City of FRESNO **REPORT TO THE CITY COUNCIL**

AGENDA ITEM NO.:	10
COUNCIL MEETING:	July 15, 2008
APPROVED BY	
DEPARTMENT DIRECTOR	
CITY MANAGER	

July 15, 2008

FROM: NICK P. YOVINO, Director
Planning and Development Department

BY: KEITH BERGTHOLD, Assistant Director
Planning and Development Department

THROUGH: CLAUDIA CÁZARES, Interim Manager
Housing and Community Development Division

SUBJECT: APPROVE A HOME CHDO AGREEMENT AMENDMENT NO. 2 WITH FRESNO WEST COALITION FOR ECONOMIC DEVELOPMENT GRANTING A TIME EXTENSION FOR THE SOUTH CLARA ESTATES AFFORDABLE SINGLE FAMILY DEVELOPMENT

Presented to City Council
Date 7/15/08
Disposition rec. approved

KEY RESULT AREA

One Fresno

RECOMMENDATION

Staff recommends that the City Council authorize negotiation and entry of Amendment No. 2 to the HOME Investment Partnerships (HOME) Program Community Housing Development Organization (CHDO) Agreement between Fresno West Coalition for Economic Development (FWCED) and the City of Fresno, granting a time extension from June 30, 2008 to September 30, 2010, for the construction of ten affordable single-family homes, subject to prior approval by the City Attorney.

EXECUTIVE SUMMARY

On December 7, 2004, the City Council approved a HOME CHDO Agreement (Exhibit A) with FWCED for the construction of 10 affordable single-family homes in southwest Fresno. The project's original completion date was December 29, 2006 and was extended by the City Council to June 30, 2008 (Exhibit B – Amendment No. 1) to re-engineer the tract map, which is now complete. However, the project can not proceed until the required improvement securities have been met by the developer. Currently, FWCED does not have the capabilities to meet the improvement securities requirement. Therefore, the Housing and Community Development Division is negotiating the assignment of the project to Habitat for Humanity - Fresno. As the completion date is no longer viable, it is necessary to request an extension of time to allow for the assignment (or similar agreement) and completion of the project.

KEY OBJECTIVE BALANCE

Approval of the amendment presents an opportunity to make a positive impact to the Customer Satisfaction, Employees Satisfaction, and Financial Management Key Objectives. The approval impacts the Customer Service aspect by demonstrating the City's commitment to its CHDO projects. The approval also attributes to Employee Satisfaction by authorizing the necessary timeline in order to assist staff in completing the housing project. In addition, it demonstrates Financial Management through keeping our investment in the continued development and training of our CHDO partners.

BACKGROUND

In June 2004, the Public Works Department and the Housing and Community Development Division issued a Request for Proposals (RFP) for the sale of a City-owned 2.5-acre vacant parcel and construction of affordable housing on the site. On December 7, 2004, City staff recommended, and City Council approved, the selection of the FWCED development team, including the award of a HOME CHDO funding agreement in the amount of $550,000, to construct ten (10) affordable single-family homes on the site (Exhibit C – Location Map). Since that time, Redevelopment Agency Housing Set Aside funds have also been approved in the amount of $240,128 for offsite improvements and construction of a ponding basin. The homes will range from approximately 1,200 to 1,600 square feet and are three to five bedrooms. HOME CHDO funds are used as construction financing and permanent financing to eligible homebuyers.

During the tentative map process, FWCED was advised that the project subdivision would require an on-site ponding basin. Because of this condition, FWCED had to re-engineer their site plan. This process caused a significant delay in the project schedule and thus required FWCED to request an initial time extension.

FWCED was granted a temporary extension by the Housing and Community Development Manager for 180 days extending the original timeline to June 29, 2007, as allowed in the original contract. Due to the extent of the changes required in the tract map, the 180 day extension was not sufficient to complete the project. Therefore, City Council approved an extension to June 30, 2008.

The tract map is now complete, and was modified to include 2 additional lots (12 total). One lot will allow for an additional home, and the other lot will accommodate the ponding basin. The project cannot proceed to approval and recording of the map until the improvement securities and fee payments are submitted, and all signatures on the subdivision documents are obtained. FWCED currently does not have the capability to meet the improvement securities as required by the subdivision map act. Therefore, the Housing and Community Development Division and the Redevelopment Agency are jointly negotiating with FWCED and Habitat for Humanity – Fresno to assign the project (or similar agreement) to Habitat for Humanity, who has demonstrated the capability to meet improvement securities and complete the project.

The attached tentative schedule (Exhibit D) has been provided by Habitat for Humanity and FWCED. The revised projected completion date is September 30, 2010. Council action will authorize staff to negotiate and enter into an Amendment No. 2 the HOME Agreement with FWCED, subject to prior approval by the City Attorney's office, to extend the project's completion date to September 30, 2010.

HOUSING AND COMMUNITY DEVELOPMENT COMMISSION

The Housing and Community Development Commission recommended approval of this item on June 25, 2008.

FISCAL IMPACT

There is no fiscal impact associated with this recommendation.

