

9:00 A.M. B
8/25/11

Recorded at the Request of and
When Recorded Return to:

City of Fresno
City Clerk's Office
2600 Fresno Street, Room 2133
Fresno, CA 93721-3603

This Agreement is recorded at the request and for the benefit of the City of Fresno and is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

By: Mark Scott
Mark Scott, City Manager

Date: 8-30-11

City of Fresno HOME Investment Partnerships (HOME) Agreement

CITY OF FRESNO HOME PROGRAM AGREEMENT

HOME Investment Partnerships Program

by and between

CITY OF FRESNO,
a municipal corporation

and

Housing Authority of the City of Fresno
a body, corporate and politic
and

1555 Santa Clara Street, LP

and

Silvercrest, Inc.

regarding

“Renaissance at Santa Clara”
APN: 467-082-03, 467-082-20 (portion), and 467-082-04 (portion)
An Affordable Multi-Family Apartment Project

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HOME INVESTMENT PARTNERSHIPS PROGRAM AGREEMENT

This HOME Investment Partnerships Program Agreement (hereinafter referred to as the "Agreement") is entered into this, 8/25, 2011, by and among the CITY OF FRESNO, a municipal corporation, acting through its Development and Resource Management Department - Housing and Community Development Division (hereinafter referred to as the "CITY"), and the Housing Authority of the City of Fresno, "Housing Authority", a body corporate and politic, and 1555 Santa Clara Street, LP, a California Limited Partnership "LP", and Silvercrest, Inc., "Silvercrest"; the Housing Authority, LP, and Silvercrest herein collectively "Developer".

RECITALS

- A. The CITY has received a HOME Investment Partnerships Program (hereinafter referred to as "HOME Program") grant from the U.S. Department of Housing and Urban Development (hereinafter referred to as "HUD"), under Title II of the Cranston-Gonzalez National Affordable Rental Housing Act of 1990, as amended (hereinafter referred to as the "ACT").
- B. To advance the supply of Affordable Rental Housing within the City of Fresno, the CITY desires, among other things, to encourage private investment in the affordable rental housing market.
- C. The Project will provide for the construction of sixty-nine (69) affordable housing units, of which fifteen (15) units will be HOME-assisted affordable rental housing units, and one (1) manager unit at the Property identified in EXHIBIT "A".
- D. The DEVELOPER desires to act as owner and developer exercising effective project control, as to the construction of seventy (70) unit apartment complex, of which fifteen (15) floating units shall be constructed and preserved as Very Low-Income Rental Housing, as defined by the HOME Program, and related on-site and off-site improvements, hereinafter referred to as the "Project", as more particularly described in the Project Description attached hereto as EXHIBIT "B", incorporated herein.
- E. The Project will be constructed upon HOME eligible Property owned/to be owned by the DEVELOPER located within the boundaries of the City of Fresno, as more particularly described in the attached EXHIBIT "A".
- F. To further its goal to increase the supply of Affordable Rental Housing within the City of Fresno, the CITY desires to assist the DEVELOPER by providing a One Million Five Hundred Thousand dollar and 00/100 (\$1,500,000) residual receipts HOME Program Loan to the Project (hereinafter referred to as "Loan"), for a term of fifty-five (55) years, for payment of HOME eligible Project costs, as further identified in Project Budget and Cash Flow Statement (EXHIBIT "C"), variously to be secured by the underlying real property and the Affordable Rental Housing covenants, upon the terms and conditions in this Agreement. The interest will be at 1% annually. Principal and interest will be payable beginning at year forty (40) from 20% of annual residual receipts at times prior to the Maturity Date and in full upon the loan

Maturity Date.

G. The DEVELOPER has conducted an environmental review of the Project pursuant to the National Environmental Policy Act ("NEPA") resulting in a Finding of No Significant Impact. The DEVELOPER has received related federal approval for release of HOME funds pursuant to 24 CFR Part 58. Additionally, the CITY has conducted an environmental review of the Project pursuant to the California Environmental Quality Act ("CEQA") resulting in a Finding of Conformity with the Master Environmental Impact Report No. 10130 prepared for the 2025 Fresno General Plan.

H. The CITY has determined that this Agreement is in the best interests of, and will materially contribute to, the Housing Element of the General Plan. Further, the CITY has found that the Project: (i) will have a positive influence in the neighborhood and surrounding environs; (ii) is in the vital and best interests of the CITY, and the health, safety, and welfare of CITY residents; (iii) complies with applicable federal, state, and local laws and requirements; (iv) will increase, improve, and preserve the community's supply of Very Low-Income Housing available at Affordable Rental Housing cost to persons and families of Very Low-Income, as defined hereunder; (v) planning and administrative expenses incurred in pursuit hereof are necessary for the production, improvement, or preservation of Very Low-Income Housing; and (vi) will comply with any and all owner participation rules and criteria applicable thereto.

The CITY and the DEVELOPER have determined that the HOME Assisted Units constitutes routine programmatic/grantee lender activities utilizing available and allocated program/grantee funding, outside the reach of California Constitution Article XXXIV and enabling legislation.

I. On August 24, 2011, the Housing and Community Development Commission of the City of Fresno reviewed this Agreement.

J. The parties acknowledge and agree that the obligations and liabilities of the DEVELOPER hereunder shall be joint and several unless and except to any extent expressly provided otherwise.

NOW, THEREFORE, IN CONSIDERATION of the above recitals, which recitals are contractual in nature, the mutual promises herein contained, and for other good and valuable consideration hereby acknowledge, the parties agree as follows:

ARTICLE 1. DEFINITIONS

The following terms have the meaning and content set forth in this Article wherever used in this Agreement, attached exhibits or attachments that are incorporated into this Agreement by reference.

1.1 ADA means the Americans with Disabilities Act of 1990, as most recently amended.

1.2 Acquisition means vesting of the Property in fee title.

1.3 Affirmative Marketing means a good faith effort to attract eligible persons of all racial, ethnic and gender groups, in the housing market area, to rent the proposed Affordable Rental Housing Project units that are proposed for construction on the eligible Property, as hereinafter defined.

1.4 Affordability Period means the minimum period of fifty-five (55) years commencing from the date the CITY entered project and tenant information in HUD's Integrated Disbursement and Information System (IDIS), as more fully described in the Declaration of Restrictions (attached hereto as EXHIBIT "D").

1.5 Affordable Rental Housing means the rental housing units of which nine (9) units will be required to meet the affordability requirements of 24 CFR 92.252.

1.6 Budget means the pro-forma Project Budget, attached hereto as EXHIBIT "C", as may be amended upon the approval of the CITY's Housing and Community Development Division Manager, provided any increase in HOME Funds hereunder requires City Council Approval.

1.7 Certificate of Completion means that certificate issued, in the form attached as EXHIBIT "E" ("Certificate of Completion"), to the DEVELOPER by the CITY evidencing completion of the Project and a release of construction related covenants for the purposes of the Agreement.

1.8 CFR means the Code of Federal Regulations.

1.9 Commencement of Construction means the time the DEVELOPER or DEVELOPER's construction contractor begins substantial physical work on the Property, including, without limitation, delivery of materials and any work, beyond maintenance of the Property in its status quo condition, and not later than sixty (60) calendar days following the CITY's approval of commencement of construction.

1.10 Debt Service means payments made in a calendar year pursuant to the financing obtained for the acquisition, construction, operation and/or ownership of the Affordable Project, but excluding payments made pursuant to the Note.

1.11 Declaration of Restrictions means the Declaration of Restrictions in the form attached hereto as EXHIBIT "D", which shall be recorded against the Property no later than the date of disbursement of Loan proceeds, setting out the Affordable Rental Housing covenants and requirements of this Agreement which shall run with the land.

1.12 Deed of Trust means that standard, no worse than third (3rd) position Deed of Trust (subject to Section 2.7 and 4.7 below) including assignment of rents and security agreement given by the DEVELOPER, as Trustor, to the CITY as beneficiary, issued through an escrow established by the DEVELOPER at its sole cost and expense with a title company acceptable to CITY, recorded against the Property, insured in the full amount of the Loan and acceptable to the City Attorney, as well as any amendments to, modifications of and restatements of said Deed of Trust. The Deed of Trust shall secure repayment of the Note.

1.13 Eligible Costs means any and all HOME Program eligible Project costs as may be reimbursed/paid by the Loan, consistent with the Budget, attached as EXHIBIT "C", allowable under 24 CFR Part 92, as specified in 24 CFR 92.205 and 92.206, and not disallowed by 24 CFR 92.214, provided, however, that costs incurred in connection with any activity that is determined to be ineligible under the Program by HUD or the CITY shall not constitute Eligible Costs.

1.14 Event of Default shall have the meaning assigned to such term under Section 10.1 hereunder.

1.15 Family has the same meaning given that term in 24 CFR 5.403.

1.16 Funding Sources means (i) CITY's HOME Funds; (ii) Low Income Housing Tax Credits; (iii) Housing Authority Relinquished Fund Corporation; and (iv) Mental Health Services Act funds referenced in the Budget as source(s) of funding for the Affordable Project, and any other financing sources described in the Budget.

1.17 Hazardous Materials means any hazardous or toxic substances, materials, wastes, pollutants or contaminants which are defined, regulated or listed as "hazardous substances," "hazardous wastes," "hazardous materials," "pollutants," "contaminants" or "toxic substances" under federal or state environmental and health safety laws and regulations, including without limitation, petroleum and petroleum byproducts, flammable explosives, urea formaldehyde insulation, radioactive materials, asbestos and lead. Hazardous Materials do not include substances that are used or consumed in the normal course of developing, operating or occupying a housing project, to the extent and degree that such substances are stored, used and disposed of in the manner and in amounts that are consistent with normal practice and legal standards.

1.18 HOME Investments Partnership Funds (also referred to in this Agreement as HOME Funds or HOME Program Funds) means the HOME Program monies including the Loan, in an amount not to exceed the sum of One Million Five Hundred Thousand dollars and 00/100 (\$1,500,000) to be used for HOME Program eligible Project costs.

1.19 Household means one or more persons occupying a Unit in the proposed Affordable Rental Housing Project.

1.20 HUD means the United States Department of Housing and Urban Development.

1.21 Loan means the non-assumable (except as set forth in Section 5.11 below) loan of HOME Funds, in an amount not to exceed the sum of One Million Five Hundred Thousand dollars and 00/100 (\$1,500,000) made available by the CITY to the Project pursuant to this Agreement, as more specifically described in the Budget and in the Promissory Note attached hereto as EXHIBITS "C" and "F" respectively.

1.22 Loan Documents are collectively this Agreement, the Note, Deed of Trust, Declaration of Restrictions and all related documents/instruments as they may be amended, modified or restated from time to time along with all exhibits and attachments thereto, relative

to the Loan.

1.23 Note means the non-assumable (except as set forth in Section 5.11 below), Project Note in the principal amount of the loan not to exceed the HOME Program per unit cap (24 C.F.R. 92.250) as determined by the CITY, given by the DEVELOPER as promissor, in favor of the CITY as promisee, evidencing the Loan and performance of the affordability and other covenants and restrictions set forth in this Agreement, secured by a standard Deed of Trust as third (3rd) position lien upon the Property, (subject to Section 2.7 and 4.7 below) naming the CITY as beneficiary and provided to the CITY no later than the date of Project funding hereunder, an exemplar of which Note is attached hereto as EXHIBIT "F", and incorporated herein, as well as any amendments to, modifications of and restatements of said Note consented to by CITY.

1.24 Program Income has the meaning provided in the HOME program including 24 CFR 92.503.

1.25 Project means each and all of the sixty-nine (69) Very Low-Income Affordable Rental Housing Units (and one (1) manager unit) to be constructed, marketed, and rented as Very Low-Income Housing, and related on-site and off-site improvements, all as described in the Project Description attached hereto and incorporated herein as EXHIBIT "B", upon the Property as more particularly described in EXHIBIT "A". Fifteen (15) HOME-units will be rented to Very Low-Income Households as identified in the Project Description and shall meet HOME Program requirements.

1.26 Project Completion Date means the date that the CITY shall have determined that the Project has reached completion in accordance with this Agreement. The Project Completion Date for this project is identified in EXHIBIT "B".

1.27 Project Schedule means the schedule for completion of the Project included within the EXHIBIT "B" Project Description and Schedule, consistent with the above Project Completion Date.

1.28 Property means the HOME Program eligible property located at 503 "G" Street, 512 "F" Street, and 1555 Santa Clara Street (APNs: 467-082-03, portion of 467-082-20, and portion of 467-082-04), Fresno, California, more specifically described in the attached EXHIBIT "A", owned/to be acquired by the DEVELOPER, and developed for Affordable Rental Housing.

1.29 Senior Lender means one or more lenders providing the Senior Financing for the Affordable Project.

1.30 Senior Financing means the financing for the Affordable Project set forth in the Budget and the Finance Plan which shall be senior to the Loan.

1.31 Rent means the total monthly payments a tenant pays for a Unit including the following: use and occupancy of the Unit and land and associated facilities, including parking (other than parking services acquired by tenants on an optional basis), any separately charged fees or service charges assessed by the DEVELOPER which are required of all tenants (other than security deposits), the cost of an adequate level of service for utilities paid

by the tenant (including garbage collection, sewer, water, common area electricity, but not telephone service), any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than the DEVELOPER, and paid by the tenant.

1.32 Residual Receipts means Residual Receipts as defined in Exhibit "F".

1.33 Unit means a dwelling unit of the Rental Housing.

1.34 Very Low-Income means families whose annual income does not exceed fifty percent (50%) of the median income as established by HUD for the Fresno, California area, except as HUD may establish income ceilings higher or lower than fifty percent (50%) of the median for the area on the basis of HUD findings that such variations are necessary.

ARTICLE 2. TERMS

2.1 Loan of HOME Funds. The CITY agrees to provide the Loan of HOME Funds to the DEVELOPER in an amount not to exceed One Million Five Hundred Thousand dollars and 00/100 (\$1,500,000) under the terms and conditions provided in this Agreement. The HOME Funds shall only be used for payment of HOME eligible costs.

2.2 Loan Documents. The DEVELOPER shall execute and deliver to the CITY the Loan Documents including the Note and the Deed of Trust that shall be recorded against the Property, as provided for in this Agreement.

2.3 Term of Agreement. This Agreement is effective upon the effective date and shall remain in force for the duration of the Affordability Period unless earlier terminated as provided herein. After the fifty-five (55) year Affordability Period, this Agreement will expire except as to financial obligations then due and owing. It is understood and agreed upon, however, that if for any reason this Agreement should be terminated in whole or in part as provided hereunder, without default, by the DEVELOPER prior to disbursement of HOME Program Funding hereunder, the CITY agrees to record a Notice of Cancellation regarding this Agreement, upon the written request of the DEVELOPER.

2.4 Loan Repayment and Maturity. The Loan will be due and payable in accordance with the Note and not later than the maturity date provided in the Note.

2.5 Incorporation of Documents. The DEVELOPER's proposal dated November 4, 2010, the DEVELOPER's Board Minutes dated June 23, 2010, the CITY Council approved Minutes of August 25, 2011, approving this Agreement, the Loan Documents, the Act and HUD regulations at 24 CFR Part 92, and all exhibits, attachments, documents and instruments referenced herein, as now in effect and as may be amended from time to time, constitute part of this Agreement and are incorporated herein by reference. All such documents have been provided to the parties herewith or have been otherwise provided to/procured by the parties and reviewed by each of them prior to execution hereof.

2.6 Covenants of DEVELOPER. The DEVELOPER, jointly and severally for themselves and their respective assigns covenant and agree to comply with all the terms and

conditions of this Agreement and the requirements of 24 CFR Part 92.

2.7 Subordination. The Deed of Trust and/or Declaration of Restrictions may be subordinated to certain approved financing as provided herein (in each case, a "Senior Loan"), to no worse than third (3rd) position, but only on condition that all of the following conditions are satisfied: (a) All of the proceeds of the proposed Senior Loan, less any transaction costs, must be used to provide acquisition, construction and/or permanent financing for the Project consistent with an approved financing plan; (b) DEVELOPER must demonstrate to the CITY's reasonable satisfaction that subordination of the Deed of Trust and/or Declaration of Restrictions is necessary to secure adequate acquisition and construction and/or permanent financing to ensure the viability of the Project; (c) The subordination agreement must provide the CITY with adequate rights to cure any defaults by the DEVELOPER including providing the CITY or its successor with copies of any notices of default; (d) Upon a determination by the City Manager that the conditions in this Section have been satisfied, the City Manager or his/her designee will be authorized to execute the approved subordination agreement without the necessity of any further action or approval, subject to prior approval to form by the Fresno City Attorney.

ARTICLE 3. GENERAL REPRESENTATIONS AND WARRANTIES OF THE DEVELOPER

3.1 Existence and Qualification. The DEVELOPER represents and warrants as of the date hereof, that it is a duly organized California public agency in good standing. The DEVELOPER represents and warrants as of the date hereof, that it is a duly organized public entity formed under the California Health and Safety Code, in good standing, and has the requisite power, right and legal authority to execute, deliver, and perform its obligations under this Agreement and has taken all actions necessary to authorize the execution, deliver, performance, and observance of its obligations under this Agreement. This Agreement, when executed and delivered, shall constitute the legal, valid, and binding obligations of the DEVELOPER enforceable against the DEVELOPER in accordance with its respective terms, except as such enforceability may be limited by (a) bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium, or other similar laws of general applicability affecting the enforcement of creditors' rights generally, and (b) the application of general principles of equity without the joinder of any other party.

3.2 No Litigation Material to Financial Condition. The DEVELOPER represent and warrant as of the date hereof that, except as disclosed to and approved by CITY in writing, no litigation or administrative proceeding before any court or governmental body or agency is now pending, nor, to the best of the DEVELOPER's knowledge, is any such litigation or proceeding now threatened, or anticipated against the DEVELOPER that, if adversely determined, would have a material adverse effect on the financial condition, business, or assets of the DEVELOPER or on the operation of the Project.

