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GARDEN GROVE HOUSING AUTHORITY
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**THIRD AMENDMENT TO
AFFORDABLE HOUSING AGREEMENT**

This **THIRD AMENDMENT TO AFFORDABLE HOUSING AGREEMENT** ("Third Amendment") is made and entered into as of September 28, 2021 ("Effective Date") by and between the **GARDEN GROVE HOUSING AUTHORITY**, a public body, corporate and politic ("Housing Authority"), and **TUDOR GROVE, LTD**, a California limited partnership ("Developer" or "Owner").

RECITALS

A. The former Garden Grove Agency for Community Development ("Former Agency") previously was a community redevelopment agency and public body corporate and politic that was dissolved by operation of law on and as of February 1, 2012 under the provisions of Division 24, Parts 1.8 and 1.85 of the California Health and Safety Code (together, "Dissolution Law").

B. On January 17, 2012, the City Council of the City of Garden Grove ("City Council") adopted Resolution No. 9089-12 by which the City declined to assume the housing assets and responsibility to perform the housing functions performed previously by the Former Agency and designated the Garden Grove Housing Authority, a public body corporate and politic ("Housing Authority") to serve and act as the "housing successor" under HSC Section 34176(b).

C. The Former Agency and the Developer entered into that certain *Affordable Housing Agreement* dated as of February 3, 1992 ("Original AHA"). The Former Agency and Developer entered into that certain First Amendment to Affordable Housing Agreement dated September 8, 1992 ("First Amendment"); and entered into that certain Second Amendment to Affordable Housing Agreement dated as of December 10, 1996 ("Second Amendment"). The Original AHA, together with the First Amendment and the Second Amendment may be referred to herein as the "AHA". Unless otherwise defined herein, capitalized terms used herein are as defined in the AHA, as amended by this Third Amendment.

D. Under HSC Section 34176(a)(2), the Housing Authority, as housing successor to the Former Agency, prepared a Housing Asset Transfer Schedule ("HAT") and submitted the HAT to the

State of California, Department of Finance (“DOF”) for review and approval. On August 30, 2012, the DOF approved the HAT with certain modifications that are unrelated to the AHA. The DOF-approved HAT includes the AHA, the Authority Deed of Trust securing the Authority Note, and the Authority Note (each as defined below) and thereby are housing assets of the Garden Grove Housing Authority, as housing successor, under the Dissolution Law and assets held thereby pursuant thereto and the HAL.

E. Pursuant to the Original AHA, the Former Agency provided a loan to the Developer (“Authority Loan”) sourced from monies in the Former Agency’s Low and Moderate Income Housing Funds to assist the Developer with respect to a 144-unit multifamily rental housing development known as the “Tudor Grove Project.” The Authority Loan is evidenced by a Promissory Note dated as of February 25, 1992, and is secured by a Deed of Trust dated as of February 25, 1992, recorded as Instrument No. 92-109354 on February 25, 1992 in the Official Records of Orange County, California. The terms and conditions of the Authority Loan were amended by the First Amendment, and further amended by the Second Amendment.

F. The Original AHA defines the “Affordability Period” as follows:

"Affordability Period" shall mean the duration of the requirement that the one hundred forty-four (144) multi-family rental units in the Tudor Grove Project be Affordable Units, which period shall begin on the date of recordation of this [Original AHA] or Memorandum of Agreement pursuant to Section 401 herein (the "Commencement Date") and terminate on the thirtieth (30th) anniversary thereof *or the termination of the land use controls in the Redevelopment Plans for the Project Areas, whichever date occurs last.*" (*Italics added.*)

G. Due to the dissolution of all California redevelopment agencies pursuant to the Dissolution Law, the Housing Authority and the Developer, and their respective counsel, reviewed a series of background documents affecting the Former Agency’s two redevelopment Project Areas, one called the Buena Clinton Project Area and the other the Community Project area, including the redevelopment plans therefor and dates and terms of effectiveness of the series of subareas that comprised such Project Areas.

H. While the subject Property is located within the boundaries of the Buena Clinton Project Area, the Community Project Area, and its multiple subareas, had longer terms and dates of effectiveness, with a particular review and analysis of the dates of termination of the land use controls thereof that existed as of the date the Former Agency and Developer entered into the Original AHA.