APPENDICES

Exhibit A – Home Program Agreement
Exhibit B – Amendment No. 1 to Agreement
Exhibit C – Location map
Exhibit D – Tentative Schedule

Recorded at the Request of
and When Recorded Return to:

City of Fresno
Planning and Development Department
Housing and Community Development Division
Attention: Housing Manager
2600 Fresno Street, Room 3076
Fresno, CA 93721-3605

COPY

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

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: _____
Jon Ruiz
Assistant City Manager
Date: 6/16/05

CITY OF FRESNO HOME PROGRAM CHDO AGREEMENT

HOME Investment Partnerships Program
Community Housing Development Organization (CHDO) Agreement

by and between

CITY OF FRESNO,
a municipal corporation

and

FRESNO WEST COALITION FOR ECONOMIC DEVELOPMENT
a California non-profit public benefit corporation

regarding

"South Clara Estates"
Southeast Corner of Clara and North Avenues - APN: 329-020-07t
An Affordable Single Family Homes Project

Exhibit A

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HOME INVESTMENT PARTNERHIPS PROGRAM
COMMUNITY HOUSING DEVELOPMENT ORGANIZATION AGREEMENT

This HOME Investment Partnerships Program Community Housing Development Organization Agreement (hereinafter referred to as the "Agreement") is entered into this, June 16, 2005, by and between the CITY OF FRESNO, a municipal corporation, acting through its Planning and Development Department - Housing and Community Development Division (hereinafter referred to as the "CITY"), and FRESNO WEST COALITION FOR ECONOMIC DEVELOPMENT, a California non-profit public benefit corporation, including any and all nominees/assignees thereof consented to by CITY (collectively hereinafter referred to as "FWCED").

RECITALS

WHEREAS, 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 Housing Act of 1990, as amended (hereinafter referred to as the "ACT"); and

WHEREAS, the HOME Program requires no less than fifteen percent (15%) of the CITY's HOME Program annual allocation be used by Community Housing Development Organizations (CHDO) for the development of Affordable Housing within the City of Fresno as required in 24 CFR 92.300; and

WHEREAS, FWCED has been certified by the CITY as a CHDO in accordance with HUD's certification criteria; and

WHEREAS, FWCED holds all right, title and interest in fee to the certain undeveloped real property located within the City of Fresno, APN 329-020-07t, more fully described in EXHIBIT A, attached hereto and incorporated herein, hereinafter referred to as the "Property"; and

WHEREAS, the FWCED at its sole cost has or will legally partition the Property into approximately ten (10) contiguous parcels prior to start of construction hereunder; and

WHEREAS, to advance the supply of Affordable Housing within the City of Fresno, the CITY desires, among other things, to encourage private investment in the affordable housing market; and

WHEREAS, FWCED desires to act as owner, CHDO developer, and exercise effective project control as to the construction of ten (10) separate single-family Affordable Housing Units to be constructed and sold as Low-Income Housing, 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; and

WHEREAS, the Project will be constructed upon HOME eligible Property(ies) located within the boundaries of the City of Fresno, as more particularly described in the attached EXHIBIT A; and

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WHEREAS, to further its goal to increase the supply of Affordable Housing within the City of Fresno, the CITY desires to make available to the Project HOME Funding for reimbursement of HOME eligible Project costs, upon the terms and conditions in this Agreement; and

WHEREAS, the CITY has conducted an environmental review of the Project pursuant to the National Environmental Policy Act ("NEPA") and the California Environmental Quality Act ("CEQA") resulting in a finding of no significant impact according to NEPA guidelines and an adoption of a mitigated negative declaration according to CEQA guidelines. CITY has received related federal approval for release of HOME funds pursuant to 24 CFR Part 58; and

WHEREAS, 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 Low-Income Housing available at affordable housing cost to persons and families of Low-Income, as defined hereunder, (v) planning and administrative expenses incurred in pursuit hereof are necessary for the production, improvement, or preservation of Low-Income Housing, and (vi) will comply with any and all owner participation rules and criteria applicable thereto.

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 Affirmative Marketing means a good faith effort to attract eligible persons of all racial, ethnic and gender groups, in the housing market area, to purchase the Housing Unit(s) that are proposed for construction on the eligible Property, as hereinafter defined.

1.3 Affordable Housing means the proposed Affordable Housing Project Units, consisting of ten (10) separate single-family homes, of which all will be required to meet the affordability requirements of this Agreement and 24 CFR 92.254 at the time of sale to first homebuyer and which affordability requirements shall run with the land for the Affordability Period subject to release as provided in this Agreement.

1.4 Affordability Period means the thirty (30) year period commencing from the date of first sale of each Project Unit following CITY's issuance and recordation of the

Certificate of Completion, as more fully described in the Declaration of Restrictions, attached hereto as EXHIBIT C and incorporated herein.

1.5 Budget means the pro forma Project Budget, and any changes thereto, approved by the CITY's Housing and Community Development Division Manager provided the total amount of HOME Funding allocated to the Project shall not be increased without City Council approval, attached hereto as EXHIBIT D.

1.6 Certificate of Completion means that certificate issued, in the form attached as EXHIBIT E ("Exemplar Certificate of Completion"), to FWCED by the CITY evidencing completion of each Project Unit constructed on the Property for purposes of this Agreement.

1.7 CFR means the Code of Federal Regulations.

1.8 Commencement of Construction means the time FWCED or FWCED's construction contractor begins substantial physical work of the Project/each Project Unit 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 of each Unit.

