restricted Unit(s). This agreement shall run with the land and shall be binding on the Developer and its successors and assigns for twenty (20) years from either: 1) the date a certificate of occupancy is issued for the first Deed Restricted Unit in the case of new construction; 2) the recording date of transfer for each Deed Restricted Unit to an Affordable Buyer in the case of a conversion; or 3) the date the TIM Fee Offset is issued by the Development Services Department in the case of second dwelling unit(s).

(b) This Agreement, as it applies to individual units, shall terminate upon each unit's transfer to an Affordable Buyer as described in Section 10 and Developer shall thereafter have no obligation with respect to such unit as it relates to affordability and the terms of this Agreement.

4. **Recording of Agreement.** This Agreement shall be recorded concurrently with the recording of the TIM Fee Offset.

5. **Number of Deed Restricted Units.** As a condition to the satisfaction of the TIM Fee Offset Policy for Developments with Affordable Housing, Developer shall construct, or cause to be constructed, ONE (1) Deed Restricted Unit(s) for Income Eligible Households consisting of A ONE BEDROOM , ONE BATH SECOND DWELLING UNIT.

6. **Location of Deed Restricted Units.** The Deed Restricted Unit(s) shall be as follows: Unit(s) SECOND DWELLING UNIT LOCATED AT 1544 BIG OAK ROAD, PLACERVILLE, CALIFORNIA as depicted on the attached Exhibit "B".

7. **Appearance, Size and Bedroom Count.** The Deed Restricted Unit(s) shall be of the same general design and exterior appearance as the Market Rate Units and of comparable quality of construction. Interior features of the Deed Restricted Unit(s) shall be durable, of good quality, and consistent with contemporary standards for construction.

8. **Schedule for Developing Deed Restricted Units.** The Deed Restricted Unit(s) shall be offered for sale, or rent, concurrently with the Market Rate Unit(s) and shall be released by the Developer proportionately with the Market Rate Unit(s).

9. **Rent Limitations.** On or about March 1 of each year, when the U.S. Department of Housing and Urban Development issues annual updates of the income limits for El Dorado

County, adjusted by household size, the County shall issue to Developer new gross rent limits for the Affordable Housing Units designated in Section 6 for the following calendar year. The County shall calculate gross rents using the income limits for the imputed household size appropriate to the size of each Affordable Housing Unit. The gross rents shall be subject to deduction of a utility allowance, approved and issued by the County, and shall be consistent with the definitions of rent referenced in this paragraph. The utility allowance schedule includes monthly figures for utility expenses that the tenant is required to pay in addition to the rent, and may include the costs associated with cooking, space heating, water heating, lights, other electrical, water, sewer, garbage, and renting a stove and refrigerator as established by the Housing Choice Voucher Section 8 Program. Developer shall ensure that:

(a) Developer shall not charge its tenants more than the net rent or gross rent where all utilities are included, resulting from the calculation described herein and permitted by the County.

(b) The imputed household size for a unit shall be equal to the number of bedrooms in the unit plus one. For example, the County shall calculate gross rent for a two bedroom unit using the appropriate income limit for a three-person household. The monthly gross rent limit for each unit reserved for a very-low income tenant shall be equal to one-twelfth (1/12th) of the product of 40% of 50 % of the median income for the household size imputed for that unit. The monthly gross rent limit for each unit reserved for a low-income tenant shall be equal to one-twelfth (1/12th) of the product of 40% of 80% of the median income for the household size imputed for that unit. The monthly gross rent limit for each unit reserved for a moderate-income tenant shall be equal to one-twelfth (1/12th) of the product of 40% of 120% of the median income for the household size imputed for that unit.

(c) Units which are vacant during the period of the Agreement, as described in Section 3(a), must be filled by a target income household. The maximum allowable rent for vacant units shall not exceed the Fair Market Rent (in effect when the rent is calculated) with an adjustment for utility allowance based on the Housing Choice Voucher (Section 8) Existing Housing Allowances for Tenant Furnished Utilities and Other Services (in effect when the rent is calculated).

(d) The Developer shall enter into a Rent Limitation Agreement which is attached hereto as Exhibit D, if applicable.