I. Based on the parties’ respective review and analysis, parties desire to state a reasonable interpretation of the express language defining “Affordability Period” in the Original AHA, taking all of the contextual circumstances into consideration, with each party not conceding the validity of, and reserving all rights and contentions to the contrary, but for the purposes of this Third Amendment affirm the following:

- Tudor Grove Project was located within the boundaries of the Buena Clinton Project Area, which land use controls expired on or about December 31, 2013;

- While the Tudor Grove Project was not located within the boundaries of the Community Project Area, as of February 25, 1992, the Community Project Area was comprised of the areas commonly referred to as the “1981 Amendment” which had an end date of June 9, 2022 for the land use controls of such plan, with other subareas added to the Community Project Area post-February 25, 1992; and

- Thereby, the parties desire to state that a reasonable and defensible interpretation by the Housing Authority and Developer is that the Affordability Period under the Original Agreement will end on June 9, 2022, unless such date is amended, which is a primary objective of this Third Amendment.

J. It is in the mutual beneficial interests of the Housing Authority and the Developer to continue to provide suitable affordable housing to qualifying Very Low Income beyond the current expiration date by extending the expiration date of such set-aside restrictions.

K. Therefore by this Third Amendment, the Housing Authority and Developer desire to amend the AHA to amend the definition in the Original AHA by modifying and extending the end date of, the Affordability Period from June 9, 2022 until **December 31, 2028** as set forth in Section 1. below.

L. In connection therewith and a material part of the consideration for such amended definition and extension of the Affordability Period by this Third Amendment, the Housing Authority requires that Developer acknowledge and agree to comply with, and perform in good faith and timely, all applicable requirements of California Government Code (“GC”) Sections 65863.10, 65863.11 and 65863.13, as such statutes now exist or are hereinafter amended and as the same apply to Developer during its ownership of the Site and Tudor Grove Project; the AHD Requirements apply to Developer as the Owner of the Site and Tudor Grove Project, which qualifies as an “Assisted Housing Development” thereunder (together, “AHD Requirements”).

M. The Original AHA, as amended by the First Amendment, the Second Amendment and this Third Amendment may be referred to as the “AHA”.

N. As provided in the Original AHA, as amended by the Second Amendment, and pursuant to this Third Amendment, the term Developer includes Tudor Grove Ltd. and its permitted successors and assigns. Section 4 herein set forth certain representations about the current entity(ies) that comprise the Developer limited partnership entity.

NOW, THEREFORE, for good and valuable consideration and the covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Housing Authority and Developer hereby agree as follows:

Section 1. AMENDED DEFINITION OF, AND EXTENSION OF TERM OF AFFORDABILITY PERIOD. The definition of the term “Affordability Period” in the Original AHA is hereby amended and restated to read as follows:

“**Affordability Period**” shall mean the term commencing on February 25, 1992 and ending on December 31, 2028. The Affordability Period is the duration of the affordable housing and operational covenants, conditions, restrictions, and requirements of the Agreement.”

Section 2. COMPLIANCE WITH AHD REQUIREMENTS (GOVERNMENT CODE SECTIONS 65863.10, 65863.11 AND 65863.13). Developer agrees to comply fully, timely and in good faith, and to duly prepare for such compliance, with the AHD Requirements.

2.1 Developer Representations to Housing Authority. Developer represents and acknowledges to and for the benefit of the Housing Authority (and City of Garden Grove as an intended third party beneficiary): (a) as of February 25, 1992 and continuing to the Effective Date Developer has owned continuously the Site and the Tudor Grove Project, which initial date is the recording date of the Original AHA in the Official Records, County of Orange, (b) the Tudor Grove Project is an Assisted Housing Development as defined in the AHD Requirements, (c) as of the Effective Date, and during its ownership, Developer has complied with, and is presently in compliance with, applicable provisions of the AHD Requirements.

2.2 Five Years before End of Affordability Period. The date that is five (5) years before expiration of the Affordability Period under the Agreement is December 31, 2023. The Developer agrees to comply with all AHD Requirements, including but not limited to the requirements of GC Section 65863.11(c).

2.3 Written Notices to Existing and Prospective Tenants. As the Owner of the Site and Tudor Grove Project, as an Assisted Housing Development, Developer shall continue to issue certain written notices pursuant to the AHD Requirements that include 12-month, 6-month, and other notices to the *existing* tenants as well as to the Affected Entities in compliance with the Original AHA and this Third Amendment.