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

1.10 Deed of Trust means a standard form Deed of Trust approved by CITY, recorded against the Property, insured in the full amount of the Loan(s) on the Property.

1.11 Eligible Costs means any and all HOME Program eligible Project costs as may be reimbursed by the Loan(s), consistent with the Budget, attached as EXHIBIT D, allowable under 24 CFR Part 92, as specified in 24 CFR 92.205, 92.206 and 92.301, 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.

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

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

1.14 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

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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.

1.15 HOME Investment Partnership CHDO Funds (also referred to in this Agreement as HOME Funds or HOME CHDO Funds) means the HOME CHDO Program monies including the Loan(s), in an amount not to exceed the sum of Five Hundred Fifty Thousand Dollars ($550,000) to be used for HOME Program eligible Project costs.

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

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

1.18 Loan means the non-assumable, partially forgivable loan(s) of HOME Funds, made available by the CITY to the Project pursuant to this Agreement, as more specifically described in the Budget and in the Promissory Note(s) attached hereto as EXHIBITS D and F respectively.

1.19 Loan Documents are collectively this Agreement, the Note(s), Deed(s) of Trust, Declaration(s) 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.

1.20 Low-Income Families means families whose annual income does not exceed eighty percent (80%) of the median income for the Fresno, California area as determined by HUD, except as HUD may establish income ceilings higher or lower than 80% of the median for the area on the basis of HUD findings that such variations are necessary.

1.21 Note means the non-assumable, partially forgivable Project Note(s) in a principal amount not to exceed the HOME Program per unit cap (24 C.F.R. 92.250) as determined by the CITY, given by FWCED (including assignees/nominees thereof) as promissor(s), in favor of the CITY as promissee, 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 2nd position or better lien upon the Unit Property, naming the CITY as beneficiary and provided to the CITY no later than the date of Unit 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.

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

1.23 Project means each and all of the ten (10) single-family low-income Affordable Housing Units to be constructed, marketed, and sold as 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.

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1.24 Project Completion Date means the date that the CITY shall have determined that the Project (or any Unit thereof) has reached completion in accordance with this Agreement. The Project Completion Date for this project is December 29, 2006.

1.25 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.

1.26 Property means the HOME Program eligible property located at the southeast corner of Clara and North Avenue, APN 329-020-07t, Fresno, California, more specifically described in the attached EXHIBIT A, to be parcelized by FWCED at its sole cost, and developed for affordable housing, prior to commencement of any HOME eligible Project activity reimbursable with Loan proceeds.

1.27 Unit means each separate single family home developed upon the Property and preserved as Affordable Housing for the duration of the Affordability Period.

ARTICLE 2. TERMS

2.1 Loan of HOME CHDO Funds. The CITY agrees to provide the Loan(s) under the terms and conditions provided in this Agreement, to a maximum of ten (10) Project Units. The HOME Funds shall only be used for reimbursement of HOME eligible costs. The Loan shall be non-assignable and partially forgivable as provided in this Agreement and the Note.

2.2 Loan Documents. FWCED shall ensure that all homebuyers execute and deliver, or cause to be executed and delivered, to the CITY the Loan Documents including the Deed Trust Note(s), as provided for in this Agreement.

2.3 Term of Agreement. This Agreement is effective upon the date of execution and shall remain in force for the duration of the longer of the Affordability Period and the Loan unless earlier terminated as provided herein. 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 FWCED 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 FWCED.

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

2.5 Incorporation of Documents. The FWCED proposal dated July 30, 2004, the FWCED Board Minutes dated November 16, 2004, the CITY Council approved Minutes of May 3, 2005, 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.

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2.6 Covenants of FWCED. FWCED for itself and its nominees/assigns covenants and agrees to comply with all the terms and conditions of this Agreement and the requirements of 24 CFR Part 92.

ARTICLE 3. GENERAL REPRESENTATIONS AND WARRANTIES OF FWCED

3.1 Existence and Qualification. FWCED represents and warrants as of the date hereof, that FWCED is a duly organized California non-profit corporation in good standing and a qualified charitable organization exempt from certain taxes under IRC 501(c)(3) and Cal. R&T 23701(d). FWCED is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. FWCED has among its corporate purposes the provision of decent housing that is affordable to Low-Income and Very Low-Income persons. FWCED maintains accountability to Low-Income community residents by maintaining at least one-third of its governing board's memberships for residents of Low-Income neighborhoods/representatives thereof and by providing a formal process for Low-Income program beneficiaries to advise FWCED in its affordable housing decision making. FWCED and its development team have demonstrated capacity for carrying out the Project. FWCED has a history of serving the community within which the Project is located. FWCED 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, delivery, performance, and observance of its obligations under this Agreement. This Agreement, when executed and delivered, shall constitute the legal, valid, and binding obligations of FWCED enforceable against FWCED 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. FWCED represents and warrants 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 FWCED's knowledge, is any such litigation or proceeding now threatened, or anticipated against FWCED that, if adversely determined, would have a material adverse effect on the financial condition, business, or assets of FWCED or on the operation of the Project.

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

3.4 No Legal Bar. FWCED represents and warrants as of the date hereof that the execution, delivery, performance, or observance by FWCED of this Agreement will not, to the best of FWCED'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 FWCED; or (c) any mortgage, indenture, security agreement, contract, undertaking, or other agreement or instrument to which FWCED is a party or that is binding on any of its properties or assets, the result of which would materially or substantially impair FWCED's ability to perform and

discharge its obligations or its ability to complete the Project under this Agreement.