(e) Developer and all successors in interest to this agreement shall submit, upon the request of the County, its representatives, and assigns a certificate in the form provided by the County verifying that occupancy of the Unit remains in compliance with this Restriction. The County shall have the authority to review all relevant records in regard to transfer or occupation of the Unit upon reasonable notice to Developer to ensure compliance with this Restriction. The County shall have the authority to request and review records of the Developer or occupants of the Unit to determine compliance with this Restriction, and shall have the

authority to require additional affidavits or other supporting documents periodically to assure and confirm Developer's continued compliance with this Restriction.

(f) El Dorado County, its representatives, and assigns, shall have the right to enter upon the Property, at reasonable times and with reasonable notice, for the purpose of inspecting the Property to ensure each unit meets housing quality standards in compliance with County Code and the Department of Housing and Urban Development (HUD) requirements under the Housing Choice Voucher Program guidelines.

If the Developer fails to demonstrate a good faith effort to come into compliance with the terms of the program within the 60-day period, the County shall enforce the terms of the Agreement by taking any measures it deems appropriate, as defined in Section 16.

**10. Sale by Developer to Eligible Buyers.** Developer shall sell the Deed Restricted Unit(s) to eligible Income Households, at Affordable Purchase Prices as described herein. Developer shall create a list of potential buyers and qualify them for purchase. Potential buyers for the initial sale must be first-time homebuyers as defined in the Program Guidelines. The Buyer shall enter into an Affordable Housing Buyer's Occupancy and Resale Restriction Agreement (Buyer's Agreement) which is attached hereto as Exhibit "C", if applicable.

**11. Affordable Purchase Prices.** The sales price that the affordable unit(s) will be offered to the prospective qualified purchasers ("Affordable Purchase Price") will be established at the time each affordable unit(s) is offered for sale to prospective qualified purchasers (a "Release"). How many affordable units are in each Release and when the Releases are offered to the prospective qualified purchasers will be at the sole discretion of the Developer except as provided in Section 8 above. The Affordable Purchase Price shall not exceed the price for which a Target Income Household can qualify under the financing program offered by Developer's preferred lender or similar lending institutions. Developer acknowledges that this amount will vary with time and will be approved by the County in accordance with income limits for the Sacramento PMSA as published pursuant to California Code of Regulations, Title 25, Section 6932 (or successor provisions).

No later than 45 days prior to each Release, Developer will submit their calculation of the proposed Affordable Purchase Price for the Release based on a calculation provided by the Developer's preferred lender conforming to the criteria described herein and Section 1(a). Within 14 days of receipt of these calculations the County shall either approve the proposed Affordable Purchase Price(s) or require an appropriate adjustment in the Affordable Purchase Price if the financing program offered by Developer's preferred lender or similar lending institutions does not, in the County's discretion, qualify for purchase of the Affordable Unit.

Subject to the County's approval of the proposed Affordable Purchase Price as described above the County has approved the following assumptions to be used in the calculations for the proposed Affordable Purchase Price:

- 1.) Down payment shall be three (3%) percent of the Affordable Purchase Price.
- 2.) The minimum loan term shall be 30 years.
- 3.) Property taxes shall not exceed 1.25% of the Affordable Purchase Price.

12. **Resale of Deed Restricted Units.** After the initial sale of Deed Restricted Units, such Units shall remain affordable to subsequent Income Eligible Buyers pursuant to a Resale Restriction (Buyer's Agreement) which is attached hereto as Exhibit "C", if applicable. Subsequent buyers are not required to be first-time homebuyers. The Deed Restricted Units shall be restricted for a twenty (20) year period and the restriction shall run from the date applicable to the Developer as set forth above in Section 3(a). The Resale Restriction shall require that the unit will be sold by any subsequent Owner at an Affordable Purchase Price for Income Eligible Households.