Section 3. DEVELOPER'S INDEMNITY. The Developer shall defend, indemnify, assume all responsibility for, and hold harmless the Housing Authority, the City of Garden Grove, the Successor Agency to the Former Agency, and each and all of their respective elected and appointed officials, officers, employees, attorneys, representatives, volunteers, contractors and agents (together, "Indemnitees") from all claims, demands, damages, defense costs or liability for any damages to property or injuries to persons, including accidental death (including reasonable attorneys' fees and costs), which may be caused by any acts or omissions of the Developer under the Agreement and/or with respect to the ownership, use, and operation of the Site and/or Tudor Grove Project, whether such activities or performance thereof be by the Developer or by anyone directly or indirectly employed or contracted with by the Developer and whether such damage shall accrue or be discovered before or after termination or expiration of the Agreement. This indemnity shall survive the termination, expiration, invalidation or performance in full or in part of the Agreement.

3.1 Developer Indemnity re Legal Challenge to the Agreement, as Amended. In addition to the Indemnity set forth above in Section 3, Developer agrees and shall indemnify, defend, pay for, assume all responsibility for, and hold harmless the Indemnitees from all claims, demands, damages, defense costs or liability of any kind or nature relating to the subject matter of, the terms conditions and provisions, and/or implementation, both action and inaction, under this Third Amendment, including without limitation, the validity, applicability, interpretation, or implementation hereof, and all matters arising or alleged to arise under the amended definition of the Affordability Period and the AHD Requirements. Developer shall have the obligation to defend any such claim and/or action; provided, however, that this obligation to defend shall not be effective if and to the extent that Developer determines, in its reasonable discretion, that such action is meritorious or that the interests of the parties justify a compromise or a settlement of such action, in which case Developer shall compromise or settle such action in a way that fully protects Indemnitees

from any liability or obligation. In this regard, Developer's obligation and right to defend shall include the right to hire (subject to written reasonable approval by the Authority Director and City Attorney) attorneys and experts necessary to defend, the right to process and settle reasonable claims, the right to enter into reasonable settlement agreements and pay amounts as required by the terms of such settlement, and the right to pay any judgments assessed against Indemnitees. If Developer defends any such action, as set forth above, (a) Developer shall indemnify and hold harmless Indemnitees from and against any claims, losses, liabilities, or damages assessed or awarded against either of them by way of judgment, settlement, or stipulation and (b) Housing Authority shall be entitled to settle any such claim only with the written consent of Developer and any settlement without Developer consent shall release Developer obligations hereunder with respect to such settled claim.

Section 4. GENERAL PARTNER OF DEVELOPER LIMITED PARTNERSHIP ENTITY.

4.1 Permitted Transfer under Original AHA. The Original AHA, among other provisions, authorized:

“[a] transfer of the Site and the improvements thereon and/or the assignment of this [AHA] Agreement may be made by the Developer (a) to another general or limited partnership or to additional limited partners in which instances the managing general partner of the Developer continues to be the managing general partner, ...”

4.2 Developer and General Partner Representations. Edward Kuo represents and warrants to the Housing Authority (and City as a third party beneficiary) the following:

(a) As of the Effective Date, the sole General Partner of Tudor Grove, Ltd. is Golden APMB, Inc., a California corporation (“Golden”), which is owned and controlled by the undersigned, Edward Kuo, as President of Golden.

(i) Golden was added as a co-general partner of the Developer entity limited partnership with Bell Diversified Development, Inc. (“Bell”), the original general partner under the Original AHA, by that certain *Amendment to Certificate of Limited Partnership* (“LP-2”) executed by Bell and Golden on October 15, 1993 and filed with the State of California, Secretary of State (“SoS”) on November 16, 1993, LP-2 filing #8836200030.

(A) The Articles of Incorporation for Golden were filed with the SoS on May 15, 1991 by instrument #1496978.

(1) Since such filing, Edward Kuo has served continuously as President of Golden.

(ii) By Court order dated July 11, 1996, Bell was removed as a general partner of Tudor Grove, Ltd., the Developer entity.

(A) An LP-2 was executed on July 12, 1996 withdrawing Bell and adding Crystal Management Company, LLC as a co-general partner (“Crystal”), which LP-2 was by filed with the SoS on December 2, 1996 LP-2 #88 362 000 30.

(B) An LP-2 of cessation of general partner Crystal was executed (1) by the Manager of Crystal on October 1, 2003 and (2) by Golden on September 29, 2003 and filed with the SoS on October 30, 2003, thereby upon such filing Golden was the remaining and sole general partner of Tudor Grove, Ltd.