3.5 No Violation of Law. FWCED represents and warrants as of the date hereof that, to the best of FWCED's knowledge, this Agreement and the operation of the Project as contemplated by FWCED, do not violate any existing federal, state, or local laws or regulations.

3.6 No Litigation Material to Project. FWCED represents and warrants as of the date hereof that, except as disclosed to, and approved by the CITY in writing, there is no action, proceeding, or investigation now pending, or any basis therefor known or believed to exist by FWCED that questions the validity of this Agreement, or of any action to be taken under this Agreement, that would, if adversely determined, materially or substantially impair FWCED's ability to perform and observe its obligations under this Agreement, or that would either directly or indirectly have an adverse effect on or impair the completion of the Project.

3.7 Assurance of Governmental Approvals and Licenses. FWCED represents and warrants, as of the date hereof, that FWCED has obtained and, to the best of FWCED'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 FWCED for the Project as of the date hereof.

ARTICLE 4. HOME PROGRAM REPRESENTATION AND WARRANTIES BY FWCED

FWCED, for itself and its development team, represents and warrants that:

4.1 Accessibility. FWCED warrants, covenants and agrees that it shall comply with 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), including, without limitation, the construction of the Project so that it meets the applicable accessibility requirements, including, but not limited to, the following:

A. All housing units shall be made accessible, upon request of the prospective homebuyer, if the nature of the handicap of an expected occupant so requires. In such case, the homebuyer shall be given the opportunity to consult with FWCED regarding the specific design features to be provided. If accessibility features selected at the option of the homebuyer are ones covered by the standards prescribed by 24 CFR Sec. 8.32, those features shall comply with the standards prescribed in Sec. 8.32. The homebuyer shall be permitted to depart from particular specifications of these standards in order to accommodate his or her specific handicap. The cost of making a unit accessible under this paragraph may be included in the mortgage amount within the allowable mortgage limits, where applicable. To the extent such costs exceed allowable mortgage limits, they may be passed on to the prospective homebuyer, subject to maximum sales price limitations (24 CFR 235.320.)

4.2 Affirmative Marketing. FWCED 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 in the sale of Project Units. FWCED shall be responsible for complying with the CITY's "Affirmative

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Marketing Policy" document, incorporated herein, as amended from time to time. FWCED shall maintain records of actions taken to affirmatively market units constructed in the future, and to assess the results of these actions.

4.3 Availability of HOME Funds. FWCED understands and agrees that the availability of HOME CHDO 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 FWCED, 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. FWCED warrants, covenants and agrees that, in accordance with the requirements of 24 CFR 92.254 and 24 CFR Part 85, upon any uncured default by FWCED within the meaning of Article 10 of this Agreement, the CITY may suspend or terminate this Agreement and all other agreements with FWCED without waiver or limitation of rights/remedies otherwise available to the CITY.

4.5 Conflict of Interest. FWCED 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 FWCED (other than an employee or agent of FWCED who occupies a unit as the project manager or maintenance worker) may occupy a Project Unit. FWCED 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. FWCED 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, FWCED 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 FWCED 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, consistent with the Loan Documents, CITY may release said covenants and restrictions only upon recapture of all HOME funding allocated to the Unit(s) by the CITY. FWCED further warrants, covenants and agrees to ensure that the covenants and restrictions set forth herein shall run in favor of the CITY.

A. The CITY and FWCED 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 Low-Income and Very Low-Income Families, and (b) by making possible the obtaining of advantageous financing for construction.

B. FWCED covenants and agrees that it shall cause the Project Units to be sold as Affordable Housing.

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. 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. FWCED 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 Income Certification. FWCED warrants, covenants and agrees that it shall comply with the procedures for income determinations at 24 CFR 92.203. FWCED shall obtain, complete and maintain on file, immediately prior to initial occupancy, income certifications from each Project Unit Household. FWCED 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; (4) obtain an income tax return for the most recent tax year, or (5) if the applicant is unemployed and has no such tax return, obtain another form of independent verification. Copies of household income certification and verification must be available for review and approval by the CITY prior to the close of escrow and the transfer of title to the low-income homebuyer. FWCED further warrants, covenants and agrees that it shall cooperate with the CITY in the CITY's income certification/affordability monitoring activities at the time subsequent to initial transfer of the Unit Property.

4.10 Lead-Based Paint. FWCED warrants, covenants and agrees 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, and 24 CFR 982.401(j), including any amendments thereto, in the Affordable Housing Project. These requirements apply to all units and common areas in the Affordable Housing Project. FWCED shall incorporate or cause incorporation of this provision in all contracts and subcontracts for work performed on the Project, which involve the application of paint. FWCED shall be responsible for all disclosure, inspection, testing, evaluation, control and

abatement activities.

4.11 Minority Outreach Activities. FWCED 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 FWCED comply with the CITY's minority outreach program.

4.12 Other Laws and Regulations. FWCED warrants, covenants and agrees that, in addition to complying with the federal laws and regulations already cited in this Agreement, FWCED has 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. FWCED 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. FWCED 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 E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 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.