3.3 No Conflict of Interest. The DEVELOPER represent and warrant as of the date hereof that no official, officer, agent, or employee of the CITY directly or indirectly owns or controls any interest in the DEVELOPER, and no person, directly or indirectly owning or controlling any interest in the DEVELOPER, is an official, officer, agent, or employee of the CITY.

3.4 No Legal Bar. The DEVELOPER represent and warrant as of the date hereof that the execution, delivery, performance, or observance by the DEVELOPER of this Agreement will not, to the best of DEVELOPER's knowledge, materially violate or contravene any provisions of: (a) any existing law or regulation, or any order of decree of any court, governmental authority, bureau, or agency; (b) governing documents and instruments of the DEVELOPER; or (c) any mortgage, indenture, security agreement, contract, undertaking, or other agreement or instrument to which the DEVELOPER is/are a party or that is binding on any of its properties or assets, the result of which would materially or substantially impair the DEVELOPER's ability to perform and discharge its/their obligations or its/their ability to complete the Project under this Agreement.

3.5 Assurance of Governmental Approvals and Licenses. The DEVELOPER represent and warrant, as of the date hereof, that the DEVELOPER have obtained and, to the best of the DEVELOPER's knowledge, is in compliance with all federal, state, and local governmental reviews, consents, authorizations, approvals, and licenses presently required by law to be obtained by the DEVELOPER for the Project as of the date hereof.

ARTICLE 4. HOME PROGRAM REPRESENTATION AND WARRANTIES BY THE DEVELOPER

The DEVELOPER, for itself and its development team, represents and warrants that:

4.1 Accessibility. The DEVELOPER warrants, covenants and agrees that it shall comply with all federal regulations concerning accessibility requirements in federally funded housing, including, but not limited to the following:

A. At least five percent (5%) of the dwelling units, or at least four (4) units, whichever is greater, must be constructed to be accessible for persons with mobility disabilities. An additional two percent (2%) of the dwelling units, or at least one (1) unit, whichever is greater, must be accessible for persons with hearing or visual disabilities. These units must be constructed in accordance with the Uniform Federal Accessibility Standards (UFAS) or a standard that is equivalent or stricter. These mandates can be found in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

B. The design and construction requirements of the Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended), including the following seven (7) requirements of the Fair Housing Accessibility Guidelines:

- i. Provide at least one accessible building entrance on an accessible route.
- ii. Construct accessible and usable public and common use areas.
- iii. Construct all doors to be accessible and usable by persons in wheelchairs.

- iv. Provide an accessible route into and through the covered dwelling unit.
- v. Provide light switches, electrical outlets, thermostats and other environmental controls in accessible locations.
- vi. Construct reinforced bathroom walls for later installation of grab bars around toilets, tub, shower stalls and shower seats, where such facilities are provided.
- vii. Provide usable kitchens and bathrooms such that an individual who uses a wheelchair can maneuver about the space.

C. Title III of the Americans with Disabilities Act of 1990 (ADA) as it relates to the required accessibility of public and common use areas of the Project.

D. The design and construction requirements as required by the CITY'S Universal Design Ordinance pursuant to FMC 11-110, including, but not limited to the following requirements:

- i. No step accessible entryway;
- ii. All interior doorways and passageways at least 32 inches wide;
- iii. One downstairs "flex room" and accessible bathroom with reinforcements for grab bars;
- iv. Six square feet of accessible kitchen counter space; and
- v. Hallways at least 42 inches wide.

4.2 Affirmative Marketing. The DEVELOPER warrants, covenants and agrees that it shall comply with all affirmative marketing requirements, including without limitation, those set out at 24 CFR 92.350, 24 CFR 92.351, in order to provide information and otherwise attract eligible persons from all racial, ethnic and gender groups in the housing market. The DEVELOPER shall be responsible for complying with the CITY's "Affirmative Marketing Policy" document, incorporated herein, as amended from time to time. The DEVELOPER shall maintain records of actions taken to affirmatively market units, and to assess the results of these actions.

4.3 Availability of HOME Funds. The DEVELOPER understands and agrees that the availability of HOME Funds is subject to the control of HUD, or other federal agencies, and should said Funds be encumbered, withdrawn or otherwise made unavailable to the CITY, whether earned by or promised to the DEVELOPER, and/or should CITY in any fiscal year hereunder fail to allocate said Funds, the CITY shall not provide said Funds unless and until they are made available for payment to the CITY by HUD and the CITY receives and allocates said Funds. No other funds owned or controlled by the CITY shall be obligated under this Agreement.

4.4 Compliance with Agreement. The DEVELOPER warrants, covenants and agrees that, in accordance with the requirements of 24 CFR 92.252 and 24 CFR Part 85, upon any uncured default by the DEVELOPER within the meaning of Article 10 of this

Agreement, the CITY may suspend or terminate this Agreement and all other agreements with the DEVELOPER without waiver or limitation of rights/remedies otherwise available to the CITY.

4.5 Conflict of Interest. The DEVELOPER warrants, covenants and agrees that it shall comply with the Conflict of Interest requirements of 24 CFR 92.356 including, without limitation, that no officer, employee, agent or consultant of the DEVELOPER (other than an employee or agent of the DEVELOPER who occupies a unit as the project manager or maintenance worker) may occupy a Project Unit. The DEVELOPER understands and acknowledges that no employee, agent, consultant, officer or elected official or appointed official of the CITY, who exercises or has exercised any functions or responsibilities with respect to the Project, or who is in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from the Project, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for anyone with which that person has family or business ties, during his or her tenure or for one year thereafter. To the extent provided at 24 CFR 92.356(f), no owner, developer or sponsor of the Project, or officer, employee, agent or consultant thereof, may occupy a Project Unit.

4.6 Construction Standards. The DEVELOPER shall construct the proposed housing units assisted under this Agreement in compliance with all applicable local codes, ordinances and zoning requirements in effect at the time of issuance of Certification of Completion. In the absence of a local code for construction, the DEVELOPER agrees to comply with the applicable standards identified in 24 CFR 92.251.

4.7 Covenants and Restrictions to Run with the Land. The CITY and the DEVELOPER expressly warrant, covenant and agree to ensure that the covenants and restrictions set forth in this Agreement are recorded and will run with the land, provided, however, that, on expiration of this Agreement such covenants and restrictions shall expire. The DEVELOPER further warrant, covenant and agree that the covenants and restrictions set forth herein shall run in favor of the CITY. The CITY agrees that this Agreement, the Note, the Deed of Trust and the Declaration of Restrictions shall be made junior and subordinate to liens given in connection with the Project financing, including any refinancing thereof established and obtained pursuant to and in compliance with the provisions of this Agreement, and to any tax credit or other regulatory agreement. The City Manager of the CITY is hereby authorized and directed to execute such subordination agreements, inter-creditor agreements, standstill agreements, and/or other documents as may be reasonably requested by the Lender to evidence subordination to the Project financing, without further authorization from the CITY, provided that such agreements contain written provisions that are no more onerous and which are consistent with the customary standard requirements imposed by the financing source(s), on subordinate cash flow obligations under their then existing senior tax exempt bond financing policies, and further provided that City Attorney reasonably approves of such document as to form.

A. The CITY and the DEVELOPER hereby declare their understanding and intent that the covenants and restrictions set forth herein directly benefit the land: (a) by enhancing and increasing the enjoyment and ownership of the proposed Project by certain Very Low-Income Households; and (b) by making possible the obtaining of advantageous

financing for construction.

B. The DEVELOPER covenant and agree that until the expiration of the Affordability Period it shall cause the Affordable Rental Housing to be used for Affordable Housing for Very Low-Income Households.

C. Without waiver or limitation, the CITY shall be entitled to injunctive or other equitable relief against any violation or attempted violation of any covenants and restrictions, and shall, in addition, be entitled to damages available under law or contract for any injuries or losses resulting from any violations thereof.

D. All present and future owners of the Rental Housing and other persons claiming by, through, or under them shall be subject to and shall comply with the covenants and restrictions. The acceptance of a deed of conveyance to the Rental Housing shall constitute an agreement that the covenants and restrictions, as may be amended or supplemented from time to time, are accepted and ratified by such future owners, tenant or occupant, and all such covenants and restrictions shall be covenants running with the land and shall bind any person having at any time any interest or estate in the Rental Housing, all as though such covenants and restrictions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof.

E. The failure or delay at any time of the CITY or any other person entitled to enforce any such covenants or restrictions shall in no event be deemed a waiver of the same, or of the right to enforce the same at any time or from time to time thereafter, or an estoppel against the enforcement thereof.

4.8 Displacement of Persons. The DEVELOPER warrants, covenants and agrees that pursuant to 24 CFR 92.353, it will take all reasonable steps to minimize the displacement of any persons (families, individuals, businesses, nonprofit organizations and farms).

4.9 Initial and Annual Income Certification. The DEVELOPER warrants, covenants and agrees that it shall comply with the procedures for annual income determinations at 24 CFR 92.203. The DEVELOPER shall obtain, complete and maintain on file, immediately prior to initial occupancy, and annually thereafter, income certifications from each tenant Household renting any Unit. The DEVELOPER shall make a good faith effort to verify that the income provided by an applicant or occupying Household in an income certification is accurate by taking one or more of the following steps as part of the verification process: (1) obtain a pay stub for the most recent pay period; (2) obtain an income verification form from the applicant's current employer; (3) obtain an income verification form from the Social Security Administration and California Department of Social Services if the applicant receives assistance from either of such agencies; or (4) obtain another form of independent verification. Copies of household income certification and verification must be available for review and approval by the CITY. The DEVELOPER further warrants, covenants and agrees that it shall cooperate with the CITY in the CITY's income certification/affordability monitoring activities.

4.10 Lead-Based Paint. The DEVELOPER covenants and agrees with the CITY that it shall comply with all applicable requirements of the Lead-Based Paint Poisoning Prevention

Act of 42 U.S.C. 4821 et seq., 24 CFR Part 35, including the HUD 1012 Rule, 24 CFR 982.401(j), and any amendments thereto, and EPA Section 402(c)(3) of the Toxic Substances Control Act (TSCA) to address lead-based paint hazards created by renovation, repair, and painting activities that disturb lead-based paint in target housing and child-occupied facilities. Contractors performing renovations in lead-based paint units must be EPA-certified renovators. These requirements apply to all Units and common areas of the Affordable Project. The DEVELOPER shall incorporate or cause incorporation of this provision in all contracts and subcontracts for work performed on the Affordable Project, which involve the application of paint. The DEVELOPER shall be responsible for all disclosure, inspection, testing, evaluation, and control and abatement activities.

4.11 Minority Outreach Activities. The DEVELOPER warrants, covenants and agrees that it shall comply with all federal laws and regulations described in Subpart H of 24 CFR Part 92, including, without limitation, any requirement that the DEVELOPER comply with the CITY's minority outreach program.

4.12 Other Laws and Regulations. The DEVELOPER warrants, covenants and agrees that, in addition to complying with the federal laws and regulations already cited in this Agreement, the DEVELOPER have reviewed, and shall comply with, all other federal laws and regulations that apply to the HOME Program, including, without limitation, requirements of 24 CFR 58.6 and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001-4128) and the following:

A. The DEVELOPER does not intend to use any financing that is secured by a mortgage insured by HUD in connection with the Project as part of its acquisition and/or construction of this Project.

B. The Project is not located in a tract identified by the Federal Emergency Management Agency as having special flood requirements.

C. The Project requirements, Subpart F of 24 CFR Part 92, as applicable and in accordance with the type of Project assisted, including, but not limited to, the limit on per-unit subsidy amount at 24 CFR 92.250.

D. The property standards at 24 CFR 92.251.

E. The Project "Labor" requirements, as applicable, of 24 CFR 92.354 including Davis Bacon prevailing wage requirements (40 U.S.C. 276a - 276a-7), as supplemented by Department of Labor regulations (29 CFR Part 5).

F. The provisions of Section 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor Regulations (29 CFR Part 5), in regards to the construction and management of the proposed Project.

G. The DEVELOPER and its contractors, subcontractors and service providers for the Project, shall comply with all applicable local, state and federal requirements concerning equal employment opportunity, including compliance with Executive Order

("E.O."). 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending E.O. 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

H. The provisions of the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").

I. The provisions of the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.

J. The provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

K. The provision of E.O.s 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 24.

L. The provisions of the Drug-Free Workplace Act of 1988 (42 U.S.C. 701), in accordance with the Act and with HUD's rules at 24 CFR part 24, subpart F.

M. Title 8 of the Civil Rights Act of 1968 PL. 90-284.

N. Executive Order 11063 on Equal Opportunity and Housing.

O. Section 3 of the Housing and Urban Development Act of 1968.

P. The Housing and Community Development Act of 1974.

Q. Clean Water Requirements 33 U.S.C. 1251.

R. Civil Rights Requirements, 29 U.S.C. § 623, 42 U.S.C. § 2000, 42 U.S.C. § 6102, 42 U.S.C. § 12112, 42 U.S.C. § 12132, 49 U.S.C. § 5332, 29 CFR Part 1630, and 41 CFR Parts 60 et seq.

4.13 Faith Based Activities. The DEVELOPER warrants, covenants and agrees that it shall not engage in any prohibited activities described in 24 CFR 92.257.

4.14 Reporting Requirements. The DEVELOPER warrants, covenants and agrees that it shall submit performance reports to the CITY as detailed in Section 7.17. Furthermore, The DEVELOPER agree to provide, at the sole cost of The DEVELOPER, annual audited Financial Statements for the Project expenses and ongoing financial transactions which occur as a result of this Agreement as detailed in Sections 5.6 and 5.7. The DEVELOPER agrees to account for the expenditure of HOME Funds using generally accepted accounting principles, which financial documentation shall be made available to the CITY and HUD upon their respective written request(s).

4.15 Housing Affordability. The DEVELOPER warrants, covenants and agrees that the Project will meet the Affordable Rental Housing, income targeting and other requirements of 24 CFR 92.252 during the Affordability Period. The Units shall, at a minimum, be rented to

and occupied by, or, if vacant, available for rental and occupancy by (a) person(s) whose annual household income at the time of initial occupancy is not greater than fifty percent (50%) of the most recent annual median income calculated and published by HUD for the Fresno Metropolitan Statistical Area applicable to such household's size, and at an affordable price consistent with HOME Program regulations, for the Affordability Period except upon foreclosure by a lender or transfer in lieu of foreclosure following default under a Deed of Trust provided the CITY has an opportunity to avoid termination of affordability. However, if at any time following transfer by foreclosure or transfer in lieu of foreclosure, but still during the Affordability Period, the owner of record prior to the foreclosure or transfer in lieu of foreclosure, or any newly formed entity that includes such owner of record or those whom such owner of record has or had family or business ties, obtains an ownership interest in the Project or Property, the Affordability Period shall be revived according to its original terms. In the event the DEVELOPER fails to comply with this Section or the Affordability Period is not revived following transfer by foreclosure or transfer in lieu of foreclosure, the DEVELOPER shall return to CITY all HOME Funds disbursed to the DEVELOPER by CITY.

4.16 Terminated Projects(s). The DEVELOPER understands and agrees that, if the Project is terminated before completion, either voluntarily or otherwise, such constitutes an ineligible activity and the CITY without waives or limitation upon other rights and remedies will not be required to provide any further HOME Program assistance funding to the Project Units.

ARTICLE 5. COVENANTS AND AGREEMENTS OF THE DEVELOPER

The DEVELOPER covenants and agrees to the following, for the entire term of the Agreement.

5.1 Adequate Repair and Maintenance. After construction of the Project is complete, the DEVELOPER shall maintain the Project and Property in compliance with all applicable codes, laws, and ordinances.

5.2 Affordable Rental Housing. The DEVELOPER covenants and agrees that the Project shall constitute Affordable Housing with fifteen (15) units preserved as Very Low-Income Rental Housing (as variously provided at 24 CFR 92.252) during the entire Affordability Period. This covenant as to Affordable Housing shall remain in effect and run with and restrict the land during the entirety of the Affordability Period. In the event that the DEVELOPER fails to comply with the time period in which the Project must constitute Affordable Housing, the CITY shall without waiver or limitation, be entitled to injunctive relief, as the DEVELOPER acknowledges that damages are not an adequate remedy at law for such breach.

5.3 Compliance With Environmental Laws. The DEVELOPER shall cause the Project to be in compliance with, and not to cause or permit the housing project to be in violation of, any environmental law, rule, regulation, ordinance, or statute. Although the CITY will utilize its employees and agents for regular inspection and testing of the eligible Property, the DEVELOPER agrees that, if the CITY has reasonable grounds to suspect any such violation, the DEVELOPER shall be entitled to thirty (30) days' notice and opportunity to cure such violation. If the suspected violation is not cured, the CITY shall have the right to retain

an independent consultant to inspect and test the eligible Property for such violation. If a violation is discovered, the DEVELOPER shall pay for the reasonable cost of the independent consultant.