(iii) The Second Amendment provided, in part, that the Housing Authority authorized “the transfer of the general partner interest in the Developer from Bell Diversified Co., Inc. to Edward Kuo.” As a point of clarification, that provision should have stated that the Housing Authority authorized the Developer limited partnership entity to be comprised of Crystal, as a co-general partner, with Golden, as a co-general partner, of which Edward Kuo is the President of Golden; such authorization conformed to the Court order removing Bell as a general partner and thereby establishing Golden and Crystal as the co-general partners of Tudor Grove, Ltd.

(A) Such co-general partners remained in effect until the LP-2 evidencing cessation of Crystal as a general partner of the Developer limited partnership entity was filed with the SoS on October 30, 2003.

(B) Since October 30, 2003 continuously to the present, Golden has been and remains the sole general partner of Tudor Grove, Ltd., albeit the Housing Authority’s authorization of such status was not evidenced or otherwise memorialized until the Developer and Housing Authority entered into the Second Amendment, which provision therefor is hereby corrected *nunc pro tunc* to state and affirm the background and facts of Golden’s current status as sole general partner of Tudor Grove, Ltd.

Section 5. EXECUTION IN SEVERAL COUNTERPARTS. This Third Amendment may be executed in any number of counterparts, and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

Section 6. NO OTHER MODIFICATIONS. Except as expressly set forth in this Third Amendment, the rest and remainder of the provisions of the Original Agreement, as amended by the First Amendment and Second Amendment, shall remain in full force and effect in accordance with its respective terms. All terms used herein and not defined herein but defined in the Agreement shall have the meaning given to such terms in the Agreement.

Section 7. GOVERNING LAW. This Third Amendment shall be governed by and construed in accordance with the laws of the State of California.

Section 8. INTERPRETATION. In the event of any conflict between the provisions of the Agreement and the provisions of the this Third Amendment, the provisions of this Third Amendment shall control.

Section 9. SEVERABILITY. If any provision of this Third Amendment shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have executed this *Third Amendment to Affordable Housing Agreement* as of the Effective Date, which is the date that the Housing Authority Board considered and acted to approve this Third Amendment at an open public meeting.

HOUSING AUTHORITY

GARDEN GROVE HOUSING AUTHORITY,
a public body corporate and politic

By: _____
Scott Stiles, Director or Authorized Designee

ATTEST:

Teresa Pomeroy, Authority Secretary/City Clerk
or Authorized Designee

APPROVED AS TO FORM:

Stradling Yocca Carlson & Rauth, Special Counsel

[Developer signature on next page]

[Third Amendment to Affordable Housing Agreement continued from previous page]

DEVELOPER

TUDOR GROVE, LTD,
a California limited partnership

By: Golden APMB, Inc., a California corporation
Its: General Partner

By: _____
Edward Kuo
Its: President

APPROVED AS TO FORM:

Bret H. Reed, Jr., A Law Corporation
Counsel to Developer

EXHIBIT A
LEGAL DESCRIPTION

ALL THAT CERTAIN LAND SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF ORANGE, CITY OF GARDEN GROVE, DESCRIBED AS FOLLOWS:

12542 SUNSWEPT AND 12562 SUNSWEPT:

LOTS 43 AND 44 OF TRACT NO. 3337, AS SHOWN ON A MAP RECORDED IN BOOK 132, PAGES 33 to 36 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY, CALIFORNIA.

12561 SUNSWEPT:

LOT 37 OF TRACT NO. 3337, AS PER MAP RECORDED IN BOOK 132, PAGES 33 TO 36 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

AN EASEMENT FOR INGRESS AND EGRESS AS GRANTED TO CHARLIE CANTOR AND OTHERS, BY AN INSTRUMENT RECORDED SEPTEMBER 10, 1965 IN BOOK 7661, PAGE 127 OF OFFICIAL RECORDS, AND RE-RECORDED SEPTEMBER 23, 1965 IN BOOK 7677, PAGE 440 OF OFFICIAL RECORDS, OVER THE EASTERLY 12.50 FEET OF LOT 38 OF TRACT NO. 3337, AS SHOWN ON A MAP RECORDED IN BOOK 132, PAGES 33 to 36 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.