4.13 Religious Organizations. FWCED warrants, covenants and agrees that it is a secular entity and not a primarily religious organization and that it shall not engage in any prohibited activities described in 24 CFR 92.257. Subject to the foregoing, FWCED does not intend to utilize HOME Funds to construct housing owned primarily by religious organizations or to assist primarily religious organizations in acquiring housing.

4.14 Reporting Requirements. FWCED warrants, covenants and agrees that it shall submit performance reports to the CITY as detailed in Section 7.15. Furthermore, FWCED agrees to provide, at the sole cost of FWCED, annual audited Financial Statements for the Project expenses and ongoing financial transactions which occur as a result of this Agreement as detailed in Section 5.7. FWCED agrees to account for the expenditure of HOME CHDO Funds using generally accepted accounting principals, which financial documentation shall be made available to the CITY and HUD upon their respective written request(s).

4.15 Housing Affordability. FWCED warrants, covenants and agrees that the Project will meet the Affordable Housing, income targeting and other requirements of 24 CFR 92.254 upon sale of the homes to eligible homebuyers, except upon foreclosure by a lender or transfer in lieu of foreclosure following default under a Deed of Trust.

4.16 Terminated Projects(s). FWCED understands and agrees that, if the Project is terminated before completion, either voluntarily or otherwise, such constitutes an ineligible activity and the CITY will not be required to provide any further HOME Program assistance funding to the Project Units.

ARTICLE 5. COVENANTS AND AGREEMENTS OF FWCED.

FWCED, for itself and its assignee(s)/nominee(s), covenants and agrees to the following, for the entire term of the Agreement.

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5.1 Adequate Repair and Maintenance. FWCED shall maintain the Projects and Property in compliance with all applicable codes, laws, and ordinances.

5.2 Affordable Housing. FWCED covenants and agrees that the Project(s) shall be sold only to Low-income families to constitute Affordable Housing, as variously provided at 24 CFR 92.254.

5.3 Compliance With Environmental Laws. FWCED 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, FWCED agrees that, if the CITY has reasonable grounds to suspect any such violation, FWCED 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, FWCED shall pay for the reasonable cost of the independent consultant.

Additionally, FWCED 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 FWCED;

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;

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

3. FWCED'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

D. 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 FWCED 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. FWCED shall 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 Project. FWCED acknowledges that the use of HOME Funds subjects the 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 FWCED to enable the CITY to comply with, conform to and obey) all federal statutes, regulations, rules and policies applicable to the Program and the Project.

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

5.6 Financial Statements and Audits. FWCED, 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, FWCED, 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. FWCED shall be accountable to the CITY for all HOME CHDO 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 FWCED 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. FWCED will maintain books and records for the Project using generally accepted accounting principles. FWCED agrees to maintain books and records that

accurately and fully show the date, amount, purpose and payee of all expenditures financed with HOME CHDO Funds and to keep all invoices, receipts and other documents related to expenditures financed with HOME CHDO 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 FWCED in which case FWCED shall bear the cost of such audit. FWCED shall also comply with any applicable audit requirements of 24 CFR 92.506. This section shall survive the termination of this Agreement.

C. FWCED 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.

5.9 No Other Liens. FWCED 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 Housing Project consistent with the attached Exhibit D Project Budget, without the prior written consent of the CITY.

5.10 Nondiscrimination. FWCED 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 FWCED 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, FWCED shall not sell, lease, transfer, assign or otherwise dispose of 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.

5.12 Payment of Liabilities. FWCED 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.

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5.13 Report of Events of Default. FWCED 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 CHDO Funds:

6.1 Use of HOME Program CHDO Funds. FWCED warrants, covenants and agrees for itself and its assignee(s)/nominee(s) that it shall request HOME Program CHDO Funds only for reimbursement of HOME eligible costs, limited to the amount needed, for payment through an escrow account established by FWCED, or its assignee(s)/nominee(s), with a title company acceptable to the CITY, for eligible costs, including costs allowable under 24 CFR 92.206, aggregating not more than Fifty Five Thousand Dollars ($55,000), per Unit/low-income family. The CITY's obligations shall in no event exceed the HOME CHDO Funds amount specified in this Agreement.

A. If any such Funds shall be determined to have been requested and/or used by FWCED for something other than reimbursement of 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 FWCED to the CITY; provided, however, that FWCED 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 CHDO Funds are requested to reimburse Eligible Costs which subsequently lose eligibility as Eligible Costs, FWCED shall immediately return such HOME CHDO Funds to the CITY.

C. The CITY will disburse HOME CHDO Funds, only to a CITY-approved escrow company, for HOME eligible costs of the Project as provided in this Article 6.

6.2 Conditions Precedent to Disbursement. The CITY shall not be obligated to make or authorize any disbursements of HOME CHDO 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. FWCED has ensured that individual homebuyer(s) have submitted evidence to the CITY that the HOME Funds, in addition to the amounts loaned through a primary home loan, are sufficient to purchase the Unit. If the CITY determines that said funds are not sufficient to purchase the Unit, FWCED or the individual homebuyer(s) may satisfy this condition by depositing the amount of the deficiency with the CITY or escrow account, as applicable.