The following provisions shall apply to the resale of Deed Restricted Unit(s) and these provisions shall be disclosed to the Initial Buyer and contained in the Resale Restriction:

(a) If any Owner, including Developer, is unable to sell the Deed Restricted Unit within sixty (60) days of good faith offering, marketing and advertising the unit for sale, the owner may offer to sell the Unit to the County at the Affordable Housing Price at the time of offer. If the County or its assignee does not complete the purchase of the Unit within ninety (90) days of the Owner's offer of sale to the County, the resale obligations and Deed Restrictions for the Unit shall terminate; however, the provisions of this section relating to Recapture Upon Sale shall continue to apply and remain in full force and effect. In no event may a Deed Restricted Unit be sold at above an Affordable Purchase Price without full and complete compliance with this section.

(b) **Recapture Upon Sale.** If the Deed Restricted Unit does not sell within sixty (60) days of good faith advertising, offering and marketing the Unit for sale and if the County does not acquire the Deed Restricted Unit as specified in this section, the Deed Restricted Unit may be sold at the current market price, and the Developer shall pay to the County Housing Trust Fund all proceeds from the sale of the Unit less the Affordable Purchase Price as defined herein. For any other sale, the Seller shall pay the County a percentage of Profit, if any, as provided in this section. County shall place all such proceeds in a trust fund to be used solely for the purpose of creating affordable housing in El Dorado County. For purposes of any other sale, "Profit" is defined as the net proceeds from the sale after deducting loan(s), ordinary expenses attributed to the seller, including real estate commissions not to exceed six (6) percent, and after deducting the current Affordable Housing Price. Improvements to the home shall not constitute ordinary expenses and are not deducted for purposes of identifying Profit.

(c) The percentage of Profit retained by the Owner in the event the Unit does not sell as provided above, shall vary according to the number of years an Owner owns the Residential Unit. The percentage of Profit to be allocated to the owner is provided as follows:



Years Current Owner Owned Residence	Percentage of Profit to Current Owner	Percent Profit Paid to the County's Housing Trust Fund
less than 1	10	90
less than 2	20	80
less than 3	30	70
less than 4	40	60
5 or more	50	50

13. **Homebuyer Documents and Security Instruments.** Prior to the initial sale of each Deed Restricted Unit, Developer shall ensure that:

(a) The Eligible Buyer and the County shall execute a Resale Restriction. The Resale Restriction shall be recorded against the Deed Restricted Unit at close of escrow on the Sale to the Eligible Buyer. The Resale Restriction shall be recorded junior only to the lien of the Deed of Trust securing the Eligible Buyer's first mortgage loan, unless otherwise approved in writing by the County.

(b) The Eligible Buyer shall execute a Homebuyer/County Note that obligates the Eligible Buyer to pay the County any excess sales proceeds received by the Eligible Buyer if the Eligible Buyer fails to comply with the Resale Restriction on resale of the Deed Restricted Unit.

14. **County Approval of Documents.** The following documents are to be approved in writing by the County and shall be used in connection with the development and sale of the Deed Restricted Units. County must approve such documents prior to the sale of the first Deed Restricted Unit. If the County fails to approve these documents in writing prior to the sale of the first Deed Restricted Unit Developer may proceed with sale using documents of Developers choosing:

(a) Form of Purchase and Sale Agreements for sale of the Deed Restricted Units (to be prepared by Developer and submitted to the County).

(b) Forms of Resale Restriction and Homebuyer/County Note (to be prepared by the County, following Developer's request).

15. **Release of Property From Agreement.** The covenants and conditions herein contained shall apply to and bind, during their respective periods of fee ownership, Developer and its heirs, executors, administrators, successors, transferees, and assignees having or acquiring any right, title or interest in or to any part of the Property and shall run with and burden such portions of the Property until terminated in accordance with the provisions of this Agreement. Until portions of the Property are released from the burdens of this Agreement, the owners of fee

title to the Property shall expressly make the conditions and covenants contained in this Agreement a part of any deed or other instrument conveying any interest in such property.