Additionally, the DEVELOPER agrees:

A. That the CITY shall not be directly or indirectly involved with the inspection, testing, removal or abatement of asbestos or other hazardous or toxic chemicals, materials, substances, or wastes and that all cost, expense and liability for such work shall be and remain solely with the DEVELOPER;

B. Not to transport to or from the proposed project site(s), or use, generate, manufacture, produce, store, release, discharge, or dispose of on, under, or about the project site(s), or surrounding real estate, or transport to or from the project site(s), or surrounding real estate, any hazardous or toxic chemicals, materials, substance, or wastes or allow any person or entity to do so except in such amounts and under such terms and conditions permitted by applicable laws, rules, regulations, ordinances, and statutes;

C. To give prompt written notice to the CITY of the following:

1. Any proceeding or inquiry by any governmental authority with respect to the presence of any hazardous or toxic chemicals, materials, substance, or waste in or on the eligible Property or the surrounding real estate or the migration thereof from or to other property; and

2. All claims made or threatened by any third party against the DEVELOPER or such properties relating to any loss or injury resulting from any hazardous or toxic chemicals, materials, substance, or waste; and

3. The DEVELOPER's discovery of any occurrence or condition on any real property adjoining or in the vicinity of such properties that would cause such properties or underlying or surrounding real estate or part thereof to be subject to any restrictions on the ownership, occupancy, transferability, or use of the property under any environmental law, rule, regulation, ordinance or statute; and

4. To indemnify, defend, and hold the CITY harmless from any and all claims, actions, causes of action, demands, judgments, damages, injuries, administrative orders, consent agreements, orders, liabilities, penalties, costs, expenses (including attorney's fees and expenses), and disputes of any kind whatsoever arising out of or relating to the DEVELOPER or any other party's use or release of any hazardous or toxic chemicals, materials, substance, or wastes on the eligible Property regardless of cause or origin, including any and all liability arising out of or relating to any investigation, site monitoring, containment, cleanup, removal, restoration, or other remedial work of any kind or nature.

5.4 Compliance With Laws. The DEVELOPER shall be responsible for and promptly and faithfully comply with, conform to and obey all present and future federal, state and local statutes, regulations, rules, ordinances and other legal requirements applicable by reason of this Agreement or otherwise to the Affordable Project including without limitation as

to prevailing wage requirements. The DEVELOPER acknowledges that the use of HOME Funds subjects the Affordable Project to extensive federal regulation and covenants and agrees that it shall comply with, conform to and obey (and take such steps as are required of the DEVELOPER to enable the CITY to comply with, conform to and obey) all federal statutes, regulations, rules and policies applicable to the Project.

5.5 Existence, Qualification, and Authority. The DEVELOPER shall provide to the CITY any evidence required or requested by the CITY to demonstrate the continuing existence, qualification, and authority of the DEVELOPER to execute this Agreement and to perform the acts necessary to carry out the Project.

5.6 Financial Statements and Audits. The DEVELOPER, as a subrecipient of federal financial assistance, is required to comply with the provisions of the Single Audit Act of 1984 (31 U.S.C. Sections 7501 et seq.), as amended. Annually, within one hundred and eighty (180) days following: 1) the end of fiscal year(s) in which the HOME Funds are disbursed hereunder, and 2) the end of fiscal year(s) in which this contract shall terminate, and otherwise upon the CITY's, written request during the term of this Agreement, the DEVELOPER, at its sole cost and expense shall submit to the CITY:

A. Audited annual financial statements that are current, signed, and prepared according to generally accepted accounting principles consistently applied (except as otherwise disclosed therein).

B. Audited Financial Statements covering the income and expenses, and the financial transactions for the Project during the prior fiscal year.

5.7 Inspection and Audit of Books, Records and Documents. The DEVELOPER shall be accountable to the CITY for all HOME Funds disbursed for this project pursuant to this Agreement. Any duly authorized representative of the CITY, the State, or HUD shall, at all reasonable times, have access to and the right to inspect, copy, make excerpts or transcripts, audit, and examine all books of accounts, records, files and other papers or property, and other documents of the DEVELOPER pertaining to the Project or all matters covered in this Agreement and for up to six (6) years after the expiration or termination of this Agreement.

A. The DEVELOPER will maintain books and records for the Project using generally accepted accounting principles. The DEVELOPER agree to maintain books and records that accurately and fully show the date, amount, purpose and payee of all expenditures financed with HOME Funds and to keep all invoices, receipts and other documents related to expenditures financed with HOME Funds for not less than six (6) years after the expiration or termination of the Agreement. Books and records must be kept accurate and current. For purposes of this section, "books, records and documents" include, without limitation; plans, drawings, specifications, ledgers, journals, statements, contracts/agreements, funding information, funding applications, purchase orders, invoices, loan documents, computer printouts, correspondence, memoranda, and electronically stored versions of the foregoing. This section shall survive the termination of this Agreement.

B. The CITY may audit any conditions relating to this Agreement at the

CITY's expense, unless such audit shows a significant discrepancy in information reported by the DEVELOPER in which case the DEVELOPER shall bear the cost of such audit. The DEVELOPER shall also comply with any applicable audit requirements of 24 CFR 92.506. This section shall survive the termination of this Agreement.

C. The DEVELOPER will cooperate fully with the CITY, the State, and HUD in connection with any interim or final audit relating to the Programs and the Project that may be performed relative to the performance of this Agreement.

5.8 Inspection of Property. Any duly authorized representative of the CITY, the State, or HUD shall, at all reasonable times, have access and the right to inspect the Property until completion of the Project and expiration of the applicable Affordability Period within 72 hours written notice, subject to rights of the tenants.

5.9 No Other Liens. The DEVELOPER shall not create or incur, or suffer to be created or incurred, or to exist, any additional mortgage, pledge, encumbrance, lien, charge, or other security interest of any kind on the eligible Property, other than those related to construction or pre-development loans in relation to the Affordable Rental Housing Project consistent with the attached Budget EXHIBIT "C".

5.10 Nondiscrimination. The DEVELOPER shall comply with and cause any and all contractors and subcontractors to comply with any and all federal, state, and local laws with regard to illegal discrimination, and the DEVELOPER shall not illegally discriminate against any persons on account of race, religion, sex, family status, age, handicap, or place of national origin in its performance of this Agreement and the completion of the Project.

5.11 Ownership. Except as required in pursuit hereof, the DEVELOPER shall not sell, lease, transfer, assign or otherwise dispose of ("Transfer") all or any material part of any interest it might hold in the Property or the Project without the prior written consent of the CITY, which consent shall not be unreasonably withheld or delayed. "Transfer" shall exclude the leasing of any single Unit in the Project.

A. The DEVELOPER may request CITY's written approval of the granting of the security interests in the Property described in Section 5.9 above.

B. The DEVELOPER anticipates syndicating the low income housing tax credits that will be generated by the Project, which syndication will require the transfer of limited partnership interests. The CITY hereby approves the initial Transfer of the limited partnership interest to a tax credit investor and future Transfers of the limited partner interest to affiliates of the investor, provided that in each instance the CITY is given prior written notice, and the CITY approves of such transfer in writing.

5.12 Payment of Liabilities. The DEVELOPER shall pay and discharge in the ordinary course of its business all material obligations and liabilities, the nonpayment of which could have a material or adverse impact on its financial condition, business, or assets or on the operation of the Project(s), except such obligations and liabilities that have been disclosed to the CITY in writing and are being contested in good faith.

5.13 Report of Events of Default. The DEVELOPER shall promptly give written notice to the CITY upon becoming aware of any Event of Default under this Agreement.

ARTICLE 6. DISBURSEMENT OF HOME FUNDS

Without waiver of limitation, the parties agree as follows, regarding disbursement of HOME Funds:

6.1 Loan Commitments and Financing Plan. The DEVELOPER shall submit its most current Finance Plan for the Affordable Project to the CITY within the time frame provided in the Project Schedule. So long as the Finance Plan is consistent with the Budget, the CITY shall accept the Finance Plan. If the Finance Plan is not consistent with the Budget, then within thirty (30) days after receiving the Finance Plan, the CITY, through its Development and Resource Management Department, Housing and Community Development Division, will review the Finance Plan and deliver notice to the DEVELOPER either approving or disapproving the Finance Plan in its reasonable discretion. If the CITY disapproves the Finance Plan, it will specify the reason for the disapproval and ask the DEVELOPER to provide any additional information the CITY may need to approve the Finance Plan. The failure of the CITY to send notice within such thirty (30) day time period shall be deemed an approval of the Finance Plan.

6.2 Finance Plan Content. The Finance Plan shall contain all Affordable Project pre-construction and construction permanent loan or letters of intent from one or more qualified public/private lenders or funding sources, in sufficient amounts, combined with any other developer financing, for the DEVELOPER to complete construction of the Affordable Project. The total amount of the liens to be recorded against the Property as presented in the Finance Plan shall not exceed the DEVELOPER's estimated construction Budget.

6.3 Use of HOME Program Funds. The DEVELOPER warrants covenants and agrees that it shall request HOME Program Funds only for reimbursement/payment of HOME eligible costs as identified in the attached Budget, limited to the amount needed for the affordable units. The City's obligations shall in no event exceed the HOME Fund amount specified in the Agreement.

A. If any such Funds shall be determined to have been requested and/or used by the DEVELOPER for something other than for HOME eligible costs, and subject to the notice and cure provisions of Section 10.2 hereunder, an equal amount from nonpublic funds shall become immediately due and payable by the DEVELOPER to the CITY; provided, however, that the DEVELOPER shall, subject to its full cooperation with the CITY, be entitled to participate in any opportunity to remedy, contest, or appeal such determination.

B. In the event HOME Funds are requested to reimburse/pay for Eligible Costs which subsequently lose eligibility as Eligible Costs, the DEVELOPER shall immediately return such HOME Funds to the CITY.

C. The CITY will disburse HOME Funds, only to the DEVELOPER through proper invoicing, for HOME eligible costs of the Project as provided in this Article 6.

6.4 Conditions Precedent to Disbursement. The CITY shall not be obligated to make or authorize any disbursements of HOME Funds or take any other action under this Agreement unless the following conditions are satisfied:

A. There exists no Event of Default as provided in Article 10, nor any act, failure, omission or condition that with the passage of time or the giving of notice or both would constitute an Event of Default.

B. The DEVELOPER has submitted evidence that the combined monies from the Funding Sources and the HOME Funds are not less than Eleven Million Seven Hundred Fifty Six Thousand Nine Hundred Seventy Six dollars and 00/100 (\$11,756,976) attached hereto in EXHIBIT "C", the amount necessary to complete the Project;

C. The CITY has approved the requested payment of HOME eligible Project/Property costs.

D. The DEVELOPER has acquired insurance coverage and delivered to the CITY evidence of insurance as required in Article 9.

E. The DEVELOPER is current with its compliance of all reporting requirements set forth in this Agreement.

F. The DEVELOPER has provided the CITY with a written request for HOME Funds (in CITY-approved Form), for payment of HOME eligible Project costs, and detailing such Eligible Costs applicable to the request.

G. The CITY has received Certification required by Section 6.6 of this Agreement.

H. The CITY has received, and continues to have the right to disburse, HOME Funds.

6.5 Request for and Disbursement of HOME Program Funds. The DEVELOPER shall request disbursement of HOME Funds using the CITY's Request for Disbursement of Funds Form, or a similar document. The DEVELOPER shall only request a maximum of One Million Five Hundred Thousand dollars and 00/100 (\$1,500,000) in HOME Program assistance. All requests should provide in detail such Eligible Costs applicable to the request. All requests for HOME funds disbursement shall be accompanied with the Certification required by Section 6.6 of this Agreement.

6.6 DEVELOPER Certification. The DEVELOPER shall submit to the CITY a written certification that, as of the date of the Request for Disbursement ("Certification"):

A. The representations and warranties contained in or incorporated by reference in this Agreement continue to be true, complete and accurate in material respects;

B. The DEVELOPER has carried out all of its obligations and is in compliance with all the obligations or covenants specified in this Agreement, to the extent

that such obligations or covenants are required to have been carried out or are applicable at the time of the request for the Disbursement;

C. The DEVELOPER has not committed or suffered an act, event, occurrence, or circumstance that constitutes an Event of Default or that with the passage of time or giving of notice or both would constitute an Event of Default; and

D. The Disbursement requested will be used solely for reimbursement of eligible costs and must be supported by the itemized obligations that have been properly incurred and are properly chargeable in connection with the Project.

6.7 Disbursement of Funds. Disbursements of HOME Program Loan proceeds shall occur within thirty (30) days after the CITY receives the Certification and to the extent of annually allocated and available HOME Funds.

ARTICLE 7. DEVELOPMENT AND CONSTRUCTION OF PROJECT

Without waiver of limitation, the parties agree as follows:

7.1 Pre-construction Meeting Regarding HOME Program Processes and Procedures. CITY will schedule, and the DEVELOPER shall attend a meeting prior to construction with the CITY's Housing and Community Development Division for the purpose of outlining HOME program processes and procedures.

7.2 Commencement and Completion of Project. The DEVELOPER shall commence construction and, record a Notice of Completion upon completion of construction in accordance with the project schedule.

7.3 Contracts and Subcontracts. Consistent with Section 5.3, all demolition, hazardous waste abatement, construction work and professional services for the Affordable Project shall be performed by persons or entities licensed or otherwise legally authorized to perform the applicable work or service in the State of California and the City of Fresno. The DEVELOPER shall provide the CITY with copies of all agreements it has entered into with any and all general contractors for the Affordable Project. The DEVELOPER shall require that each such general contractor agreement contain a provision whereby the party(ies) to the agreement other than the DEVELOPER agree to: (i) notify the CITY immediately of any event of default by the DEVELOPER thereunder; (ii) notify the CITY immediately of the filing of a mechanic's lien, (iii) notify the CITY immediately of termination or cancellation of the agreement; and (iv) provide the CITY, upon the CITY's request, an Estoppel Certificate certifying that the agreement is in full force and effect and the DEVELOPER is not in default thereunder. The DEVELOPER agrees to notify the CITY immediately of termination or cancellation of any such agreement(s), notice of filing of a mechanic's lien, or breach or default by other party(ies) thereto.

7.4 Damage to Property. To the extent consistent with the requirements of any permitted encumbrance, or as otherwise approved by the CITY, and subject to Article 9 of this Agreement, if any building or improvement constructed on the Property is damaged or destroyed by an insurable cause, the DEVELOPER shall, at its cost and expense, diligently

undertake to repair or restore said buildings and improvements consistent with the original Plans and Specifications of the Project Unit. Such work or repair shall commence within ninety (90) days after the insurance proceeds are made available to the DEVELOPER and shall be complete within one (1) year thereafter. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, the DEVELOPER shall make up the deficiency.

7.5 Fees, Taxes and Other Levies. The DEVELOPER shall be responsible for payment of all fees, assessments, taxes, charges and levies imposed by any public authority or utility company with respect to the Property or the Project, and shall pay such charges prior to delinquency. However, the DEVELOPER shall not be required to pay and discharge any such charge so long as: (a) the legality thereof is being contested diligently and in good faith and by appropriate proceedings, and (b) if requested by the CITY, the DEVELOPER shall deposit with the CITY any funds or other forms of assurances that the CITY, in good faith, may determine from time to time are appropriate to protect the CITY from the consequences of the contest being unsuccessful.

7.6 Financing. The DEVELOPER shall promptly inform the CITY of any new financing or funding, and the DEVELOPER shall provide the CITY copies of all agreements with any and all Funding Sources for this Project. The DEVELOPER agrees to notify the CITY immediately of termination or cancellation of any such agreement(s) or receipt of notice of default/default thereunder. The DEVELOPER shall comply with all obligations of any such agreement(s) with any and all Funding Sources until the respective expiration of such agreement(s). In the event the DEVELOPER fails to comply with its obligations of this section, the loan shall become immediately due and payable as provided for in this Agreement. This section shall survive expiration or termination of this Agreement.

7.7 Identification Signage. Before the start of construction, the DEVELOPER shall place a poster or sign, with a minimum four feet by four feet in size, identifying the City of Fresno Development and Resource Management Department, Housing and Community Development Division as a Project participant. The sign shall also include the CITY's Housing Logo, as well as the Equal Housing Opportunity logo, as mandated by HUD. Font size shall be a minimum of 4 inches. The poster/sign shall be appropriately placed, and shall be in place throughout the Project construction.

7.8 Inspections. The DEVELOPER shall permit, facilitate, and require its contractors and consultants to permit and facilitate observation and inspection at the job site by the CITY and other public authorities during reasonable business hours, for determining compliance with this Agreement, including without limitation those biennial on-site inspections required of the CITY by 24 CFR 92.504(d).

7.9 Utilities. The DEVELOPER shall be responsible, at its sole cost and expense, to determine the location of any utilities on the Property and to negotiate with the utility companies for and to relocate the utilities, if any, as necessary to complete the Project.

7.10 Insurance and Bonds. Upon CITY's reasonable request, the DEVELOPER

shall submit for CITY approval bonds, certificates and applicable endorsements for all insurance and bonds required by this Agreement in accordance with Article 9.

7.11 Mechanic's Liens and Stop Notices. If any claim of lien is filed against the Property or a stop notice affecting any financing, HOME Program Funds or Funding Sources for the Project is served on the CITY or any other third party in connection with the Project, the DEVELOPER shall, within twenty (20) days of such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to the CITY a surety bond in sufficient form and amount, or provide the CITY with other assurance satisfactory to the CITY that the claim of lien or stop notice will be paid or discharged.

A. If the DEVELOPER fails to discharge, bond or otherwise satisfy the CITY with respect to any lien, encumbrance, charge or claim referred to in this Section 7.10, then, in addition to any other right or remedy, the CITY may, but shall not be obligated to, discharge such lien, encumbrance, charge, or claim at the DEVELOPER expense. Alternatively, the CITY may require the DEVELOPER to immediately deposit with the CITY the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. The CITY may use such deposit to satisfy any claim or lien that is adversely determined against the DEVELOPER. The DEVELOPER hereby agree to indemnify and hold the CITY harmless from liability for such liens, encumbrances, charges or claims together with all related costs and expenses.

7.12 Permits and Licenses. Upon CITY's reasonable request, the DEVELOPER shall submit, for CITY approval, all the necessary permits and licenses required for Commencement of Construction. As the CITY may reasonably request, the DEVELOPER, at its sole cost and expense, shall provide to the CITY copies of any and all permit approvals and authorizations including plot plan, plat, zoning variances, sewer, building, and other permits required by governmental authorities other than the CITY in pursuit of the Affordable Rental Housing Project, and for its stated purposes in accordance with all applicable building, environmental, ecological, landmark, subdivision, zoning codes, laws, and regulations. The DEVELOPER is responsible, at its sole cost and expense, to determine the location of any utilities on the Property and to negotiate with the utility companies for and to relocate the utilities, if any, as necessary to complete the Project.