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

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

E. Upon CITY's reasonable request, FWCED has provided the CITY copies of Project surety (payment and performance) bonds.

F. FWCED is current with its compliance of all reporting requirements set forth in this Agreement.

G. Upon CITY's reasonable request, FWCED has delivered a Unit construction schedule satisfactory to the CITY.

H. FWCED has provided the CITY with a written request for HOME Funds (in CITY-approved Form), to be deposited in an established escrow account or otherwise provided to CITY as instructed by CITY for reimbursement of HOME eligible Project costs, and detailing such Eligible Costs applicable to the request.

I. The Certification required by Section 6.4 of this Agreement.

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

6.3 Request for and Disbursement of HOME Program Funds. FWCED shall request disbursement of HOME Funds using the CITY's Request for Disbursement of Funds Form, or a similar document. FWCED shall only request a maximum of Fifty Five Thousand Dollars ($55,000) in HOME Program assistance for each Project Unit, to be deposited in an established escrow account or as otherwise directed by CITY. Additionally, FWCED shall only request up to a maximum of Five Hundred Fifty Thousand Dollars ($550,000) in HOME Program assistance for the Project. 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 6.4 of this Agreement.

6.4 FWCED Certification. FWCED shall submit to the CITY a written certification that, as of the date of the Request for Disbursement:

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

B. FWCED 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. FWCED 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 HOME eligible costs and must be supported by the itemized obligations that have been properly incurred and are properly chargeable in connection with the Project.

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 FWCED 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. FWCED shall commence and complete construction in accordance with the Project Description and Schedule. All Project Construction shall be completed no later than December 29, 2006.

7.3 Contracts and Subcontracts. Consistent with Section 5.3, all demolition, hazardous waste abatement, construction work and professional services for the 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. FWCED shall provide the CITY with copies of all agreements with any and all contractors or subcontractors for this Project. FWCED shall require that each contractor and subcontractor agreement contain a provision whereby the party(ies) to the agreement other than FWCED agree to (i) notify the CITY immediately of any event of default by FWCED 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 FWCED is not in default thereunder. FWCED 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, FWCED 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 FWCED 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, FWCED shall make up the deficiency.

7.5 Fees, Taxes and Other Levies. FWCED 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, FWCED 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

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by appropriate proceedings, and (b) if requested by the CITY, FWCED deposits 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. FWCED shall promptly inform the CITY of any new financing or funding, and FWCED shall provide the CITY copies of all agreements with any and all Funding Sources for this Project. FWCED shall require each agreement with any and all Funding Sources to contain a provision whereby the party(ies) to the agreement other than FWCED, agree to (i) notify the CITY immediately of any event of default by FWCED thereunder; (ii) notify the CITY immediately of termination or cancellation of the agreement; and (iii) provide the CITY, upon CITY's request, an Estoppel Certificate certifying that the agreement is in full force and effect and FWCED is not in default thereunder. FWCED agrees to notify the CITY immediately of termination or cancellation of any such agreement(s) or receipt of notice of default thereunder. FWCED 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 FWCED fails to comply with its obligations of this section, the grant 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, FWCED shall place a poster or sign, with a minimum four feet by four feet in size, identifying the City of Fresno, Housing and Community Development Division, Planning and Development Department 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. FWCED 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 Insurance and Bonds. Upon CITY's reasonable request, FWCED shall submit for CITY approval bonds, certificates and applicable endorsements for all insurance and bonds required by this Agreement in accordance with Article 9.

7.10 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, FWCED 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 FWCED fails to discharge, bond or otherwise satisfy the CITY with respect to any lien, encumbrance, charge or claim referred to in this Section 7.9, 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 FWCED expense. Alternatively, the CITY may require FWCED 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 FWCED. FWCED hereby agrees to indemnify and hold the CITY harmless from liability for such liens, encumbrances, charges or claims together with all related costs and expenses.

7.11 Permits and Licenses. Upon CITY's reasonable request, FWCED shall submit, for CITY approval, all the necessary permits and licenses required for Commencement of Construction. As the CITY may reasonably request, FWCED, 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 Housing Project, and for its stated purposes in accordance with all applicable building, environmental, ecological, landmark, subdivision, zoning codes, laws, and regulations. FWCED 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.

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

7.13 Project Responsibilities. FWCED shall be solely responsible for all aspects of FWCED's conduct in connection with the Project, including but not limited to, the applicability of and compliance with all local, state and federal laws including, without limitation, as to prevailing wage and public bidding requirements (the CITY's annual resolution setting out per diem wage rates is available from the CITY's Construction Management Division), the quality and suitability of the work completed, 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 is solely for the purpose of determining whether FWCED is properly discharging its obligation to the CITY, and shall not be relied upon by FWCED or by any third parties as a warranty or representation by the CITY as to the quality of the work completed for the Project.

7.14 Quality of Work. FWCED shall ensure that construction of the proposed Project, employs building materials of a quality suitable for the requirements of the Project. FWCED 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.

7.15 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, FWCED shall comply with all applicable local, state and federal statutes and regulations with respect to relocation planning, advisory assistance and payment of

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monetary benefits. FWCED 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.

7.16 Reporting Requirements. FWCED shall submit to the CITY the following Project reports:

A. From the date of the Commence of the Project, until issuance of the final Certificate of Completion, evidencing the construction of the last Project Unit, FWCED 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 on 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, evidencing the construction of the last Project Unit, and continuing until the termination of the Agreement, FWCED 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 date the occupancy commenced, certification from an officer of FWCED that the Project is in compliance with the Affordable Housing Requirements, and such other information the CITY may be required by law to obtain. FWCED 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, evidencing the construction of the last Project Unit, and continuing until the expiration of the Agreement, FWCED shall submit proof of insurance as required in Article 9.