16. **Default and Remedies.** Failure of the Developer to cure any default in the Developer's obligations under the terms of this Agreement within thirty (30) days after the delivery of a notice of default from the County will constitute a default under this Agreement. No notice of default shall be required if the County has previously notified the Developer of the same breach on a prior occasion. Should Developer fail to satisfy or adhere to the terms of this Agreement, the County may exercise any and all legal remedies available to it, including, but not limited to:

- (a) Withholding, conditioning, suspending or revoking any permit, license, subdivision approval or map, or other entitlement for the Residential Project, including, without limitation, final inspections for occupancy and/or certificates of occupancy;
- (b) Instituting against the Developer, or other parties, a civil action for declaratory relief, injunction or any other equitable relief, or relief at law, including, without limitation, an action to rescind a transaction and/or to require repayment of any funds received or payment of any offset of fees in connection with such a violation;
- (c) Where one or more persons have received financial benefit as a result of violation of this Agreement or of any requirement imposed under the Ordinance, the County may assess, and institute legal action to recover, as necessary, a penalty in any amount up to and including the amount of financial benefit received, in addition to recovery of the benefit received;
- (d) Any other means authorized under El Dorado County Municipal Code.

17. **Remedies Cumulative.** No right, power, or remedy given to the County by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the County by the terms of any such document, ordinances of the County, or by any statute or otherwise against Developer and any other person. Neither the failure nor any delay on the part of the County to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the County of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

18. **Attorneys Fees and Costs.** The County shall be entitled to receive from the Developer or any person violating the requirements of this Agreement, in addition to any remedy otherwise available under this Agreement or at law or equity, whether or not litigation is instituted, the costs of enforcing this Agreement, including, without limitation, reasonable attorneys' fees and the costs of County staff time.

19. **Appointment of Other Agencies or Organizations.** At its sole discretion, the County may designate, appoint or contract with any other public agency, for-profit or non-profit organization to perform some or all of the County's obligations under this Agreement.

20. **Hold Harmless.** Developer will indemnify and hold harmless (without limit as to amount) County and its elected officials, officers, employees and agents in their official capacity (hereinafter collectively referred to as "Indemnitees"), and any of them, from and against all loss, all risk of loss and all damage (including expense) sustained or incurred because of or by reason of any and all claims, demands, suits, actions, judgments and executions for damages of any and every kind and by whomever and whenever made or obtained, allegedly caused by, arising out of or relating in any manner to the Residential Project, the Deed Restricted Units, or Developer's performance or non-performance under this Agreement, and shall protect and defend Indemnitees, and any of them with respect thereto, except to the extent arising from the gross negligence or willful misconduct of the County. The provisions of this section shall survive expiration or other termination of this Agreement or any release of part or all of the Property from the burdens of this Agreement, and the provisions of this section shall remain in full force and effect.

21. **Notices.** All notices required pursuant to this Agreement shall be in writing and may be given by personal delivery or by registered or certified mail, return receipt requested, to the party to receive such notice at the address set forth below:

TO THE COUNTY:

El Dorado County  
Department of Human Services  
Housing Programs  
937 Spring Street  
Placerville, CA 95667  
Attn: Affordable Housing Programs

TO THE DEVELOPER:

DOUGLAS HAINES  
1544 BIG OAK ROAD  
PLACERVILLE, CA 95667

Any party may change the address to which notices are to be sent by notifying the other parties of the new address, in the manner set forth above.

22. **Integrated Agreement.** This Agreement constitutes the entire Agreement between the parties and no modification hereof shall be binding unless reduced to writing and signed by the parties hereto.

23. **Duration and Amendment of Agreement.** This Agreement shall remain in effect for so long as the Property is subject to obligations of the Deed Restricted Unit(s). This Agreement, and any section, subsection, or covenant contained herein, may be amended only upon the written consent of the Director of Housing Authority who shall have authority to approve or disapprove amendments on behalf of the County.

24. **Applicable Law.** This Agreement shall be governed by California law.

25. **Waivers.** Any waiver by the County of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the County to take action on any breach or default of Developer or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Developer to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the County to any act or omission by Developer shall not be construed to be consent to any other or subsequent act or omission or to waive the requirement for the County's written consent to future waivers.

26. **Title of Parts and Sections.** Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

27. **Multiple Originals; Counterpart.** This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

28. **Recording of Agreement.** The Developer shall cause this Agreement to be recorded against the Deed Restricted Unit(s) in the Official Records of the County of El Dorado.