7.13 Plans and Specifications.

A. The DEVELOPER has submitted to the CITY preliminary plans and specifications for the Project under Conditional Use Permit Application No. C-10-085 ("Affordable Preliminary Plans"). The DEVELOPER will construct the Project in full conformance with the CITY-approved Conditional Use Permit and plans and specifications and modifications thereto approved by the CITY. The DEVELOPER shall obtain the CITY's prior written approval for any modifications to the plans and specifications.

B. The HOME Agreement shall contain by reference the design and site plan of the Project; such design must be approved by the City Council with the HOME Agreement.

7.14 Before Commencement of Construction, the DEVELOPER submit to the CITY, for its review and approval, the final Plans and Specifications for the Project. The DEVELOPER will construct the Affordable Rental Housing in full conformance with the Plans and Specifications and modifications thereto approved by the CITY. The DEVELOPER shall obtain the CITY's prior written approval for any modifications to the Plans and Specifications.

7.15 Project Responsibilities/Public Work-Prevailing Wage Requirements. The DEVELOPER shall be solely responsible for all aspects of the DEVELOPER's conduct in connection with the Project, including but not limited to, compliance with all local, state and federal laws including, without limitation, as to prevailing wage and public bidding requirements. The Council of the City of Fresno has adopted Resolution No. 82-297 ascertaining the general prevailing rate of per diem wages and per diem wages for holidays and overtime in the Fresno area for each craft, classification, or type of workman needed in the execution of contracts for the CITY. A copy of the resolution is on file at the Office of the City Clerk. Actual wage schedules are available upon request at CITY's Construction Management Office. Without limiting the foregoing, the DEVELOPER shall be solely responsible for the quality and suitability of the work completed and the supervision of all contracted work, qualifications and financial conditions of and performance of all contractors, subcontractors, consultants and suppliers. Any review or inspection undertaken by the CITY with reference to the Project and/or payroll monitoring/auditing is solely for the purpose of determining whether the DEVELOPER are properly discharging its obligation to the CITY, and shall not be relied upon by the DEVELOPER or by any third parties as a warranty or representation by the CITY as to governmental compliance and/or the quality of the work completed for the Project.

7.16 Property Condition. The DEVELOPER shall maintain the Affordable Project Property and all improvements on site in a reasonably good condition and repair (and, as to landscaping, in a healthy condition), all according to the basic design and related plans, as amended from time to time. The DEVELOPER and those taking direction under the DEVELOPER shall: (i) maintain all on-site improvements according to all other applicable law, rules, governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials; (ii) keep the improvements free from graffiti; (iii) keep the Affordable Project Property free from any accumulation of debris or waste material; (iv) promptly make repairs and replacements to on-site improvements; and (v) promptly replace any dead, or diseased plants and/or landscaping (if any) with comparable materials.

7.17 Quality of Work. The DEVELOPER shall ensure that construction of the proposed Project employs building materials of a quality suitable for the requirements of the Project. The DEVELOPER shall cause completion of construction of the proposed Project on the Property in full conformance with applicable local, state and federal laws, statutes, regulations, and building and housing codes.

7.18 Relocation. If and to the extent that construction of the proposed Project results in the permanent or temporary displacement of residential tenants, homeowners or businesses, the DEVELOPER shall comply with all applicable local, state and federal statutes and regulations with respect to relocation planning, advisory assistance and payment of monetary benefits. The DEVELOPER shall be solely responsible for payment of any

relocation benefits to any displaced persons and any other obligations associated with complying with said relocation laws.

7.19 Reporting Requirements. The DEVELOPER shall submit to the CITY the following Project reports:

A. From the date of Commencement of the Project, until issuance of the final Certificate of Completion, the DEVELOPER shall submit a Quarterly Report, in a form approved by the CITY, which will include, at a minimum, the following information: progress of the Project and affirmative marketing efforts (as applicable). The Quarterly Reports are due fifteen (15) days after each March 31st, June 30th, September 30th, and December 31st, during said period.

B. Annually, beginning on the first day of the month following the CITY's issuance of the final Certificate of Completion, and continuing until the termination of the Agreement, the DEVELOPER shall submit an Annual Report to the CITY, in a form approved by the CITY. The Annual Report shall include, at a minimum, the following information: the rents, the annual income and the family size of the Households, the date of tenancy commenced for each rental Unit, tenant recertification information, and an owner certification from an officer of the DEVELOPER that the Project is in compliance with the Affordable Rental Housing Requirements, and such other information the CITY may be required by law to obtain. The DEVELOPER shall provide any additional information reasonably requested by the CITY.

C. Annually, beginning on the first day of the month following the CITY's issuance of the final Certificate of Completion, and continuing until the expiration of the Agreement, the DEVELOPER shall submit proof of insurance as required in Article 9.

7.20 Scheduling and Extension of Time; Unavoidable Delay in Performance. It shall be the responsibility of the DEVELOPER to coordinate and schedule the work to be performed so that the Commencement of the Project and issuance of the Certificate of Completion will take place in accordance with the provisions of the Agreement and Project Schedule. The time for performance contained in the Project Schedule shall be automatically extended upon the following:

A. The time for performance of provisions of the Agreement by either party shall be extended for a period equal to the period of any delay directly affecting the Project or this Agreement which is caused by: war, insurrection, strike or other labor disputes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of a public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, suits filed by third parties concerning or arising out of this Agreement, or unseasonable weather conditions. An extension of time for any of the above specified causes will be granted only if written notice by the party claiming such extension is sent to the other party within ten (10) calendar days from the date the affected party learns of the commencement of the cause and the resulting delay and such extension of time is accepted by the other party in writing. In any event, the Project must be completed no later than one hundred eighty (180) calendar days after the scheduled completion date specified in this Agreement, notwithstanding any delay caused by that included in this section.

B. Any and all extensions hereunder shall be by mutual written agreement of the CITY's Housing and Community Development Division Manager and the DEVELOPER and shall not cumulatively exceed one hundred eighty (180) days.

7.21 Certificate of Completion. Upon completion of the construction of the Project, the DEVELOPER shall certify in writing to the CITY that the Affordable Rental Housing has been constructed in accordance with the plans and specifications approved by the CITY. Upon completion of the Affordable Rental Housing, the DEVELOPER shall also submit to the CITY a cost-certifying final budget where the DEVELOPER shall identify the actual costs of construction of the Project. This final cost-certification shall identify costs in line-item format, consistent with the Project Budget. Upon a determination by the CITY that the DEVELOPER is in compliance with all of the DEVELOPER's construction obligations, as specified in this Agreement, the CITY shall furnish, within thirty (30) calendar days of a written request by the DEVELOPER, a recordable Certificate of Completion for the Project in the form attached hereto as EXHIBIT "E". The CITY will not unreasonably withhold or delay furnishing the Certificate of Completion. If the CITY fails to provide the Certificate of Completion within the specified time, it shall provide the DEVELOPER with a written statement indicating in what respects the DEVELOPER has failed to complete the Project in conformance with this Agreement or has otherwise failed to comply with the terms of this Agreement, and what measures the DEVELOPER will need to take or what standards it will need to meet in order to obtain the Certificate of Completion. Upon the DEVELOPER taking the specified measures and meeting the specified standards, the DEVELOPER will certify to the CITY in writing of such compliance and the CITY shall deliver the recordable Certificate of Completion to the DEVELOPER in accordance with the provisions of this section.

ARTICLE 8. PROJECT OPERATIONS

8.1 Operation of the Project. The DEVELOPER shall lease, operate and manage the Project in full conformity with the terms of this Agreement.

8.2 Occupancy Requirements. Fifteen (15) Project HOME Units shall be rented and occupied by, or if vacant, available for rental occupancy by person(s) whose annual household income at the time of initial occupancy is not greater than fifty percent (50%) of the most recent annual median income, calculated and published by HUD for the Fresno Metropolitan Statistical Area, applicable to such household's size, and at an affordable price consistent with HOME Program regulations (as variously provided at 24 CFR 92.252) for the term of this Agreement. The DEVELOPER shall comply with the income targeting requirements of 24 CFR 92.216.

8.3 Leasing the Project. Before leasing any Units, the DEVELOPER shall submit its proposed form of Lease for CITY's review and approval. The DEVELOPER covenant and agree to utilize only Leases that have been approved in advance by CITY. The CITY shall respond to the DEVELOPER submission of a sample Lease within thirty (30) days. Should CITY not respond within thirty (30) days of Lease submittal, the DEVELOPER shall be authorized to use the submitted sample Lease. Additionally, the DEVELOPER agrees not to terminate the tenancy or to refuse to renew a Lease with a tenant of the Affordable Rental Housing assisted with HOME Funds except for serious or repeated violation of the terms and

conditions of the Lease, for violation of applicable federal, state, or local law, or for other good cause. Any such termination or refusal to renew must be preceded by not less than thirty (30) days written notice served by the DEVELOPER or its authorized management entity upon the tenant specifying the grounds for such action. The DEVELOPER agrees it shall annually report to CITY the number of Leases that were not renewed or terminated and the reason for such non-renewal or termination.

8.4 Lease Provisions. In addition to the requirements of 24 CFR 92.253, the Leases are subject to the following:

A. The DEVELOPER shall include in Leases for all Units, provisions which authorize the DEVELOPER to immediately terminate the tenancy of any Household of which one or more members misrepresented any fact material as to the qualification as a Very Low-Income Household. Each such Lease shall also provide that the Household is subject to annual certification, and that, if the Household's annual income increases above the applicable limits for Very Low-Income Families such Household's rent may be subject to increase to the lesser of: 1) the amount payable by tenant under state or local law; or 2) thirty percent (30%) of the Household's actual adjusted monthly income, whichever is greater.

8.5 Final Management Plan. Before leasing the Affordable Rental Housing and at least sixty (60) calendar days prior to the Project Completion Date, the DEVELOPER shall submit to the CITY, for review and approval, a plan for marketing and managing the proposed Affordable Rental Housing ("Final Management Plan"). The Final Management Plan shall address in detail how the DEVELOPER or its designated property management entity plans to market the availability of Units to prospective tenants and how the DEVELOPER plans to certify the eligibility of potential tenants. The Final Management Plan shall also address how the DEVELOPER and/or the property management entity plan to manage and maintain the Affordable Rental Housing, and shall include appropriate financial information and documentation. The Final Management Plan shall contain detailed descriptions of policies and procedures with respect to tenant selections and evictions. Topics to be covered in these procedures shall include at a minimum the following:

- Interviewing procedures for prospective tenants;
- Previous rental history of tenants with references;
- Credit reports and checks;
- Criminal background checks;
- Deposit amounts, purpose, use and refund policy;
- Employment/Income verification;
- Occupancy restrictions;
- Income Limits;
- Equal Housing Opportunity Statement;
- Restrictions on use of the premises; and
- Tenant/Landlord dispute resolution procedures.

The Final Management Plan shall contain copies of all standardized forms associated with the above listed topics. The Final Management Plan shall include a form Lease agreement that the DEVELOPER proposes to enter into with Project tenants. The

DEVELOPER shall abide by the terms of this Final Management Plan, approved by the CITY, in marketing, managing and maintaining the Housing.

At least ninety (90) calendar days prior to the Project Completion Date, the DEVELOPER shall also submit any proposed management contract to the CITY for prior review. The CITY shall have the right to review any proposed amendments, other than renewals to the management contract, and any new management contracts during the term of this Agreement. Such management contract(s) shall contain a provision expressing this right.

8.6 Property Management. With respect to the Project, the DEVELOPER shall comply with the following:

A. Management Responsibilities. The DEVELOPER and/or through its designated management entity, is specifically responsible for all management functions with respect to the Affordable Rental Housing Project including, without limitation, the selection of tenants, certification and re-certification of Household size and income, evictions, collection of Rents and deposits, construction management, affirmative marketing, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items and security. The CITY shall have no responsibility for such management of the Project.

8.7 Maintenance and Security. The DEVELOPER shall at its own expense maintain the Affordable Rental Housing in good condition, in good repair and in decent, safe, sanitary, habitable and tenantable living conditions for the benefit of the Unit occupants. The DEVELOPER shall not commit or permit any waste on or to the Affordable Rental Housing, and shall prevent and/or rectify any physical deterioration of the housing. The DEVELOPER shall maintain the housing in conformance with all applicable federal, state and local laws, ordinances, codes and regulations, the Final Management Plan, and this Agreement.

8.8 Nondiscrimination. All of the Units shall be available for occupancy on a continuous basis to members of the general public who are income eligible. The DEVELOPER shall not illegally discriminate or segregate in the development, construction, use, enjoyment, occupancy or conveyance of any part of the Affordable Rental Housing Project or Property on the basis of race, color, ancestry, national origin, religion, sex, age, marital status, family status, source of income/rental assistance subsidy, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), sexual orientation, or any other arbitrary basis. The DEVELOPER shall otherwise comply with all applicable local, state and federal laws concerning nondiscrimination in housing. The DEVELOPER nor any person claiming under or through the DEVELOPER, shall establish or permit any such practice or practices of illegal discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants or vendees of any Unit or in connection with employment of persons for the construction of any Unit. All deeds or contracts made or entered into by the DEVELOPER as to the Units or the housing project or portion thereof, shall contain covenants concerning nondiscrimination consistent with this section. The DEVELOPER shall include a statement in all advertisements, notices and signs for availability of Units for rent to the effect that the DEVELOPER is an Equal Housing Opportunity Provider.

A. Nothing in this section is intended to require the DEVELOPER to change the character, design, use or operation of the Project; or to require the DEVELOPER to obtain licenses or permits other than those required for the Project.

8.9 Rent Schedule and Utility Allowances. The DEVELOPER covenants and agrees not to charge rent for Units in an amount which exceeds those rents prescribed in the HOME Program requirements applicable to Affordable Housing in the Fresno, California area, as established by HUD, and further covenants and agrees not to impose a monthly allowance for utility services to tenants of such Units in excess of an amount approved by HUD in accordance with 24 CFR 92.252. The DEVELOPER agrees to furnish to the CITY a certificate setting forth the maximum monthly rentals for Units and the monthly allowances for utilities and services to be charged during any annual period until the expiration of the Affordability Period. The DEVELOPER shall re-examine the income of each tenant Household living in the Unit on an annual basis.

ARTICLE 9. INSURANCE AND INDEMNITY

Without waiver of limitation, the parties agree as follows regarding the DEVELOPER's insurance and indemnity obligations:

9.1 Indemnification. The DEVELOPER shall indemnify, hold harmless and defend the CITY and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by the CITY, the DEVELOPER or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement. The DEVELOPER's obligations under the preceding sentence shall apply regardless of whether CITY or any of its officers, officials, employees, agents or volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of CITY or any of its officers, officials, employees, agents or volunteers.

A. If the DEVELOPER should contract all or any portion of the work to be performed under this Agreement, the DEVELOPER shall require each contractor and subcontractor to indemnify, hold harmless and defend the CITY and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

B. This section shall survive termination or expiration of this Agreement.

9.2 Insurance. Throughout the life of this Agreement, the DEVELOPER shall itself and/or through its consultant(s), assignee(s), nominee(s), contractors and subcontractors pay for and maintain in full force and effect all policy(ies) of insurance required hereunder with (an) insurance company(ies) either: 1) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide, or 2) authorized by the CITY's Risk Manager. The following policies of insurance are required:

A. Until issuance of Certificate(s) of Completion, BUILDERS RISK (Course of Construction) insurance in an amount equal to the completed value of the Affordable Project with no coinsurance penalty provisions.

B. Following issuance of Certificate(s) of Completion, Commercial Property insurance which shall be at least as broad as the most current version of Insurance Service Office (ISO) Commercial Property Form CP 10 30 (Cause of Loss – Special Form), with limits of insurance in an amount equal to full one hundred percent (100%) replacement cost (without deduction for depreciation) of the improvements with no coinsurance penalty provisions. Such insurance shall include coverage for business income, including “rental value”, in an amount equal to the two (2) years of the annual rent generated by the improvements. Coverage for business income, including “rental value”, shall be at least as broad as the most current version of Insurance Service Office (ISO) Commercial Property Form CP 00 30.

1. The above described policy(ies) of insurance shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar day written notice has been given to CITY an unrestricted thirty (30) day written notice in favor of the CITY, of policy cancellation, change or reduction of coverage. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, change or reduction in coverage, the DEVELOPER or its contractors/subcontractors, as the case may be, shall furnish CITY with a new certificate and applicable endorsements for such policy(ies). In the event the policy is due to expire during the term of this Agreement, the DEVELOPER shall provide a new certificate, and applicable endorsements, a new certificate evidencing renewal of such policy shall be provided not less than fifteen (15) days prior to the expiration date of the expiring policy. Upon issuance by the insurer, broker, or agent of a notice of cancellation, change or reduction in coverage, the DEVELOPER or its contractors/subcontractors, as the case may be, shall file with the CITY a certified copy of the new or renewal policy and certificates for such policy.

2. The Builders Risk (Course of Construction) and Property insurance policies shall name the CITY as a loss payee. The insurance required herein shall contain no special limitations on the scope of protection afforded to the CITY.

3. If at any time during the life of this Agreement or any extension, the DEVELOPER fails to maintain the required insurance in full force and effect, all work under this Agreement shall be discontinued immediately, until notice is received by the CITY that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to the CITY. Any failure to maintain the required insurance, subject to notice and cure requirements herein, shall be sufficient cause for the CITY to terminate this Agreement.