7.17 Scheduling and Extension of Time; Unavoidable Delay in Performance. It shall be the responsibility of FWCED to coordinate and schedule the work to be performed so that the Commencement of the Project and issuance of the Certificate of Completion(s) will take place in accordance with the provisions of the Agreement. The CITY, through its Housing and Community Development Division Manager, may extend such time in writing at its sole and absolute discretion, and upon written request of FWCED, as follows:

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.

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

7.18 Certificate of Completion. Upon completion of the construction of each Project Unit, FWCED shall certify in writing to the CITY that construction of the Project Unit has been completed in accordance with the plans and specifications approved by the CITY. Upon completion of each Project Unit, FWCED shall also submit to the CITY a cost-certifying final budget where FWCED shall identify the actual costs of construction of each Project Unit. This final cost-certification shall identify costs in line-item format, consistent with the Project Budget. Upon a determination by the CITY that FWCED is in compliance with all of FWCED's construction obligations, as specified in this Agreement, for that Project Unit, the CITY shall furnish, within 30 calendar days of a written request by FWCED, a recordable Certificate of Completion for the Project(s) 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 FWCED with a written statement indicating in what respects FWCED 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 FWCED will need to take or what standards it will need to meet in order to obtain the Certificate of Completion. Upon FWCED taking the specified measures and meeting the specified standards, FWCED will certify to the CITY in writing of such compliance and the CITY shall deliver the recordable Certificate of Completion to FWCED in accordance with the provisions of this section.

ARTICLE 8. PROJECT OPERATIONS

8.1 Operation of the Project. FWCED shall operate and/or manage the Project in full conformity with the terms of this Agreement.

8.2 Occupancy Requirements. All Project Unit(s) shall be marketed and sold as principal residence for single family owner-occupancy by low-income households. FWCED shall comply with the income targeting and Affordable Housing requirements of 24 CFR 92.217 and 92.254. No homebuyer shall take occupancy of any Home prior to the close of escrow vesting title in said homebuyer and recordation of the Loan Documents.

8.3 Fair Marketing Plan. Before marketing any Project Unit and at least sixty (60) calendar days prior to the Completion of Construction of the first Project Unit, FWCED shall submit to the CITY, for review and approval a plan, for marketing the Unit(s) ("Fair Marketing Plan"). The Fair Marketing Plan shall address in detail how FWCED or its designated management entity plans to market the availability of Units to prospective low-income purchasers and how FWCED plans to certify the eligibility of potential buyers. The Final Marketing Plan shall contain detailed descriptions of policies and procedures with respect to buyer selection(s). Topics to be covered in these procedures shall include at a minimum the following:

- Interviewing procedures for prospective buyers;
- Buyer references;
- Credit reports and checks;

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- Deposit amounts, purpose, use and refund policy;
- Employment/Income verification;
- Occupancy restrictions;
- Income limits;
- Homebuyer education requirements;
- Equal Housing Opportunity Statement;
- Restrictions on use of the premises and Program Income.

The Final Marketing Plan shall contain copies of all standardized forms associated with the above listed topics. FWCED shall abide by the terms of this Final Marketing Plan, approved by the CITY, in marketing, managing and maintaining the Housing.

8.4 Property Management. With respect to the Project, FWCED shall comply with the following:

A. Management Responsibilities. FWCED is specifically responsible for all management functions with respect to the Project including, without limitation, construction management, affirmative marketing, property disposition and initial certification of household size and income. FWCED shall be responsible for Project maintenance, landscaping, routine and extraordinary repairs, replacement of capital items and security. The CITY shall have no responsibility for such management of the Project.

8.5 Maintenance and Security. FWCED shall (i) at its own expense maintain the Homes in good condition, in good repair and in decent, safe, sanitary, habitable and tenantable living conditions for the benefit of the purchasers, (ii) not commit or permit any waste on or to the Homes, and shall prevent and/or rectify any physical deterioration of the Homes; and (iii) maintain the Homes in conformance with all applicable federal, state and local laws, ordinances, codes and regulations and this Agreement, until such are sold to low-income buyers.

8.6 Nondiscrimination. All of the Units shall be available for initial purchase to members of the general public who are income eligible. FWCED shall not illegally discriminate or segregate in the development, construction, use, enjoyment, occupancy or conveyance of any part of the Affordable 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. FWCED shall otherwise comply with all applicable local, state and federal laws concerning nondiscrimination in housing. Neither FWCED nor any person claiming under or through FWCED, 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 FWCED as to the Units or the housing project or portion thereof, shall contain covenants concerning nondiscrimination consistent with this section. FWCED shall include a statement in all advertisements, notices and signs for availability of Units for rent to the effect that FWCED is an Equal Housing Opportunity Provider.