29. **Severability.** In the event any limitation, condition, restriction, covenant, or provision contained in this Agreement is to be held invalid, void or unenforceable by any court of competent jurisdiction, the remaining portions of this Agreement shall nevertheless, be and remain in full force and effect.

30. **Exhibits.** The following exhibits are attached to this Agreement:

Exhibit "A" Legal Description of the Property

Exhibit "B" Project Site Plan

Exhibit "C" Affordable Housing Buyer's Occupancy and Resale Restriction Agreement (Buyer's Agreement) – if applicable

Exhibit "D" Rent Limitation Agreement – if applicable

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

**DEVELOPER:**

**COUNTY:**

Project: HAINES SECOND UNIT

EL DORADO COUNTY

By: Douglas Haines

By: Janet Walker Conway

Print Name: DOUGLAS HAINES

Its: \_\_\_\_\_

By: Orlando E. Haines

Print Name: ORLANDO E HAINES

By: Angela Haines

Print Name: ANGELA HAINES

Its: \_\_\_\_\_ N/A

**NOTICE:**

**A CERTIFICATE OF ACKNOWLEDGEMENT IN ACCORDANCE WITH THE PROVISIONS OF CIVIL CODE SECTION 1189 MUST BE ATTACHED FOR EACH PERSON EXECUTING THIS AGREEMENT ON BEHALF OF COUNTY OF EL DORADO**

**ACKNOWLEDGMENT**

State of California

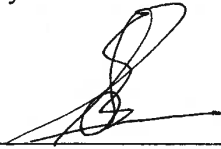
County of El Dorado

On June 18, 2009, before me, Shirley J. C. Hodgson a notary public, personally appeared Janet Walker - Conroy 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)

Description of Notarized document:

Affordable Housing Agreement  
for TIM Fee Offset Program

**NOTICE:**

**A CERTIFICATE OF ACKNOWLEDGEMENT IN ACCORDANCE WITH THE PROVISIONS OF CIVIL CODE SECTION 1189 MUST BE ATTACHED FOR EACH PERSON EXECUTING THIS AGREEMENT ON BEHALF OF DEVELOPER**

**ACKNOWLEDGMENT**

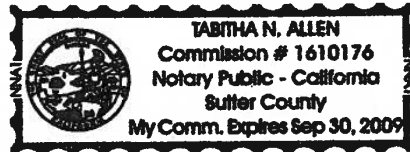
State of California

County of ~~El Dorado~~ <sup>TR</sup> Sutter

On May 27 2009, before me, Tabitha N Allen, a notary public, personally appeared Orlando E. Haines 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 Tabitha N. Allen

(Seal)

Description of Notarized document:

Affordable Housing Agreement

A handwritten signature in black ink, appearing to read "Orlando E. Haines", with a long horizontal line extending to the right.

5/27/26

**NOTICE:**

**A CERTIFICATE OF ACKNOWLEDGEMENT IN ACCORDANCE WITH THE PROVISIONS OF CIVIL CODE SECTION 1189 MUST BE ATTACHED FOR EACH PERSON EXECUTING THIS AGREEMENT ON BEHALF OF DEVELOPER**

**ACKNOWLEDGMENT**

State of California

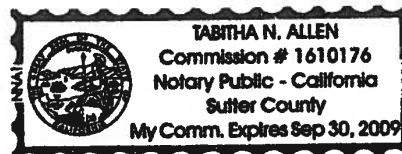
County of ~~El Dorado~~ Sutter (TA)

On May 27 2009, before me, Tabitha N. Allen, a notary public, personally appeared Angela Haines 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 Tabitha N. Allen



(Seal)

Description of Notarized document:

Affordable Housing Agreement



**NOTICE:**

**A CERTIFICATE OF ACKNOWLEDGEMENT IN ACCORDANCE WITH THE PROVISIONS OF CIVIL CODE SECTION 1189 MUST BE ATTACHED FOR EACH PERSON EXECUTING THIS AGREEMENT ON BEHALF OF  
~~COUNTY OF EL DORADO~~ *Developer***

**ACKNOWLEDGMENT**

State of California

County of El Dorado

On May 22 2009 2009, before me, Ruth Joyce Hensley  
a notary public, personally appeared Douglas Haines  
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 Ruth Joyce Hensley