9.3 Bonds. The DEVELOPER shall pay for and maintain good and sufficient surety bonds from a corporate surety, admitted by the California Insurance Commissioner to do business in the State of California and Treasury-listed, in a form satisfactory to the CITY and naming the CITY as Co-Obligee.

A. The “Faithful Performance Bond” shall be at least equal to one hundred percent (100%) of the DEVELOPER’s estimated construction costs, as reflected in the

DEVELOPER's pro forma budget, attached hereto as EXHIBIT "C", to guarantee faithful performance of the Affordable Project, within the time prescribed, in a manner satisfactory to the CITY, consistent with this Agreement, and that all materials and workmanship will be free from original or developed defects.

B. The "Material and Labor Bond" shall be at least equal to one hundred percent (100%) of the DEVELOPER's estimated construction costs, as reflected in the DEVELOPER's pro forma budget, attached hereto as EXHIBIT "C", to satisfy claims of material supplies and of mechanics and laborers employed for this Affordable Project. The bond shall be maintained by the DEVELOPER in full force and effect until the Affordable Project is completed, and until all claims for materials and labor are paid, released, or time barred, and shall otherwise comply with any applicable provisions of the California Civil Code.

C. In lieu of the bonds required above, CITY, in its sole discretion, may accept from the DEVELOPER an Irrevocable Standby Letter of Credit issued with the CITY named as the sole beneficiary in the amount(s) of the bonds required above. The Irrevocable Standby Letter of Credit is to be issued by a bank, and in a form, acceptable to CITY. This Irrevocable Standby Letter of Credit shall be maintained by the DEVELOPER in full force and effect until CITY is provided with a recorded Notice of Completion for construction of the Affordable Project and shall be subject to and governed by the laws of the State of California."

ARTICLE 10. DEFAULT AND REMEDIES

10.1 Events of Default. The parties agree that each of the following shall constitute an "Event of Default" for purposes of this Agreement after the cure period in Section 10.2 has expired without a cure:

A. The DEVELOPER's use of HOME Funds for costs other than Eligible Costs or for uses not permitted by the terms of this Agreement;

B. The DEVELOPER's failure to obtain and maintain the insurance coverage required under this Agreement;

C. Except as otherwise provided in this Agreement, the failure of DEVELOPER to punctually and properly perform any other covenant or agreement contained in this Agreement including without limitation the following: 1) the DEVELOPER's substantial deviation in the Project work specified in the Project Description as identified in this Agreement, without the CITY's prior written consent; 2) DEVELOPER's use of defective or unauthorized materials or defective workmanship in pursuit of the Project; 3) the DEVELOPER's failure to commence or complete the Project, as specified in this Agreement, unless delay is permitted under Section 7.20 of this Agreement; 4) the cessation of the Project for a period of more than fifteen (15) consecutive days (other than as provided at Section 7.20 of this Agreement) prior to submitting to the CITY, pursuant to Section 7.21, certification that the Project is complete; 5) any material adverse change in the condition of DEVELOPER or the Project that gives the CITY reasonable cause to believe that the Project cannot be completed by the scheduled completion date according to the terms of this Agreement; 6) the DEVELOPER's failure to remedy any deficiencies in record keeping or

failure to provide records to the CITY upon the CITY's request; 7) the DEVELOPER's failure to substantially comply with any federal, state or local laws or applicable CITY restrictions governing the Project, including but not limited to provisions of this Agreement pertaining to equal employment opportunity, nondiscrimination and lead-based paint;

D. Any representation, warranty, or certificate given or furnished by or on behalf of the DEVELOPER shall prove to be materially false as of the date of which the representation, warranty, or certification was given, or that the DEVELOPER concealed or failed to disclose a material fact to the CITY, provided, however, that if any representation, warranty, or certification that proves to be materially false is due merely to the DEVELOPER inadvertence, the DEVELOPER shall have a thirty (30) day opportunity after written notice thereof to cause such representation, warranty, or certification to be true and complete in every respect;

E. The DEVELOPER shall file, or have filed against it, a petition of bankruptcy, insolvency, or similar law, state or federal, or shall file any petition or answer seeking, consenting to, or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief, and such petition shall not have been vacated within fourteen (14) days; or shall be adjudicated bankrupt or insolvent, under any present or future statute, law, regulation, under state or federal law, and such judgment or decree is not vacated or set aside within fourteen (14) days;

F. The DEVELOPER failure, inability or admission in writing of its inability to pay its debts as they become due or the DEVELOPER's assignment for the benefit of creditors;

G. A receiver, trustee, or liquidator shall be appointed for the DEVELOPER or any substantial part of the DEVELOPER's assets or properties, and not be removed within ten (10) days;

H. The DEVELOPER's breach of any other material condition, covenant, warranty, promise or representation contained in this Agreement not otherwise identified within this Section; and

I. Any substantial or continuous breach by the DEVELOPER of any material obligation owed by the DEVELOPER imposed by any other agreement with respect to the financing, development, construction or operation of the Project, whether or not the CITY is a party to such agreement.

10.2 Notice of Default and Opportunity to Cure. The CITY shall give written notice to the DEVELOPER of any Event of Default by specifying: 1) the nature of the event or deficiency giving rise to the default; 2) the action required to cure the deficiency, if any action to cure is possible; and 3) a date, which shall not be less than the lesser of any time period provided in this Agreement, any time period provided for in the notice, or thirty (30) calendar days from the date of the notice, by which such deficiency must be cured, provided that if the specified deficiency or default cannot reasonably be cured within the specified time, with the CITY's written consent, the DEVELOPER shall have an additional reasonable period to cure so long as it commences cure within the specified time and thereafter diligently pursues the

cure in good faith. The CITY acknowledges and agrees that the DEVELOPER shall have the right to cure any defaults hereunder and that notice and cure rights hereunder shall extend to any and all partners of the DEVELOPER that are previously identified in writing delivered to the CITY in the manner provided in this Agreement.

10.3 Remedies Upon an Event of Default. Upon the happening of an Event of Default by the DEVELOPER and a failure to cure said Event of Default within the time specified, the CITY's obligation to disburse HOME Funds shall terminate. The CITY may also at its option and without notice institute any action, suit, or other proceeding in law, in equity or otherwise, which it shall deem necessary or proper for the protection of its interests and may without limitation proceed with any or all of the following remedies in any order or combination that the CITY may choose in its sole discretion:

A. Terminate this Agreement immediately upon written notice to the DEVELOPER;

B. Bring an action in equitable relief: 1) seeking specific performance by DEVELOPER of the terms and conditions of this Agreement, and/or 2) enjoining, abating or preventing any violation of said terms and conditions, and/or 3) seeking declaratory relief; and

C. Pursue any other remedy allowed by law or in equity or under this Agreement.

ARTICLE 11. GENERAL PROVISIONS

Without waiver of limitation, the parties agree that the following general provisions shall apply in the performance hereof:

11.1 Amendments. No modification or amendment of any provision of this Agreement shall be effective unless made in writing and signed by the parties hereto. The CITY recognizes that other Project funders and equity investors may require revisions to the Loan Documents to be consistent with their funding and investing requirements. The CITY agrees to reasonably consider and negotiate as to any reasonable amendments to this Agreement to address such requirements, subject to any necessary City Council approval.

11.2 Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party will be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

11.3 Binding on All Successors and Assigns. Unless otherwise expressly provided in this Agreement, all the terms and provisions of this Agreement shall be binding on and inure to the benefit of the parties hereto, and their respective heirs, successors, assigns, and legal representatives.

11.4 Counterparts. This Agreement may be executed in counterparts, each of which when executed and delivered will be deemed an original, and all of which together will

constitute one instrument. The execution of this Agreement by any party hereto will not become effective until counterparts hereof have been executed by all parties hereto.

11.5 Disclaimer of Relationship. Nothing contained in this Agreement, nor any act of the CITY or of the DEVELOPER, or of any other person, shall in and by itself be deemed or construed by any person to create any relationship of third party beneficiary, or of principal and agent, of limited or general partnership, or of joint venture.

11.6 Discretionary Governmental Actions. Certain planning, land use, zoning and other permits and public actions required in connection with the Project including, without limitation, the approval of this Agreement, the environmental review and analysis under NEPA, CEQA or any other statute, and other transactions contemplated by this Agreement are discretionary government actions. Nothing in this Agreement obligates the CITY or any other governmental entity to grant final approval of any matter described herein. Such actions are legislative, quasi-judicial, or otherwise discretionary in nature. The CITY cannot take action with respect to such matters before completing the environmental assessment of the Project under NEPA, CEQA and any other applicable statutes. The CITY cannot and does not commit in advance that it will give final approval to any matter. The CITY shall not be liable, in contract, law or equity, to the DEVELOPER or any of its executors, administrators, transferees, successors-in-interest or assigns for any failure of any governmental entity to grant approval on any matter subject to discretionary approval.

11.7 Effective Date. This Agreement shall be effective upon the date first above written on Page 1, upon the CITY's and DEVELOPER's complete execution following City Council approval.

11.8 Entire Agreement. This Agreement represents the entire and integrated agreement of the parties with respect to the subject matter hereof. This Agreement supersedes all prior negotiations, representations or agreements, either written or oral.

11.9 Exhibits. Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.

11.10 Expenses Incurred Upon Event of Default. The DEVELOPER shall reimburse the CITY for all reasonable expenses and costs of collection and enforcement, including reasonable attorney's fees, incurred by the CITY as a result of one or more Events of Default by the DEVELOPER under this Agreement.

11.11 Governing Law and Venue. Except to the extent preempted by applicable federal law, the laws of the State of California shall govern all aspects of this Agreement, including execution, interpretation, performance, and enforcement. Venue for filing any action to enforce or interpret this Agreement will be Fresno, California.

11.12 Headings. The headings of the articles, sections, and paragraphs used in this Agreement are for convenience only and shall not be read or construed to affect the meaning or construction of any provision.

11.13 Interpretation. This Agreement in its final form is the result of the combined efforts of the parties. Any ambiguity will not be construed in favor or against any party, but rather by construing the terms in accordance with their generally accepted meaning.

11.14 No Assignment or Succession. Except as may be otherwise expressly provided by this Agreement, neither this Agreement, nor any interest of DEVELOPER in, under, or to this Agreement, or the Project, may be assigned or transferred by the DEVELOPER without the prior written consent of the CITY, which consent shall not be unreasonably withheld or delayed. Any assignment without consent is null and void.

11.15 No Third-Party Beneficiary. No contractor, subcontractor, mechanic, materialman, laborer, vendor, or other person hired or retained by the DEVELOPER shall be, nor shall any of them be deemed to be, third-party beneficiaries of this Agreement, but each such person shall be deemed to have agreed: (a) that they shall look to the DEVELOPER as their sole source of recovery if not paid, and (b) except as otherwise agreed to by the CITY and any such person in writing, they may not enter any claim or bring any such action against the CITY under any circumstances. Except as provided by law, or as otherwise agreed to in writing between the CITY and such person, each such person shall be deemed to have waived in writing all right to seek redress from the CITY under any circumstances whatsoever.

11.16 No Waiver. Neither failure nor delay on the part of the CITY in exercising any right under this Agreement shall operate as a waiver of such right, nor shall any single or partial exercise of any such right preclude any further exercise thereof or the exercise of any other right. No waiver of any provision of this Agreement or consent to any departure by the DEVELOPER therefrom shall be effective unless the same shall be in writing, signed on behalf of the CITY by a duly authorized officer thereof, and the same shall be effective only in the specific instance for which it is given. No notice to or demand on the DEVELOPER in any case shall entitle the DEVELOPER to any other or further notices or demands in similar or other circumstances, or constitute a waiver of any of the CITY's right to take other or further action in any circumstances without notice or demand.

11.17 Nonreliance. The DEVELOPER hereby acknowledge having obtained such independent legal or other advice as it has deemed necessary and declares that in no manner has it relied on the CITY, its agents, employees or attorneys in entering into this Agreement.

11.18 Notice. Any notice to be given to either party under the terms of this Agreement shall be given by certified United States mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties.

If to the CITY: City of Fresno
Development and Resource Management Department
Housing and Community Development Division
2600 Fresno Street, Room 3070
Fresno, CA 93721-3605

If to the HOUSING AUTHORITY:

Housing Authority of the City of Fresno
1331 Fulton Mall
Fresno, CA 93721

If to Silvercrest: Housing Authority of the City of Fresno

1331 Fulton Mall
Fresno, CA 93721

If to 1555 Santa Clara Street, LP:

1331 Fulton Mall
Fresno, CA 93721

11.19 Precedence of Documents. In the event of any conflict between the body of this Agreement and any exhibit or attachment hereto, the terms and conditions of the body of this Agreement will control.

11.20 Recording of Documents. The DEVELOPER agrees to cooperate with the CITY and execute any documents required, promptly upon the CITY's request, the Deed of Trust, and any other documents/instruments that the CITY requires to be recorded, in the Official Records of Fresno County, California, consistent with this Agreement.

11.21 Remedies Cumulative. All powers and remedies given by this Agreement shall be cumulative and in addition to those otherwise provided by law.

11.22 Severability. The invalidity, illegality, or un-enforceability of any one or more of the provisions of this Agreement shall not affect the validity, legality, or enforceability of the remaining provisions hereof or thereof.

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IN WITNESS WHEREOF, the parties have executed this Agreement in Fresno, California, the day and year first above written.

CITY OF FRESNO, a Municipal Corporation

By: Mark Scott
Mark Scott, City Manager
(Attach notary certificate of acknowledgment)

Date: 8-30-11

ATTEST:
REBECCA E. KLISCH
City Clerk

APPROVED AS TO FORM:
JAMES SANCHEZ
City Attorney

By: Stacey Woo
Deputy

By: [Signature] 8-29-11
Senior Deputy City Attorney
Loyle

HOUSING AUTHORITY OF THE CITY OF FRESNO, CA, a body corporate and politic

By: [Signature]
Preston Prince, Chief Executive Office
(Attach notary certificate of acknowledgment)

Date: 8/15/11

1555 Santa Clara Street, LP
a California Limited Partnership
By Silvercrest Inc., its Managing General Partner

By: [Signature]
Preston Prince, President
(Attach notary certificate of acknowledgment)

Date: 8/15/11

Attachments:

- EXHIBIT A: PROPERTY DESCRIPTION
- EXHIBIT B: PROJECT DESCRIPTION AND SCHEDULE
- EXHIBIT C: BUDGET AND CASH FLOW STATEMENT
- EXHIBIT D: DECLARATION OF RESTRICTIONS
- EXHIBIT E: CERTIFICATE OF COMPLETION
- EXHIBIT F: PROMISSORY NOTE
- EXHIBIT G: DEED OF TRUST ASSIGNMENT OF RENTS

CERTIFICATE OF ACKNOWLEDGMENT

State of California)
County of Fresno)

On 8/15/11 before me, Irma Garcia, Notary Public,
Date (here insert name and title of the officer)
personally appeared Preston Prince
Name(s) of Signer(s)

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 Irma Garcia
Signature of Notary Public

Place Notary Seal Above

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Fresno

On 8-31-11 before me, Erica Castaneda, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Mark Scott
Name(s) of Signer(s)

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: [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: HOME Agreement 467-082-03, 467-082-20 (portion)
467-082-04 (portion)
 Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

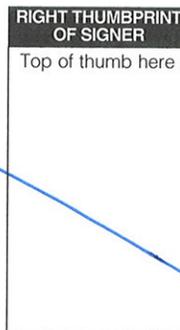
- Corporate Officer — Title(s): _____
- Individual
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Individual
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

EXHIBIT A: PROPERTY DESCRIPTION

The Property is located at 503 "G" STREET, 512 "F" STREET, and 1555 SANTA CLARA STREET.

Legal Description

Parcel (APN: 467-082-20)

LOTS 13 THROUGH 16 INCLUSIVE, IN BLOCK 55, OF THE TOWN (NOW CITY) OF FRESNO, ACCORDING TO THE SUPPLEMENTAL MAP OF THE TOWN (NOW CITY) OF FRESNO, RECORDED IN BOOK 1, PAGE 2 OF PLATS, RECORDS OF SAID COUNTY

Parcel 2 (APN: 467-082-03)

LOTS 17, 18, 19 BLK 55, OF THE TOWN (NOW CITY), IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 1 PAGE 2 OF MAPS, FRESNO COUNTY RECORDS.

Parcel 3 (APN: 467-082-04)

LOT 20 IN BLOCK 55 OF THE TOWN (NOW CITY) OF FRESNO, IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 1 PAGE 2 OF MAPS, FRESNO COUNTY RECORDS.

EXHIBIT B: PROJECT DESCRIPTION AND SCHEDULE

I. PROJECT DESCRIPTION

The Project consists of the acquisition of property, construction of related on-site and off-site improvements, and construction of one (1) on-site manager's unit and sixty-nine (69) studio apartment complex, of which fifteen (15) units will be HOME-Assisted and to be preserved as Very Low-Income Housing in accordance with the chart below:

HOME FUNDED UNITS

% of Median	Studio Units
50%	15
Totals	15

HOME Funds will be made available by the CITY for payment of HOME eligible costs not to exceed the lesser of One Million Five Hundred Thousand dollars and 00/100 (\$1,500,000), and the aggregate HOME Program per unit cap (24 CFR 92.250) for the fifteen (15) HOME-assisted Units as determined by the CITY, as needed, for HOME eligible project development costs.