12571 SUNSWEPT:

LOT 36 OF TRACT NO. 3337, AS PER MAP RECORDED IN BOOK 132, PAGES 33 TO 36 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

AN EASEMENT FOR INGRESS AND EGRESS AS GRANTED TO RALPH GIARDINO AND OTHERS, BY DEED RECORDED SEPTEMBER 3, 1965 IN BOOK 7655, PAGE 445 OF OFFICIAL RECORDS, OVER THE WESTERLY 12.50 FEET OF LOT 35 OF TRACT NO. 3337, AS SHOWN ON A MAP RECORDED IN BOOK 132, PAGES 33 TO 36 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA

12601 SUNSWEPT:

LOT 34 OF TRACT NO. 3337, AS SHOWN ON A MAP RECORDED IN BOOK 132, PAGES 33 TO 36 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA

EXCEPTING THEREFROM ALL UNDERGROUND WATERS LYING BENEATH THE HEREIN DESCRIBED LAND, BUT WITHOUT THE RIGHT OF SURFACE ENTRY, AS DEEDED TO THE CITY OF GARDEN BY AN INSTRUMENT RECORDED AUGUST 23, 1960 IN BOOK 5386, PAGE 268 OF OFFICIAL RECORDS.

12681 SUNSWEPT:

LOT 28 OF TRACT NO. 3337, AS PER MAP RECORDED IN BOOK 132, PAGES 33 TO 36 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT ALL UNDERGROUND WATER LYING BENEATH THE HEREIN DESCRIBED TRACT, BUT WITHOUT THE RIGHT OF ENTRY TO THE SURFACE THEREOF FOR THE PURPOSE OF PROCURING WATER, AS GRANTED TO THE CITY OF GARDEN GROVE, A MUNICIPAL CORPORATION, IN DEED RECORDED AUGUST 23, 1960 IN BOOK 5386, PAGE 268 OF OFFICIAL RECORDS.

12542 KEEL:

LOT 13 OF TRACT NO. 3337, AS SHOWN ON A MAP RECORDED IN BOOK 132, PAGES 33 TO 36 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.

EXCEPTING ALL UNDERGROUND WATER LYING BENEATH SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY TO THE SURFACE THEREOF FOR THE PURPOSE OF PRODUCING WATER, AS CONVEYED TO THE CITY OF GARDEN GROVE BY DEED RECORDED AUGUST 23, 1960 IN BOOK 5386, PAGE 268 OF OFFICIAL RECORDS OF ORANGE COUNTY.

12572 KEEL:

LOT 15 OF TRACT NO. 3337, AS SHOWN ON A MAP RECORDED IN BOOK 132, PAGES 33 TO 36 INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY.

EXCEPTING THEREFROM ALL UNDERGROUND WATERS LYING BENEATH THE HEREIN DESCRIBED LAND, BUT WITHOUT THE RIGHT OF SURFACE ENTRY, AS DEEDED TO THE CITY OF GARDEN GROVE BY AN INSTRUMENT RECORDED AUGUST 23, 1960 IN BOOK 5386, PAGE 268 OF OFFICIAL RECORDS.

12592 KEEL:

LOT 16 OF TRACT NO. 3337, AS PER MAP RECORDED IN BOOK 132, PAGES 33 TO 36 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY, CALIFORNIA.

EXCEPTING THEREFROM ALL UNDERGROUND WATERS LYING BENEATH THE HEREIN DESCRIBED LAND, BUT WITHOUT THE RIGHT OF SURFACE ENTRY, AS DEEDED TO THE CITY OF GARDEN GROVE BY AN INSTRUMENT RECORDED AUGUST 23, 1960 IN BOOK 5386, PAGE 268 OF OFFICIAL RECORDS.

12572, 12592, 12602, 12612, 12622, 12632, 12652, 12662 SUNSWEPT AND 12612 KEEL:

LOTS 18 AND 45 to 52 OF TRACT NO. 3337, AS PER MAP RECORDED IN BOOK 132, PAGES 33 TO 36 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM ALL UNDERGROUND WATER LYING BENEATH THE HEREIN DESCRIBED TRACT, BUT WITHOUT THE RIGHT OF ENTRY TO THE SURFACE THEREOF FOR THE PURPOSE OF PROCURING WATER, AS CONVEYED TO THE CITY OF GARDEN GROVE BY DEED RECORDED AUGUST 23, 1960 IN BOOK 5386, PAGE 268 OF OFFICIAL RECORDS.

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, _____, Notary Public,

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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 OF NOTARY PUBLIC

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, _____, Notary Public,

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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 OF NOTARY PUBLIC