(Seal)

Description of Notarized document:

Affordable Housing Agreement

Douglas Haines  
5-22-09

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF THE PROPERTY**

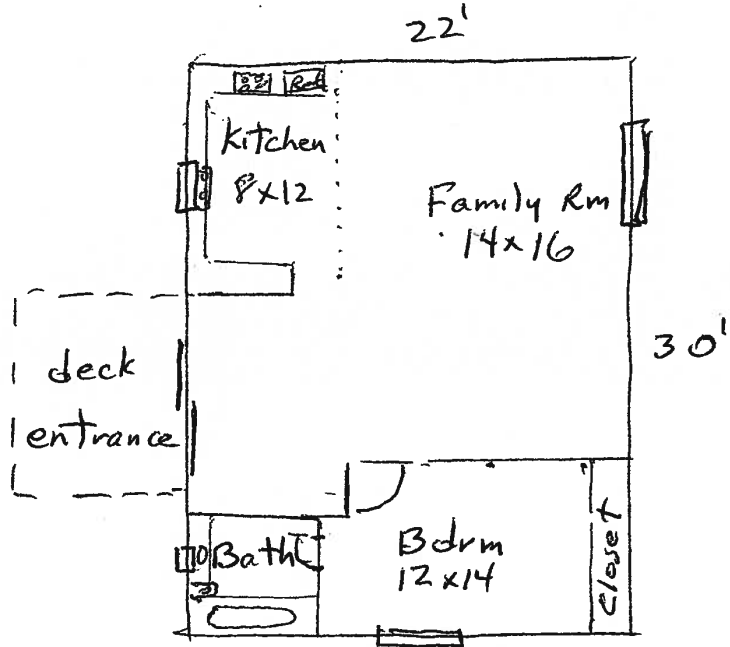
Parcel # 098-120-19-100  
1544 Big Oak Road, Placerville, CA 95667

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA, COUNTY OF EL DORADO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 10 NORTH, RANGE 11 EAST, M.D.B. & M., DESCRIBED AS FOLLOWS:  
BEGINNING AT THE NORTHEAST CORNER OF THE HEREIN DESCRIBED PARCEL FROM WHICH THE EAST QUARTER CORNER OF SAID SECTION 32 BEARS WEST 52.14 FEET; NORTH 10 39' 30" EAST 348.26 FEET AND NORTH 24° 49' 40" EAST 889.59 FEET; THENCE FROM SAID POINT OF BEGINNING EAST 298.00 FEET; THENCE SOUTH 1° 39' 30" WEST 633.42 FEET; THENCE NORTH 40° 52' 10" WEST 300.54 FEET; THENCE NORTH 58° 23' WEST 78.64 FEET; THENCE NORTH 74° 56' WEST 27.34 FEET; THENCE NORTH 1° 39' 30" EAST 357.70 FEET TO THE POINT OF BEGINNING.

EXHIBIT "B"

Floor Plan N.T.S.



**EXHIBIT "C"**

**AFFORDABLE HOUSING BUYER'S OCCUPANCY AND RESALE RESTRICTION  
AGREEMENT (BUYER'S AGREEMENT)**

NOT APPLICABLE

**EXHIBIT "D"**  
COUNTY OF EL DORADO

TIM FEE OFFSET PROGRAM FOR AFFORDABLE HOUSING  
937 SPRING STREET  
PLACERVILLE, CA 95667  
TEL: (530) 621-6300 \* FAX: (530) 295-2598

TIM Fee Offset Amount: \$ <u>28,180.00</u>	
BOS Approval Date: <u>October 7, 2008</u>	
Applicant Name: <u>Doug Haines</u>	
Project Name: <u>Second Dwelling Unit</u>	
Total Number of Affordable Units: <u>1</u>	
Target Income Group: <80% MFI Low Income	
For-Sale: _____	For Rent: <u>X</u>

**RENT LIMITATION AND TENANCY SCHEDULE AGREEMENT  
For Deed Restricted Unit(s)**

Developer agrees to rent to target income group tenants as specified in the TIM Fee Offset Agreement who earn less than 80% of the area median income for El Dorado County (hereinafter referred to as Target Income Group "TIG" tenants). County shall provide Developer with a schedule of the 80% of-median-income level applicable to this Agreement. Developer shall operate the property described in accordance with the following terms:

1. Fair Market Rent.

In no instance shall any rent increase raise the rent above the U.S. Department of Housing and Urban Development Fair Market Rent (FMR) schedule for the jurisdiction. County shall provide Developer with a copy of this schedule.