II. PROJECT SCHEDULE

Start Construction	November 28, 2011
Complete Construction	February 28, 2013
Complete Lease Up	August 28, 2013

EXHIBIT C: BUDGET AND CASH FLOW STATEMENT

	Total Development Costs	Residential Total	Funding Sources				Discounted Sale Price
			HOME	Tax Credit Equity	Housing Authority	MHSA	
Acquisition Costs:							
Purchase Price	\$135,000	\$135,000	-0-	-0-	\$67,501	-0-	\$67,499
Liens	0-	-0-	-0-	-0-	-0-	-0-	-0-
Closing, Title & Recording Costs	\$40,000	\$40,000	-0-	-0-	\$40,000	-0-	-0-
Extension Payment	0-	-0-	-0-	-0-	-0-	-0-	-0-
Other: _____	0-	-0-	-0-	-0-	-0-	-0-	-0-
SUBTOTAL	\$175,000	\$175,000	-0-	-0-	\$107,501	-0-	\$67,499
Construction							
Hard Costs-Residential	\$5,153,846	\$5,153,846	\$950,000	\$511,347	\$2,692,499	\$1,000,000	-0-
Hard Costs-Sitework	\$300,000	\$300,000	-0-	\$300,000	-0-	-0-	-0-
Bond Premium	0-	-0-	-0-	\$0	-0-	-0-	-0-
Infrastructure Improvements	\$250,000	\$250,000	-0-	\$250,000	-0-	-0-	-0-
Hazardous Abate. & Monitoring	0-	-0-	-0-	-0-	-0-	-0-	-0-
Construction Contingency (10%)	\$627,700	\$627,700	-0-	\$627,700	-0-	-0-	-0-
Contractor Overhead	\$283,416	\$283,416	-0-	\$283,416	-0-	-0-	-0-
Contractor Profit	\$283,416	\$283,416	-0-	\$283,416	-0-	-0-	-0-
SUBTOTAL	\$6,898,378	\$6,898,378	\$950,000	\$2,255,879	\$2,692,499	\$1,000,000	-0-
Development							
Appraisal	\$18,000	\$18,000	-0-	\$18,000	-0-	-0-	-0-
Architect/Engineer	\$332,500	\$332,500	-0-	\$332,500	-0-	-0-	-0-
Environmental Assessment	\$10,000	\$10,000	-0-	\$10,000	-0-	-0-	-0-
Legal	\$130,000	\$130,000	-0-	\$130,000	-0-	-0-	-0-
Developer Fee	\$1,115,400	\$1,115,400	-0-	\$1,115,400	-0-	-0-	-0-
Other Consultants: Financial	\$50,000	\$50,000	-0-	\$50,000	-0-	-0-	-0-
Other: Soft Cost Contingency	\$250,000	\$250,000	-0-	\$250,000	-0-	-0-	-0-
SUBTOTAL	\$1,905,900	\$1,905,900	-0-	\$1,905,900	-0-	-0-	-0-
Other Development							
Real Estate Tax	\$6,667	\$6,667	-0-	\$6,667	-0-	-0-	-0-
Insurance	\$60,226	\$60,226	-0-	\$60,226	-0-	-0-	-0-
Relocation	0-	-0-		-0-	-0-	-0-	-0-
Const Loan Title/Recording	\$35,000	\$35,000	-0-	\$35,000	-0-	-0-	-0-
Permits, Fees & Hookups	\$150,000	\$150,000	-0-	\$150,000	-0-	-0-	-0-
Impact/Mitigation Fees	\$43,611	\$43,611	-0-	\$43,611	-0-	-0-	-0-
Construction Loan Fees	\$40,884	\$40,884	-0-	\$40,884	-0-	-0-	-0-
Construction Interest	\$191,929	\$191,929	-0-	\$191,929	-0-	-0-	-0-
Other Loan Fees (State HF, etc.)	\$57,000	\$57,000	-0-	\$57,000	-0-	-0-	-0-
LIHTC Fees	\$62,241	\$62,241	-0-	\$62,241	-0-	-0-	-0-
Accounting/Audit	\$20,000	\$20,000	-0-	\$20,000	-0-	-0-	-0-
Marketing/Leasing Expenses	\$154,000	\$154,000	-0-	\$154,000	-0-	-0-	-0-
Rent Subsidy Reserve	\$1,750,000	\$1,750,000	-0-	\$1,750,000	-0-	-0-	-0-
Operating Reserves	\$113,140	\$113,140		\$113,140	-0-	-0-	-0-
Furnishings/Appliances	\$93,000	\$93,000	-0-	\$93,000	-0-	-0-	-0-
SUBTOTAL	\$2,777,698	\$2,777,698	-0-	\$2,777,698	-0-	-0-	-0-
Total Development Costs	\$11,756,976	\$11,756,976	\$950,000	\$6,939,477	\$2,800,000	\$1,000,000	\$67,499

FORM 14A
OPERATING PRO FORMA DRAFT

REVENUES

Residential Income (Use 2.5 percent/year inflation factor)

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11
Gross Rental Income	\$ 408,204	\$ 418,409	\$ 428,869	\$ 439,591	\$ 450,581	\$ 461,845	\$ 473,391	\$ 485,226	\$ 497,357	\$ 509,791	\$ 522,536
Rental Income	\$ 67,801	\$ 73,991	\$ 80,291	\$ 87,015	\$ 94,077	\$ 101,490	\$ 109,271	\$ 117,435	\$ 125,998	\$ 134,916	\$ 144,387
Draw on Rent Subsidy Reserve	\$ 11,160	\$ 11,439	\$ 11,725	\$ 12,018	\$ 12,319	\$ 12,627	\$ 12,942	\$ 13,266	\$ 13,597	\$ 13,937	\$ 14,286
Laundry											
Total Residential Income	\$ 487,165	\$ 503,739	\$ 520,885	\$ 538,624	\$ 556,976	\$ 575,962	\$ 595,605	\$ 615,927	\$ 636,952	\$ 658,704	\$ 681,208
Vacancy Factor	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Less Residential Vacancy (at 7%)	\$ 29,355	\$ 30,989	\$ 30,842	\$ 31,613	\$ 32,403	\$ 33,213	\$ 34,043	\$ 34,884	\$ 35,767	\$ 36,661	\$ 37,577
Less Non-Residential Vacancy (at 10%)											
Effective Gross Income	\$ 457,810	\$ 473,650	\$ 490,044	\$ 507,011	\$ 524,573	\$ 542,749	\$ 561,562	\$ 581,033	\$ 601,185	\$ 622,043	\$ 643,631
Expenses											
Operating Expenses (Use 3.5 percent/year inflation factor)											
Heat	\$ 16,250	\$ 16,819	\$ 17,407	\$ 18,017	\$ 18,647	\$ 19,300	\$ 19,975	\$ 20,675	\$ 21,398	\$ 22,147	\$ 22,922
Electric	\$ 23,750	\$ 24,581	\$ 25,442	\$ 26,332	\$ 27,254	\$ 28,208	\$ 29,195	\$ 30,217	\$ 31,274	\$ 32,369	\$ 33,502
Water & Sewer	\$ 20,000	\$ 20,700	\$ 21,425	\$ 22,174	\$ 22,950	\$ 23,754	\$ 24,585	\$ 25,446	\$ 26,336	\$ 27,258	\$ 28,212
Garbage Removal	\$ 12,500	\$ 12,938	\$ 13,390	\$ 13,859	\$ 14,344	\$ 14,846	\$ 15,366	\$ 15,903	\$ 16,460	\$ 17,036	\$ 17,632
Contract Repairs	\$ 13,500	\$ 13,973	\$ 14,462	\$ 14,968	\$ 15,492	\$ 16,034	\$ 16,595	\$ 17,176	\$ 17,777	\$ 18,399	\$ 19,043
Maintenance & Janitorial	\$ 60,715	\$ 62,840	\$ 65,039	\$ 67,316	\$ 69,672	\$ 72,110	\$ 74,634	\$ 77,245	\$ 79,950	\$ 82,748	\$ 85,645
Replacement Reserve	\$ 35,000	\$ 36,225	\$ 37,493	\$ 38,805	\$ 40,163	\$ 41,569	\$ 43,024	\$ 44,530	\$ 46,088	\$ 47,701	\$ 49,371
Operating Reserve	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Management (Off-site)	\$ 33,600	\$ 34,776	\$ 35,993	\$ 37,253	\$ 38,557	\$ 39,905	\$ 41,303	\$ 42,749	\$ 44,245	\$ 45,793	\$ 47,396
Management (On-site)	\$ 130,000	\$ 134,550	\$ 139,259	\$ 144,133	\$ 149,178	\$ 154,399	\$ 159,803	\$ 165,396	\$ 171,185	\$ 177,177	\$ 183,378
Insurance	\$ 10,000	\$ 10,350	\$ 10,712	\$ 11,087	\$ 11,475	\$ 11,877	\$ 12,293	\$ 12,723	\$ 13,168	\$ 13,629	\$ 14,106
Accounting	\$ 8,500	\$ 8,798	\$ 9,105	\$ 9,424	\$ 9,754	\$ 10,095	\$ 10,449	\$ 10,814	\$ 11,193	\$ 11,585	\$ 11,990
Marketing	\$ 8,000	\$ 8,280	\$ 8,570	\$ 8,870	\$ 9,180	\$ 9,501	\$ 9,834	\$ 10,178	\$ 10,534	\$ 10,903	\$ 11,285
Real Estate Taxes	\$ 2,000	\$ 2,070	\$ 2,142	\$ 2,217	\$ 2,295	\$ 2,375	\$ 2,459	\$ 2,545	\$ 2,634	\$ 2,726	\$ 2,821
Other	\$ 62,320	\$ 64,591	\$ 66,769	\$ 69,095	\$ 71,574	\$ 74,107	\$ 76,697	\$ 79,348	\$ 82,064	\$ 84,936	\$ 87,909
Services (enter details on Form 14)	\$ 16,425	\$ 17,000	\$ 17,595	\$ 18,211	\$ 18,848	\$ 19,508	\$ 20,191	\$ 20,897	\$ 21,629	\$ 22,386	\$ 23,169
Total Expenses	\$ 452,560	\$ 468,400	\$ 484,794	\$ 501,761	\$ 519,323	\$ 537,499	\$ 556,312	\$ 575,783	\$ 595,935	\$ 616,793	\$ 638,381
Net Operating Income (Income - Total Expenses)	\$ 5,250	\$ 5,250	\$ 5,250	\$ 5,250	\$ 5,250	\$ 5,250	\$ 5,250	\$ 5,250	\$ 5,250	\$ 5,250	\$ 5,250
Debt Service											
On Lender											
1. LP Asset Fee											
2. City of Fresno (30% residual cash-balance at maturity to be refinanced)											
4. Fresno HA (70% residual cash)											
Total Debt Service											
Projected Gross Cash Flow											
Debt Coverage Ratio (DCR)											

Term (years)

Amortize (years)

Loan Rate %

Net Operating Income (Income - Total Expenses)

Debt Service

On Lender

1. LP Asset Fee

2. City of Fresno (30% residual cash-balance at maturity to be refinanced)

4. Fresno HA (70% residual cash)

Total Debt Service

Projected Gross Cash Flow

Debt Coverage Ratio (DCR)

EXHIBIT D: DECLARATION OF RESTRICTIONS

Recorded at the Request of and
When Recorded Return to:

City of Fresno
City Clerk's Office
2600 Fresno Street, Room 2133
Fresno, CA 93721-3603

City of Fresno Declaration of Restrictions

DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS, ("Declaration"), is executed as of this 25 day of Aug., 2011 by the HOUSING AUTHORITY, a body corporate and politic, and 1555 Santa Clara Street, LP, a California Limited Partnership, referred collectively as " (DECLARANT)" in favor of the City of Fresno, acting by and through its Development and Resource Management Department, Housing and Community Development Division ("CITY").

WHEREAS, DECLARANT is the owner/developer of the real estate in the county of Fresno, state of California, consisting of APN: 467-082-03, portion of 467-082-20, and portion of 467-082-04), which is more particularly described in Exhibit "A", attached hereto and made a part hereof (the "Property"); and

WHEREAS, Pursuant to a certain HOME Investment Partnerships Program Agreement dated 8/25, 2011 incorporated herein ("HOME Agreement"), and instruments referenced therein, DECLARANT agrees to utilize and CITY agrees to provide certain HOME Program Funds from the United States Department of Housing and Urban Development ("HUD"), to DECLARANT for certain Affordable Rental Housing (the "Project") upon the Property, with no less than fifteen (15) of the proposed seventy (70) Units to be preserved as Very Low-Income Affordable Rental Housing for tenants earning 50% or below of the area median income for the Fresno MSA, subject to the terms and conditions set forth in the HOME Agreement; and

WHEREAS, the HOME Program regulations promulgated by HUD, including without limitation 24 CFR Section 92.252, and the HOME Agreement impose certain affordability requirements upon property benefited thereby, which affordability restrictions shall be enforceable for a fifty-five (55) year period; and

WHEREAS, these restrictions are intended to bind DECLARANT and all purchasers and their successors.

NOW THEREFORE, DECLARANT declares that the Property is held and will be held, transferred, encumbered, used, sold, conveyed and occupied subject to the covenants, restrictions, and limitations set forth in this DECLARANT, all of which are declared and agreed to be in furtherance of the proposed Affordable Rental Housing Project, the CITY's general, Consolidated and Annual Action Plans and Housing Element therein and HOME Program requirements. All of the restrictions, covenants and limitations will run with the land and will be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, will inure to the benefit of the CITY, and will be enforceable by it. Any purchaser under a contract of sale covering any right, title or interest in any part of the Property, by accepting a deed or a contract of sale or agreement of purchase, accepts the document subject to, and agrees to be bound by, any and all restrictions, covenants, and limitations set forth in this Declaration for the period of fifty-five (55) years commencing from the date set forth in section 1.4 of

the Agreement, the DECLARANT shall be notified in writing by the CITY that the Affordability Period has begun.

1. **Declarations.** DECLARANT hereby declares that the Property is and shall be subject to the covenants and restrictions hereinafter set forth, all of which are declared to be in furtherance of the Project and the HOME Agreement, and are established and agreed upon for the purpose of enhancing and protecting the value of the Property and in consideration for CITY entering into the HOME Agreement with DECLARANT.

2. **Restrictions.** The following covenants and restrictions on the use and enjoyment of the Property shall be in addition to any other covenants and restrictions affecting the Property, and all such covenants and restrictions are for the benefit and protection of CITY, and shall run with the Property and be binding on any future owner's of the Property and inure to the benefit of and be enforceable by CITY. These covenants and restrictions are as follows:

a. DECLARANT for itself and its successor(s) on title covenants and agrees that, until the expiration of the Affordability Period it shall cause the Project Units to be used as Affordable Rental Housing. Declarant further agrees to file a recordable document setting forth the Project Completion Date when determined by the CITY. Unless otherwise provided in the HOME Agreement, the term Affordable Rental Housing shall include, without limitation, compliance with the following requirements:

(i) Nondiscrimination. There shall be no discrimination against nor segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, ancestry, or handicap in the sale, transfer, use, occupancy, tenure, or enjoyment of any of the Property, nor shall DECLARANT or any person claiming under the DECLARANT, establish or permit any practice of discrimination or segregation with reference to the selection, location, number, use or occupancy of owners or vendees of the Project Property.

(ii) Principal Residence. Each of the Units constituting the Project upon the Property shall be leased only to persons, who shall occupy such as a principal residence. The foregoing requirement that the Property tenants occupy the Units as their principal residence does not apply to persons, other than natural persons, who acquire the Project Property or portion thereof by foreclosure or deed in lieu of foreclosure or HUD qualified entities that acquire the Property or portion thereof, with the consent of the CITY.

(iii) Income Requirements. A total of fifteen (15) Units constituting Affordable Rental Housing upon the Property may be leased only to person(s) whose annual household income at the time of initial occupancy is not greater than fifty percent (50%) of the most recent annual median income calculated and published by HUD for the Fresno Metropolitan Statistical Area applicable to such household's size, and at an affordable price consistent HOME Program regulations.

(iv) Injunctive Relief and Recapture. Should any of the Very Low-Income Units constituting Affordable Rental Housing upon the Property not continue to be, after the time of initial occupancy, the principal residence of a Household whose annual household income is not greater than fifty percent (50%) of the most recent annual median income, then without waiver or limitation, the CITY shall be entitled to injunctive or other equitable relief against any violation or attempted violation of any Covenant and Restriction, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof.

3. Acceptance and Ratification. All present and future owners of the Property and other persons claiming by, through, or under them shall be subject to and shall comply with the Covenant and Restrictions. The acceptance of a deed of conveyance to the Property shall constitute an agreement that the Covenant and Restrictions, as may be amended or supplemented from time to time, are accepted and ratified by such future owners, tenant or occupant, and such Covenant and Restriction shall be a covenant running with the land and shall bind any person having at any time any interest or estate in the Property, all as though such Covenant and Restriction was recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof.

Notwithstanding the foregoing, upon foreclosure by a lender or other transfer in lieu of foreclosure, or assignment of an FHA-insured mortgage to HUD, the Affordability Period shall be terminated if the foreclosure or other transfer in lieu of foreclosure or assignment recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid the termination of low-income affordability. However, the requirements with respect to Affordable Rental Housing shall be revived according to their original terms, if during the original Affordability Period, the owner of record before the foreclosure or other transfer, or any entity that includes the former owner or those with whom the former owner has or had formerly, family or business ties, obtains an ownership interest in the Project or the Property, the Affordability Period shall be revived according to its original terms.

4. Benefit. This Declaration shall run with and bind the Property for a term commencing on the date this Declaration is recorded in the Office of the Recorder of the County of Fresno, state of California, and expiring upon the expiration of the Affordability Period. The failure or delay at any time of CITY or any other person entitled to enforce this Declaration shall in no event be deemed a waiver of the same, or of the right to enforce the same at any time or from time to time thereafter, or an estoppel against the enforcement thereof. The obligations and liabilities of DECLARANT and each of them hereunder, shall be joint and several.

5. Costs and Attorney's Fees. In any proceeding arising because of failure of DECLARANT or any future owner of the Property to comply with the Covenant and Restrictions required by this Declaration, as may be amended from time to time, CITY shall be entitled to recover its costs and reasonable attorney's fees incurred in connection with such default or failure.