2. Number of Rental Units to Which this Agreement is Applicable.

Of the ONE unit(s) subject to the Offset Agreement, ONE unit(s) shall be available to and rented by TIG tenants upon each vacancy created by the vacation of an existing tenant.

3. Occupied Units

- a. Units initially occupied by non-TIG households which become vacant during the life of this agreement shall be rented to TIG households in accordance with Section 5 of this agreement.
- b. At the completion of rehabilitation, monthly rent, including estimated average utility costs (based on Housing Choice Voucher allowances), shall not exceed 40 percent of the gross monthly income of the tenant occupying the unit at the commencement of rehabilitation.

- c. At the completion of construction or conversion, monthly rent, including estimated average utility costs (based on Housing Choice Voucher allowances), shall not exceed 40 percent of the gross monthly income of the tenant occupying the unit.

4. Vacant Units

Initial rent charges shall not exceed 40% of 80% of the median income for El Dorado County, based on the appropriate household size for that unit, as determined by County. In no case, shall the monthly rent and utility costs exceed the Fair Market Rent. Developer has 60 days from the completion of construction, conversion or rehabilitation to rent the unit. Failure to do so shall constitute default, and paragraph seven (7) will apply.

5. Units Vacated within the term of Rent Limitation Agreement

Upon vacancy of any unit(s) designated under Section 2 of this Agreement, Developer shall agree to rent such unit(s) to a TIG household. If a unit becomes vacant during the term of this agreement, rents may not be increased above 40% of 80% median income for appropriate household size for that unit. In no case shall the monthly rent and utility costs exceed the Fair Market Rent. Developer shall affirmatively seek TIG households by contacting the local housing authority. Where such contact does not result in eligible low income tenants, the Developer shall contact County for guidance. Developer has 60 days from certificate of occupancy, conversion or rehabilitation to rent the unit. Failure to do so shall constitute default and paragraph seven (7) will apply.

6. Maximum Rents

The following are the maximum rents which may be charged during the first year after the TIM Fee Offset for Affordable Housing has been applied, subject to annual adjustment based on changes in the Fair Market Rent (FMR) schedule, notwithstanding any change(s) of ownership or transfer(s) of the property:

Unit Size (By # of Bedrooms)	Monthly Rent	Utilities Included
Studio	\$ 737	Yes or No
1 Bedroom	\$ 838	Yes or No
2 Bedroom	\$ 1,022	Yes or No
3 Bedroom	\$ 1,475	Yes or No
4 Bedroom	\$ 1,690	Yes or No
HUD FMR established for 2009		
For current FMR, contact the El Dorado County Housing Authority at (530) 621-6300		

- a. In every case of proposed rent increase(s), the tenant(s) affected by such increase(s) shall receive written notice of the amount of the increase(s) at least 60 days prior to the proposed date of such increase(s).
- b. Developer shall annually provide County with a written list of current occupants' names and monthly rents by January 15th each year for the term of the Offset Agreement. County may verify this information with the tenants. County may also verify the incomes of all tenants residing in the applicable unit.

7. Violations of This Agreement

Developer acknowledges that should a non-TIG family occupy the unit or rents in excess of those permitted by this Agreement and approved by County be charged, this will be cause for appropriate action to be taken by County. This action may include, but not be limited to: 1) declaring a default and demanding payment of the TIM Fee Offset amount, 2) requiring repayment of excess rents to tenants, 3) seeking an injunction against any violation of this Agreement, 4) requesting judicial appointment of a receiver to take over and operate the property in accordance with the terms of this Agreement, or 5) seeking such other relief as may be appropriate as set forth in the TIM Fee Offset Agreement.

8. Monitoring of Compliance

The Rent Limitation Agreement will be monitored by County, or its agent.

9. Independence of this Agreement from Deed of Trust

The conditions and restrictions affecting the real property subject to this agreement shall be independent of any Deed of Trust and/or loan documents; shall run with the land; and shall bind all parties having or acquiring any right, title or interest in the property or any part thereof, including agents, personal representatives, mortgagors, heirs, assignors and all successors in interest. Developer agrees that reference to this Agreement shall be inserted in any subsequent deeds and other legal instruments by which subject real property or any interest therein is conveyed.

10. TIM Fee Offsets Are a Public Resource

Developer acknowledges that TIM Fee Offsets are a public resource extended to benefit low-income households with affordable housing. If you sell, convert to current market rate, or otherwise dispose of the deed restricted unit(s) during the next twenty (20) years, part or all of this benefit may be "recaptured" unless specific provisions as set forth in the Notice of Potential Recapture Fee on Sale or Conversion of Deed Restricted Units are met. If this fee

is not repaid by Developer, that sum shall be placed as a lien on the property before reconveyance of the Deed of Trust.

11. Period of Agreement

The term of this agreement shall run with the term of the TIM Fee Offset Agreement for a period of not less than TWENTY YEARS from the date of recordation.

Date: 5-27-09

By: Douglas Hain  
Developer

By: Adolph P. Hain  
Developer

By: Asscle Hain  
Developer



COUNTY OF EL DORADO  
TIM FEE OFFSET PROGRAM FOR AFFORDABLE HOUSING  
937 SPRING STREET  
PLACERVILLE, CA 95667  
TEL: (530) 621-6300 \* FAX: (530) 295-2598

TIM Fee Offset Amount: \$ <u>28,180.00</u>
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Project Name: <u>Second Dwelling Unit</u>
Total Number of Affordable Units: <u>1</u>
Target Income Group: <u>&lt;80% MFI Low Income</u>
For-Sale: _____ For Rent: <u>X</u>

**NOTICE OF POTENTIAL RECAPTURE FEE ON  
SALE OR CONVERSION OF DEED RESTRICTED UNIT(S)**  
(To be delivered to and signed by developer before TIM Fee Offset will be credited)

Because you are receiving a TIM Fee Offset for Affordable Housing, you are receiving the benefit of a credit against your TIM Fees for the deed restricted unit(s). If you sell, convert to current market rate, or otherwise dispose of the deed restricted unit(s) during the next twenty (20) years, part or all of this benefit may be "recaptured" unless the following provisions are met:

**Resale of Deed Restricted Units.** After the initial sale of deed restricted unit(s) such unit(s) shall remain affordable to subsequent income eligible buyers pursuant to a resale restriction. Subsequent buyers are not required to be first-time homebuyers. The deed restricted unit(s) shall be restricted for a twenty (20) year period and the restriction shall run from the date applicable to the developer as set forth in the affordable housing Offset Agreement and/or initial Buyer's Agreement. The resale restriction requires that the unit(s) be sold by any subsequent owner at an affordable purchase price for income eligible households.

Deed restricted second dwelling unit(s) shall remain affordable as a rental to subsequent income eligible individuals or families through an affordable housing agreement and rent limitation agreement between the County and subsequent owner(s) of the primary single family residence. The deed restricted unit(s) shall be restricted for a twenty (20) year period for the target income group as set forth in the Offset Agreement and the restriction shall run from the date applicable to the original Developer.

In the event a deed restricted unit subject to the TIM Fee recapture provision is sold, disposed of, or otherwise converted to current market rate, the amount of the TIM Fee Offset shall be due and payable with close of escrow, transfer, or change in occupancy to the County's Affordable Housing Trust Fund, prorated by the number of years remaining on the deed restriction, up to twenty (20) years, at a rate of 1/20<sup>th</sup> of the TIM Fee Offset per year.

The undersigned Developer has received and read a duplicate copy of the foregoing Notice of Potential Recapture Fee on Sale or Conversion of Deed Restricted Unit(s).

Date: 5-27-09

By: Douglas Haines  
Developer

By: Robert E. Haines  
Developer

By: Angela Haines  
Developer