6. Waiver. Neither DECLARANT nor any future owner of the Property may exempt itself from liability for failure to comply with the Covenant and Restrictions required in this Declaration; provided however, that upon the transfer of the Property, the transferring owner shall be released from liability hereunder, upon CITY's written consent of such transfer, which consent shall not be unreasonably withheld, conditioned or delayed.

7. Severability. The invalidity of the Covenant and Restrictions or any other covenant, restriction, condition, limitation, or other provision of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration and each shall be enforceable to the greatest extent permitted by law.

8. Pronouns. Any reference to the masculine, feminine, or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include all genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

9. Interpretation. The captions and titles of the various articles, sections, subsections, paragraphs, and subparagraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.

10. Amendment. No amendment or modification of this Declaration shall be permitted without the prior written consent of CITY and DECLARANT.

11. Recordation. DECLARANT acknowledges that this Declaration will be filed of record in the Office of the Recorder of county of Fresno, State of California.

12. Capitalized Terms. All capitalized terms used in this Declaration, unless otherwise defined herein, shall have the meanings assigned to such terms in that certain HOME Agreement by and between DECLARANT and CITY.

13. Headings. The headings of the articles, sections, and paragraphs used in this Agreement are for convenience only and shall not be read or construed to affect the meaning or construction of any provision.

///
///
///

IN WITNESS WHEREOF, DECLARANT has executed this Declaration of Restrictions on the date first written above.

DECLARANT:
HOUSING AUTHORITY OF THE CITY OF FRESNO, CA
a body corporate and politic

By: [Signature]
(Attach notary certificate of acknowledgment)

NAME: _____

TITLE: _____

Date: 8/15/11

1555 Santa Clara Street, LP
a California limited partnership
By: Silvercrest, Inc., its Managing General Partnership

By: [Signature]
(Attach notary certificate of acknowledgment)

Name: _____

Title: 8/15/11

Date: _____

CERTIFICATE OF ACKNOWLEDGMENT

State of California)
County of Fresno)

On 8/15/11 before me, Irma Garcia, Notary Public,
Date (here insert name and title of the officer)
personally appeared Preston Prince
Name(s) of Signer(s)

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 Irma Garcia
Signature of Notary Public

Place Notary Seal Above

EXHIBIT "A" TO DECLARATION OF RESTRICTIONS PROPERTY DESCRIPTION

The Property is located at 503 "G" STREET, 512 "F" STREET, and 1555 SANTA CLARA STREET.

Legal Description

Parcel (APN: 467-082-20)

LOTS 13 THROUGH 16 INCLUSIVE, IN BLOCK 55, OF THE TOWN (NOW CITY) OF FRESNO, ACCORDING TO THE SUPPLEMENTAL MAP OF THE TOWN (NOW CITY) OF FRESNO, RECORDED IN BOOK 1, PAGE 2 OF PLATS, RECORDS OF SAID COUNTY

Parcel 2 (APN: 467-082-03)

LOTS 17, 18, 19 BLK 55, OF THE TOWN (NOW CITY), IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEROF RECORDED IN BOOK 1 PAGE 2 OF MAPS, FRESNO COUNTY RECORDS.

Parcel 3 (APN: 467-082-04)

LOT 20 IN BLOCK 55 OF THE TOWN (NOW CITY) OF FRESNO, IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 1 PAGE 2 OF MAPS, FRESNO COUNTY RECORDS.

EXHIBIT E: CERTIFICATE OF COMPLETION

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

City of Fresno
Development and Resources
Management Department
Housing and Community Development Division
2600 Fresno Street, Room 3070
Fresno, CA 93721-3605
Attention: Manager

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

This Certificate of Completion is recorded at the request and for the benefit of the City of Fresno and is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

APN: _____

City of Fresno

By: _____
Craig Scharton, Assistant Director
Development and Resource
Management Department

Date: _____

CERTIFICATE OF COMPLETION

APN: 467-082-03, portion of 467-082-20, and portion of 467-082-04

Recitals:

A. By a HOME Investment Partnerships Program Agreement dated _____, 2011, ("HOME Agreement") between the City of Fresno, a municipal corporation ("CITY"), the Housing Authority of the City of Fresno, a body corporate and politic, 1555 Santa Clara Street, LP, and Silvercrest, Inc. (collectively "DEVELOPER") agreed to develop a seventy (70) unit affordable rental housing project, of which fifteen (15) units will be reserved for rental by Very Low-Income households ("Project"), upon the premises legally described in EXHIBIT "A" attached to the HOME Agreement as amended from time to time, made a part hereof by this reference, (the "Property") for the purposes of Affordable Rental Housing, with the assistance of HOME funds while meeting the affordable housing, income targeting and other requirements of 24 CFR 92 according to the terms and conditions of the HOME Agreement and the Loan Documents and other document/instruments referenced therein.

B. The HOME Agreement or a memorandum of it was recorded on _____, 20__ as Instrument No. _____ in the Official Records of Fresno County, California.

C. Under the terms of the HOME Agreement, after the DEVELOPER completes the Project, the DEVELOPER may ask CITY to record a Certificate of Completion.

D. The Developer has asked CITY to furnish the DEVELOPER with a recordable Certificate of Completion.

E. The CITY's issuance of this Certificate of Completion is conclusive evidence that the DEVELOPER has completed construction the Project as set forth in the HOME Agreement.

NOW THEREFORE:

1. CITY certifies that the DEVELOPER commenced the Project on _____, 2011 and completed the Project on _____, 20__, and has done so in full compliance with the HOME Agreement.

2. This Certificate of Completion is not evidence of the DEVELOPER's compliance with, or satisfaction of, any obligation to any mortgage or security interest holder, or any mortgage or security interest insurer, securing money lent to finance work on the Property or Project, or any part of the Property or Project.

3. This Certificate of Completion is not a notice of completion as referred to in California Civil Code Section 3093.

4. Nothing contained herein modifies any provision of the HOME Agreement.

IN WITNESS WHEREOF, CITY has executed this Certificate of Completion as of this _____ day of _____, 20__.

CITY OF FRESNO

By: _____ Date: _____
Craig Scharon, Assistant Director
Development and Resource Management Department
(Attach notary certificate of acknowledgement)

ATTEST:
CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY

By: _____
Deputy

By: _____
Senior Deputy City Attorney

Date: _____

Date: _____

Housing Authority of the City of Fresno, CA
a body corporate and politic

By: _____
(Attach notary certificate of acknowledgement)

NAME: _____
TITLE: _____
Date: _____

1555 Santa Clara Street, LP
a California non-profit corporation
By: Silvercrest, Inc., a California non-profit corporation,
its Managing General Partner

By: _____
(Attach notary certificate of acknowledgment)
Name: _____
Title: _____
Date: _____

EXHIBIT F: PROMISSORY NOTE

DO NOT DESTROY THIS NOTE: When paid, this note must be surrendered to Borrower for Cancellation.

PROMISSORY NOTE

Loan Amount: \$1,500,000
Fresno, California

Date: August 25, 2011

For value received, the undersigned, 1555 Santa Clara, LP, a California limited partner ("Borrower"), promises to pay to the order of the City of Fresno, a California municipal corporation, ("Lender"), the sum of One Million Five Hundred Thousand dollars and 00/100 (\$1,500,000), to the extent that such funds are loaned to Borrower, with interest on the unpaid principal balance running from the date of the permanent loan conversion with simple interest at the rate of one percent (1%) annually in accordance with the HOME Agreement regarding Affordable Housing Project, dated August 25, 2011, entered into between the Housing Authority of the City of Fresno and Slivercrest and 1555 Santa Clara, LP, with principal and interest due and payable beginning in year 40 and annually thereafter from twenty percent (20%) of annual Residual Receipts, as provided herein, and with all remaining principal and interest due and payable on or before the earlier of: (i) Borrower's uncured default under the Agreement with respect to the Affordable Housing Project, or (ii) fifty-five (55) years from the permanent loan conversion date, ("Maturity Date"), along with attorney's fees and costs of collection, and without relief from valuation and appraisal laws.

This is a Residual Receipts Note. Principal and interest payments in the amount of twenty percent (20%) of annual Residual Receipts beginning in year 40 and annually thereafter, to the extent that Residual Receipts exist and itemized in audited financial statements supplied to Lender with each payment hereunder, shall be due one hundred eighty (180) days following the end of the year in which the Affordable Project converts to its permanent financing phase under the Senior Financing, and said payment continues each successive year thereafter until the Maturity Date, upon which all principal and interest shall be due and payable (prorated amounts to be paid for the first and last year of the Note). Any failure to make a payment required hereunder within ten (10) days after such payments are due shall constitute a default under the Agreement with respect to the Affordable Project and this Note. It shall not be a default hereunder if no payment was made because Project Residual Receipts did not exist for any particular year. Additionally any failure to timely submit to Lender audited financial statements within thirty (30) days after such financial statements are due shall constitute a default under the Agreement with respect to the Affordable Project and Note.

Residual Receipts means in each operating year after the conversion of the Affordable Rental Housing Project financing to its permanent financing phase, the sum of: (i) all cash received by the Affordable Rental Housing Project from rents, lease payments, and all sources generally considered in the apartment industry to be "other income" (which does not include payments for optional services provided by Borrower), payments from HUD under a Housing Assistance Program Section 8 Contract to the Project, if any, and excluding tenant security or other deposits required by law to be segregated, and interest on reserves not available for distribution;

and (ii) the net proceeds of any insurance (including rental interruption insurance), other than fire and extended coverage and title insurance, to the extent not reinvested, less the sum of: (i) all cash expenditures, and all expenses unpaid but properly accrued, which are Operating Expenses incurred in the operation of the Affordable Project's business, excluding expenditures paid from any reserve account (whether or not such expenditure is deducted, amortized or capitalized for tax purposes); (ii) the Affordable Project related annual fee payable to the investment limited partner and the annual fees payable to the nonprofit managing general partner; (iii) all payments on account of any loans (including unpaid principal and accrued reasonable interest) made for the benefit of the Affordable Project by the partners of the Borrower pursuant to the terms of the amended and restated limited partnership agreement of the Partnership; and, (iv) payments towards the deferred developer fee (including repayment of loans or capital contributions made by the general partner to the partnership specifically for the purpose of paying the deferred developer fee); (v) contributions to any prudent and reasonable cash reserves for working capital, capital expenditures, repairs, replacements and anticipated expenditures, in such amounts as may be reasonably required by the lenders to the Affordable Project and the limited partners of the Borrower for the operation of the Project not to exceed the amount required by the Affordable Project's permanent lender, annually adjusted if required by the permanent lender or limited partners; (vi) the payment of principal and interest, and any associated fees, expenses, and costs, with respect to Senior Financing; and (vii) payments made to the investor limited partner which are required to reimburse the investor a portion of its capital contribution in relation to the Affordable Project when there is a shortfall in the tax credits initially promised to the investor pursuant to the terms of the amended and restated limited partnership agreement of the Borrower.

Operating Expenses means actual, reasonable and customary (for comparable quality, newly constructed rental housing developments in Fresno County) costs, fees and expenses directly incurred, paid, and attributable to the operation, maintenance and management of the Affordable Project in a calendar year, including, without limitation: painting, cleaning, repairs, alterations, landscaping, utilities, refuse removal, certificates, permits and licenses, sewer charges, real and personal property taxes, assessments, insurance, security, advertising and promotion, janitorial services, cleaning and building supplies, purchase, repair, servicing and installation of appliances, equipment, fixtures and furnishings which are not paid from the capital replacement reserve, fees and expenses of property management and common area expenses, fees and expenses of accountants, attorneys and other professionals, the cost of social services, repayment of any completion or operating loans including any and all deferred contractor's fees per the Budget, made to Borrower, its successors or assigns, and other actual operating costs and capital costs which are incurred and paid by Borrower, but which are not paid from reserve accounts.

All capitalized terms used in this Note, unless otherwise defined, will have the respective meanings specified in a certain HOME Investment Partnerships Program Agreement dated _____, incorporated herein, ("HOME Agreement") and instruments referenced therein. In addition, as used in this Note, the following terms will have the following meanings:

Business Day means any day other than Saturday, Sunday, or public holiday or the equivalent for banks generally under the laws of California. Whenever any payment to be made under this Note is stated to be due on a day other than a Business Day, that payment may be made on the next succeeding Business Day. However, if the extension would cause the payment to be made

in a new calendar month, that payment will be made on the next preceding Business Day.

This Note, and any extensions or renewals hereof, is secured by a Deed of Trust, Security Agreement and Fixture Filing with Assignment of Rents on real estate in Fresno County, California, that provides for acceleration upon stated events, dated as of the same date as this Note, and executed in favor of and delivered to the Lender ("Deed of Trust"), insured as a not worse than 3rd position lien on the Property.

Time is of the essence. It will be a default under this Note if Borrower defaults under the HOME Agreement, defaults under any other Loan Documents, or if Borrower fails to pay when due any sum payable under this Note. In the event of a default by Borrower, the Borrower shall pay a late charge equal to the lesser of two percent (2%) of any outstanding payment or the maximum amount allowed by law. All payments collected shall be applied first to payment of any costs, fees or other charges due under this Note or any other Loan Documents then to the interest and then to principal balance. On the occurrence of a default or on the occurrence of any other event that under the terms of the Loan Documents give rise to the right to accelerate the balance of the indebtedness, then, at the option of Lender, this Note or any notes or other instruments that may be taken in renewal or extension of all or any part of the indebtedness will immediately become due without any further presentment, demand, protest, or notice of any kind.

The indebtedness evidenced by this Note may, at the option of the Borrower, be prepaid in whole or in part without penalty. Lender will apply all the prepayments first to the payment of any costs, fees, late charges, or other charges due under this Note or under any of the other Loan Documents and then to the interest and then to the principal balance.

All Loan payments are payable in lawful money of the United States of America at any place that Lender or the legal holders of this Note may, from time to time, in writing designate, and in the absence of that designation at:

City of Fresno – Finance Department
Accounts Receivable
2600 Fresno Street, Room 2156
Fresno, CA 93721

Borrower agrees to pay all costs including, without limitation, attorney fees, incurred by the holder of this Note in enforcing payment, whether or not suit is filed, and including, without limitation, all costs, attorney fees, and expenses incurred by the holder of this Note in connection with any bankruptcy, reorganization, arrangement, or other similar proceedings involving the undersigned that in any way affects the exercise by the holder of this Note of its rights and remedies under this Note. All costs incurred by the holder of this Note in any action undertaken to obtain relief from the stay of bankruptcy statutes are specifically included in those costs and expenses to be paid by Borrower. Borrower will pay to Lender all attorney fees and other costs referred to in this paragraph on demand.

Any notice, demand, or request relating to any matter set forth herein shall be in writing and shall be given as provided in the HOME Agreement.

No delay or omission of Lender in exercising any right or power arising in connection with any default will be construed as a waiver or as acquiescence, nor will any single or partial exercise preclude any further exercise. Lender may waive any of the conditions in this Note and no waiver will be deemed to be a waiver of Lender's rights under this Note, but rather will be deemed to have been made in pursuance of this Note and not in modification. No waiver of any default will be construed to be a waiver of or acquiescence in or consent to any preceding or subsequent default.

The Deed of Trust provides as follows:

DUE ON SALE—CONSENT BY BENEFICIARY. Beneficiary may, at its option, declare immediately due and payable all sums secured by this Deed of Trust upon the sale or transfer, without the Beneficiary's prior written consent, of all or any part of the Property, or any interest in the Property. A "sale or transfer" means the conveyance of the Property or any right, title or interest therein; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Property, or by any other method of conveyance of land interest. If any Trustor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of Trustor. However, this option shall not be exercised by Beneficiary if such exercise is prohibited by applicable law.

Lender may transfer this Note and deliver to the transferee all or any part of the Property then held by it as security under this Note, and the transferee will then become vested with all the powers and rights given to Lender; and Lender will then be forever relieved from any liability or responsibility in the matter, but Lender will retain all rights and powers given by this Note with respect to Property not transferred.

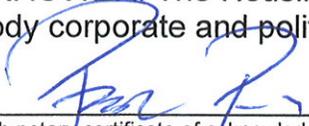
If any one or more of the provisions in this Note is held to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions will not in any way be affected or impaired. This Note will be binding on and inure to the benefit of Borrower, Lender, and their respective successors and assigns.

Borrower agrees that this Note will be deemed to have been made under and will be governed by the laws of California in all respects, including matters of construction, validity, and performance, and that none of its terms or provisions may be waived, altered, modified, or amended except as Lender may consent to in a writing duly signed by Lender or its authorized agents.

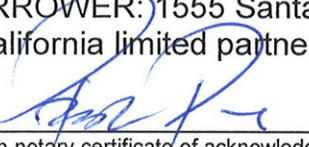
Neither the Borrower, nor any general or limited partner of the Borrower, shall have any direct or indirect personal liability for payment of the principal of, and interest on, the Loan. Following recordation of the Deed of Trust, the sole recourse of the City with respect to the principal of, and interest on, the Note and defaults by Borrower in the performance of its Loan covenants under the Deed of Trust shall be to the property described in the Deed of Trust.

IN WITNESS WHEREOF, Borrower has caused this Promissory Note to be executed by its authorized agent(s) as of the date and year first above written.

BORROWER: The Housing Authority of the City of Fresno, CA
a body corporate and politic

By: 
(Attach notary certificate of acknowledgment)
Name: Preston Prince
Title: CEO/Exec. Director
Date: 8/15/11

BORROWER: 1555 Santa Clara Street, LP
a California limited partnership

By: 
(Attach notary certificate of acknowledgment)
Name: Preston Prince
Title: President
Date: 8/15/11

CERTIFICATE OF ACKNOWLEDGMENT

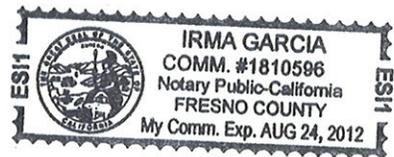
State of California)
County of Fresno)

On 8/15/11 before me, Irma Garcia, Notary Public,
Date (here insert name and title of the officer)
personally appeared Preston Prince
Name(s) of Signer(s)

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 Irma Garcia
Signature of Notary Public

Place Notary Seal Above

EXHIBIT G

RECORDING REQUESTED BY
Chicago Title Company

AND WHEN RECORDED MAIL TO:
City of Fresno
Housing and Community Development Division
2600 Fresno Street, Room 3070
Fresno CA 93721-3605

Space Above This Line for Recorder's Use Only

A.P.N.: 467-082-03/467-082-04/467-082-20

File No.: _____

DEED OF TRUST AND ASSIGNMENT OF RENTS

THIS DEED OF TRUST, made this _____, 2011, by

TRUSTOR: _____, a California limited partnership

whose address is **503 "G" Street, 512 "F" Street and 1555 Santa Clara**, California, 93721

TRUSTEE: **Chicago Title Company, a California corporation**

and BENEFICIARY: **City of Fresno, a California municipal corporation.**

Witnesseth: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to TRUSTEE IN TRUST, WITH POWER OF SALE, that property in the City of **Fresno, Fresno** County, State of **California**, described as: See Exhibit A attached hereto.

TOGETHER WITH the rents, issues, and profits thereof, SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Beneficiary by paragraph 10 of the provisions, incorporated by reference, to collect and apply such rents, issues and profits.

FOR THE PURPOSE OF SECURING: 1. Performance of each agreement of Trustor, incorporated by reference or contained herein, including without limitation the HOME Agreement entered into between [_____] and Beneficiary dated [_____, 2011. 2. Payment of the indebtedness evidenced by a Promissory Note of even date herewith, and any extension or renewal thereof, in the principal sum of \$1,500,000.00 **to City of Fresno** executed by Trustor in favor of Beneficiary or order. 3. Payment of such further sums as the then record Owner of said property hereafter may borrow from Beneficiary, when evidenced by another Note (or Notes) reciting it is so secured.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:

(1) To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon, and to pay when due all claims for labor performed and materials furnished therefore; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

(2) To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorneys' fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

(4) To pay: at least ten days before delinquency, all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

(5) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the rate called for in the note secured hereby, or at the amount allowed by law at date of expenditure, whichever is greater, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

(6) That any award of damages in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him in this same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

(7) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(8) That at any time or from time to time, without liability therefore and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

(9) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and said Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee is such reconveyance may be described as "the person or persons legally entitled thereto." Five years after issuance of such full reconveyance, Trustee may destroy said Note and this Deed of Trust (unless directed in such request to retain them.)

(10) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The

entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act pursuant to such notice.

(11) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder after expiration of all applicable cure periods, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust, said Note(s) and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale.

Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all reasonable costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the persons or persons legally entitled thereto.

(12) Beneficiary, or any successor in ownership of any indebtedness secured hereby may, from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties, must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed of Trust is recorded and the name and address of the new Trustee.

(13) That this Deed of Trust applies to, insures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the Note secured hereby, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so required, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

(14) That Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be party unless brought by Trustee.

(15) The Loan is a nonrecourse obligation of Trustor. Neither Trustor nor any of its general and limited partners shall have any personal liability for repayment of the Loan. The sole recourse of the Lender under the Loan Documents for repayment of the Loan shall be the exercise of its rights against the Property.

(16) The withdrawal, removal and/or replacement of a general partner of Trustor pursuant to the terms of the Partnership Agreement due to a violation by a general partner of the terms of the Partnership Agreement, or a voluntary withdrawal from the Partnership by a general partner, and any transfer of limited partnership interests or interests in the same, shall not constitute a default under any of the Loan Documents, and any such actions shall not accelerate the maturity of the Loan.

(17) Beneficiary agrees that the lien of this Deed of Trust shall be subordinate to any extended low-income housing commitment (as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code) (the "Extended Use Agreement") recorded against the Property, provided that such Extended Use Agreement, by its terms, must terminate upon foreclosure under this Deed of Trust or upon a transfer of the Property by instrument in lieu of foreclosure, in accordance with Section 42(h)(6)(E) of the Internal Revenue Code, subject to the limitations upon evictions, terminations of tenancies and increases in gross rents of tenants of low-income units as provided in that Section.

(18) Prior to declaring or taking any remedy permitted under Loan Documents, Trustor's limited partners shall have an additional period of not less than thirty (30) days to cure such alleged default. Notwithstanding the foregoing, in the case of a default that cannot with reasonable diligence be remedied or cured within thirty (30) days, Trustor's limited partners shall have such additional time as reasonably necessary to remedy or cure such default, but in no event more than ninety (90) days from the expiration of the initial thirty (30) day period above, and if the Trustor's limited partners reasonably believe that in order to cure such default, Trustor's limited partners must remove one or both of Trustor's general partners in order to cure such default, Trustor's limited partners shall have and additional thirty (30) days following the effective date of such removal to cure such default.

(19) Beneficiary shall give the Trustor's limited partners notice of any default under the Loan Documents at the following address:

The indebtedness evidenced by the Note and the Deed of Trust is and shall be subordinate in right of payment to the prior payment in full of all amounts then due and payable (including, but not limited to, all amounts due and payable by virtue of any default or acceleration or upon maturity) with respect to the indebtedness evidenced by a Multifamily Note, dated as of _____, in the original principal amount of \$1,500,000.00, executed by the Borrower and payable to _____ ("Issuer"), as assigned to _____ ("Trustee"), to the extent and in the manner provided in that certain Subordination and Intercreditor Agreement, dated as of _____, among the Beneficiary, the Trustee and the Borrower (the "Subordination Agreement"). The rights and remedies of the payee and each subsequent holder of the Note and this Deed of Trust shall be deemed, by virtue of such holder's acquisition of this Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the "Junior Lender" under the Subordination Agreement.

In accordance with Section 2924b, Civil Code, request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale be mailed to Trustor at Trustor's address hereinbefore set forth, or if none shown, to Trustor at property address.

NOTICE: A COPY OF ANY NOTICE OF DEFAULT AND OF ANY NOTICE OF SALE WILL BE SENT ONLY TO THE ADDRESS CONTAINED IN THIS RECORDED REQUEST. IF YOUR ADDRESS CHANGES, A NEW REQUEST MUST BE RECORDED.

Except as provided herein or in the HOME Agreement, if the Trustor/Grantor shall sell, convey or alienate said property, or any part thereof, or any interest therein, or shall be divested of his title or any interest therein in any manner or way, whether voluntarily or involuntarily, without the written consent of the Beneficiary being first had and obtained, Beneficiary shall have the right, at its option, except as prohibited by law, to declare any indebtedness or obligations secured hereby, irrespective of the maturity date specified in any Note evidencing the same, immediately due and payable.

Dated: _____, 2011

Signature of Trustor(s):

By: _____

Its: _____

[ALL SIGNATURES MUST BE NOTARIZED]

**EXHIBIT "A" TO DEED OF TRUST ASSIGNMENT OF RENTS
PROPERTY DESCRIPTION**

The Property is located at 503 "G" STREET, 512 "F" STREET, and 1555 SANTA CLARA STREET.

Legal Description

Parcel (APN: 467-082-20)

LOTS 13 THROUGH 16 INCLUSIVE, IN BLOCK 55, OF THE TOWN (NOW CITY) OF FRESNO, ACCORDING TO THE SUPPLEMENTAL MAP OF THE TOWN (NOW CITY) OF FRESNO, RECORDED IN BOOK 1, PAGE 2 OF PLATS, RECORDS OF SAID COUNTY

Parcel 2 (APN: 467-082-03)

LOTS 17, 18, 19 BLK 55, OF THE TOWN (NOW CITY), IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 1 PAGE 2 OF MAPS, FRESNO COUNTY RECORDS.

Parcel 3 (APN: 467-082-04)

LOT 20 IN BLOCK 55 OF THE TOWN (NOW CITY) OF FRESNO, IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 1 PAGE 2 OF MAPS, FRESNO COUNTY RECORDS.



REPORT TO THE CITY COUNCIL

AGENDA ITEM NO. 9:00am B

COUNCIL MEETING August 25, 2011

APPROVED BY

August 25, 2011

FROM: CRAIG SCHARTON, Assistant Director Development and Resource Management

DEPARTMENT DIRECTOR

CLAUDIA CAZARES, Division Manager Housing and Community Development Division

CITY MANAGER

Mark Scott

By: CORRINA NUNEZ, Project Manager Housing and Community Development Division

SUBJECT: ADOPT A FINDING OF CONFORMITY THAT DETERMINED THE RENAISSANCE AT SANTA CLARA SUPPORTIVE RENTAL HOUSING PROJECT IS IN CONFORMITY WITH THE MASTER ENVIRONMENTAL IMPACT REPORT NO. 10130 (SCH NO. 2001071097) OF THE 2025 GENERAL PLAN AND AIR QUALITY MITIGATED NEGATIVE DECLARATION (A-09-002; SCH# 2009051016), AND APPROVE A \$1.5 MILLION HOME INVESTMENT PARTNERSHIPS AGREEMENT WITH 1555 SANTA CLARA STREET, LP, FOR CONSTRUCTION OF THE RENAISSANCE AT SANTA CLARA, A 70-UNIT PERMANENT SUPPORTIVE RENTAL HOUSING PROJECT TO BE LOCATED AT 503 "G" STREET, 512 "F" STREET, AND 1555 SANTA CLARA STREET IN THE HISTORIC CHINATOWN AREA.

Presented to City Council

Date 8/25/11

Disposition Approved

RECOMMENDATIONS

Staff recommends that the City Council:

- 1) Adopt a Finding of Conformity that determines the Renaissance at Santa Clara Supportive Rental Housing Project is in conformity with the Master Environmental Impact Report No. 10130 (SCH No. 200171097) of the 2025 General Plan and Air Quality Mitigated Negative Declaration (A-09-002; SCH# 2009051016); and
2) Approve a \$1.5 million HOME Investment Partnerships (HOME) Program Agreement (Please see Exhibit "A" - HOME Agreement) with 1555 Santa Clara Street, LP (Developer), for construction of the Renaissance at Santa Clara, a 70-unit permanent supportive rental housing project to be located at 503 "G" Street, 512 "F" Street, and 1555 Santa Clara Street (APN: 467-082-03, 467-082-20, and 467-082-04), in the Historic Chinatown area (Please see Exhibit "B" - Project Location Maps), subject to prior approval as to form by the City Attorney's Office.

EXECUTIVE SUMMARY

If approved as recommended, \$1.5 million in HOME Program funds will be provided to the Developer in the form of a 55-year loan at 1% interest, with principal and interest repaid beginning at year 40 from 20% of the project's annual residual receipts, with the unpaid balance due at loan maturity. The Housing Authority of the City of Fresno (Housing Authority) applied for the HOME loan as general partner of the LP. The Renaissance at Santa Clara will consist of a 69-unit studio apartment complex for very low-income and homeless individuals and one on-site manager's unit. Of the 70 units, 15 units will be HOME-assisted

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units. The cost of the proposed project is estimated at \$11.8 million, of which \$1.5 million in HOME Program funds will serve as gap financing. A majority of the project financing will be funded by the State of California Tax Credit Allocation Committee (TCAC), Low Income Housing Tax Credits (LIHTC) and the Housing Relinquished Fund. Disbursement of HOME funds to the Developer will be contingent upon finalization of an award of LIHTC to the project. Staff recommends that the Council adopt the environmental finding and approve the HOME Agreement.

BACKGROUND

On November 4, 2010, the City received a \$1.5 million HOME Program funding request from the Housing Authority for construction of a proposed Renaissance at Santa Clara project, a 70-unit permanent supportive housing apartment project for homeless individuals. Fifteen of the 70 units will be HOME-assisted units with carry 55-year affordability covenants. The project will be located in the City's Historic Chinatown area.

The total project cost is estimated at \$11.8 million, of which HOME Program funds are proposed to be provided in the form of a 55-year loan at 1% interest, with principal and interest to be repaid beginning at year 40 from 20% of the project's annual residual receipts, with the unpaid balance due at loan maturity. In an effort to secure a majority of the financing to complete the project, the Developer submitted a LIHTC application on March 23, 2011. The Developer has received notice of an \$8.1 million award of LIHTC. The actual cash received from the investors will be approximately \$6.5 million, which is expected to finance a majority of the project cost. A summary of the project's budget is shown on the attached Exhibit "C" – Project Sources and Uses of funds.

The project site is a vacant .69-acre parcel located at 503 "G" Street, 512 "F" Street, and 1555 Santa Clara Street, and is located in close proximity to numerous amenities including transit, markets, park, medical facility, and social service providers.

The site will consist of six two-story buildings (Please see Exhibit "D" – Plans and Elevations). Each studio will have approximately 340 square feet of living space which will include a kitchen, restroom facility, and a desk nook. Complex amenities will include a 2,400 square foot community room consisting of a kitchenette, lounge, community service room, restroom facilities, a property management office, a community services manager office, and a laundry room. The project's per square foot cost is estimated at \$190. The complex grounds will incorporate security patrol, and extensive landscaping to include a variety of trees, flower beds, walkways, a sitting area, and parking. Additionally, development of the project will exceed Title 24 energy standards by fifteen percent.

Predevelopment activities of the Renaissance at Santa Clara Apartments project are approximately 95% complete and the project is ready to proceed pending complete financing approval. A Conditional Use Permit (No. C-10-085), as amended (No. C-10-201), has been issued for the project.

The estimated completion date of the Renaissance at Santa Clara project is scheduled for February 2013. Once construction is completed, the units will be available to very low-income and/or homeless individuals earning 50%, or less, of the area median income. This affordability period will extend 55 years. Typical rents for the studio apartments will be approximately \$493.00 per month.

The Housing Authority, as general partner of the developer, is an experienced developer, manager, and owner of affordable housing and has served as a lower income housing provider to the City of Fresno for over 60 years. The Housing Authority has constructed hundreds of housing units for Fresno's low-income

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households and recently completed construction of a 215-unit apartment complex in central Fresno. Its mission is to provide housing within an environment that fosters the advancement of low-income households from a position of dependency to one of self-sufficiency. Cypress Independent Living Services has entered into a 10-year agreement with the Housing Authority to provide human/social services to the project tenants. In addition, the tenants can use the services already provided to the community at large by the Poverello House, which is within walking distance of the proposed project. The Poverello House is a private non-profit organization that has provided services to Fresno's hungry and homeless individuals for over 37 years. Its mission is to enrich the lives and spirits of all those who pass their way.

As with the Housing Authority's other residential developments, an experienced and local property management company will be under agreement to manage the Renaissance at Santa Clara property once the complex is occupied, to ensure on-going compliance with HOME Program property standard requirements.

Once completed, the Renaissance at Santa Clara project will assist the City in meeting its affordable housing goals as identified in the Housing Element of the 2025 General Plan, the 2010-2014 Consolidated Plan, the HOME Program funding priorities for new housing development, and the 10-year Plan to End Chronic Homelessness. The Renaissance at Santa Clara will also make a positive impact toward the City's efforts to revitalize the Historic Chinatown area by offering new, quality, durable, sustainable, affordable housing.

ENVIRONMENTAL FINDING

In anticipation of funding approval and the subsequent commencement of the construction activities, a National Environmental Policy Act assessment was completed on April 12, 2011, and resulted in a Finding of No Significant Impact. The City received authorization to use grant funds from HUD on July 6, 2011. Additionally, a California Environmental Quality Act (CEQA) initial study was prepared for the above-described project, which staff determined to be a subsequent project fully within the scope of the Master Environmental Impact Report No. 10130 ("MEIR) prepared for the 2025 Fresno General Plan (SCH # 2001071097) and Mitigated Negative Declaration prepared for Plan Amendment No. A-09-02 (SCH # 2009051016) (Air Quality MND). With the mitigation imposed, there is no substantial evidence in the record that this project may have additional significant, direct, indirect or cumulative effects on the environment that are significant and that were not identified and analyzed in the MEIR or Air Quality MND. After conducting a review of the adequacy of the MEIR and Air Quality MND pursuant to Public Resources Code, Section 21157.6(b)(1), staff has determined no substantial changes have occurred with respect to the circumstances under which the MEIR was certified and the Air Quality MND was adopted and that no new information, which was not known and could not have been known at the time that the MEIR was certified as complete and the Air Quality MND was adopted, has become available. The project is not located on a site which is included on any of the lists enumerated under Section 65962.5 of the Government Code including, but not limited to, lists of hazardous waste facilities, land designated as hazardous waste property, hazardous waste disposal sites and others, and the information in the Hazardous Waste and Substances Statement required under subdivision (f) of that Section. Therefore, any necessary environmental review required by CEQA has been completed for the project.

HOUSING AND COMMUNITY DEVELOPMENT COMMISSION

The Housing and Community Development Commission considered and recommended this item for approval on August 24, 2011.

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FISCAL IMPACT

HOME Program funds for the Renaissance at Santa Clara project are available in the Development and Resource Management Department's Fiscal Year 2012 Budget.

APPENDICES

Exhibit A - HOME Program Agreement

Exhibit B - Project Location Maps

Exhibit C - Project Sources and Uses of Funds

Exhibit D - Plans and Elevations

Exhibit E – Notice of Intent to Adopt Finding of Conformity

1. Finding of Conformity;
2. Modified Appendix G To Analyze Subsequent Project Identified In MEIR No. 10130/MND For Plan Amendment A-09-02 (Air Quality MND)/Initial Study for Environmental Assessment No. 20100251;
3. MEIR/ Air Quality MND Review Summary; and
4. MEIR/Air Quality MND Mitigation Monitoring Checklist.