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

8.7 Project Home Sale Price. The initial sale price of each Home is the total amount paid by the homebuyer for the Home conveyance, inclusive of any first lien/loan and exclusive of escrow fees, title insurance costs, broker's commission (if any), loan fees or any other closing or transaction costs. Notwithstanding the foregoing, the sale price of each Home shall not exceed ninety five percent (95%) of the median purchase price for the area as applied under 24 CFR 92.254. The CITY shall approve in advance all homebuyers. Homebuyer financing shall be based upon buyer's ability to pay, consistent with this Agreement.

8.8 Affordable Housing. The purpose of this Agreement is to use HOME Loan Funds to ensure the affordability of ten (10) Project Units to be sold to low-income households. FWCED (including assignees/nominees thereof) and those taking ownership of the Project Property under or through it/them, covenant and agree that the Project shall constitute Affordable Housing by ensuring that the homes are sold to low-income households.

A. If a Project Unit initially built and sold to a lower-income household is subsequently resold, otherwise transferred and/or is no longer the principal residence of the individual(s) who initially purchased the property as Affordable Housing, during the Affordability Period, and without waiver or limitation, the entire HOME-Funded Loan allocated to Unit shall be repaid to/recaptured by the CITY's HOME Program Trust Fund and thereupon the balance of the Affordability Covenant/Period released. At the end of the Affordability Period a total of Fifteen Thousand Dollars ($15,000) will be forgiven and the principal due on the Note shall be reduced by this amount.

B. FWCED (including assignees/nominees thereof) shall provide, a Trust Deed Note, and other documents as may be required herein, securing the first sale of each individual HOME-assisted Unit/Property in the Project. Said Trust Deed Note shall be security for the provision of HOME Funding for the Project by the CITY. In the event of a failure to comply with the Affordability Restrictions, in addition to any and all other remedies available to it, the CITY shall be entitled to enjoin sale of the Project Units, damages not being an adequate remedy at law for such breach.

C. In the event that FWCED fails to comply with the Affordable requirements, as applicable, the CITY shall be entitled to enjoin FWCED from selling the Units in the Project, as FWCED acknowledges that damages are not an adequate remedy at law for such breach.

ARTICLE 9. INSURANCE AND INDEMNITY.

Without waiver of limitation, the parties agree as follows regarding FWCED Insurance and Indemnity Obligations:

9.1 Insurance Coverage. Throughout the life of this Agreement, FWCED 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:

1. BUILDERS RISK INSURANCE in an amount to provide coverage to 100 percent (100%) of the replacement value of the Project, including terms of labor and materials in place or to be used as part of the permanent construction, including surplus miscellaneous materials and supplies incidental to the work and such scaffolding, staging, towers, forms and equipment as are not owned or rented by the FWCED, the cost of which is not included in the cost of work.

A. The above described policy of insurance shall be endorsed to provide an unrestricted thirty (30) day written notice in favor of the CITY, of policy cancellation, change or reduction of coverage. In the event the policy is due to expire during the term of this Agreement, 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, FWCED 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.

B. If at any time during the life of this Agreement or any extension, FWCED fails to maintain the required insurance in full force and effect, all work under this Agreement shall be discontinued immediately, and the CITY shall not provide further HOME funds to the Project 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 Section 10.2, notice and cure, shall be sufficient cause for the CITY to terminate this Agreement.

9.2 Indemnity. FWCED 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, FWCED 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. FWCED's obligations under the preceding sentence shall apply regardless of whether the CITY or any of its officers, officials, employees, agents or volunteers are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active negligence or by the willful misconduct of the CITY or any of its officers, officials, employees, agents or volunteers.

A. If FWCED should contract all or any portion of the work to be performed under this Agreement, FWCED 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.

9.3 Property Insurance. FWCED shall pay for and maintain, in full force and effect, throughout the remaining life of this Agreement, a policy(ies) of property insurance acceptable to the CITY, covering the Project premises, with limits reflective of the value of the Project premises upon issuance of the Certificate of Completion, or substantial completion of the Project referenced in this Agreement, including fire and Extended Comprehensive Exposure (ECE) coverage in an amount, form, substance, and quality as acceptable to the CITY's Risk Manager. At its request, the CITY shall be added by endorsement as a loss payee thereon. Additionally, FWCED, or its CITY-approved lender, shall ensure that appropriate property insurance is acquired by the individual homebuyers.

9.4 Bond Obligations. Upon the CITY's request, FWCED shall obtain, pay for and deliver or cause to be obtained, paid for and delivered 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 100% of Owner's estimated construction costs to guarantee faithful performance of the Project, within the time prescribed, in a manner satisfactory to the CITY, 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 100% of Owner's estimated construction costs to satisfy claims of material supplies and of mechanics and laborers employed for this Project. The bond shall be maintained by FWCED in full force and effect until the Project is completed and accepted by the CITY, and until all claims for materials and labor are paid, and shall otherwise comply with any applicable provisions of Chapter 7, Title 15, Part 4, Division 3 of the California Civil Code.

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:

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

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

C. Except as otherwise provided in this Agreement, the failure of FWCED to punctually and properly perform any other covenant or agreement contained in this Agreement including without limitation the following: (1) FWCED'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) FWCED's use of defective or unauthorized materials or defective workmanship in pursuit of the Project; (3) FWCED's failure to commence or complete the Project, as specified in this Agreement, unless delay is permitted under Section 7.16 of this Agreement; (4) the cessation of the Project for a period of more than

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fifteen (15) consecutive days (other than as provided at Section 7.16 of this Agreement) prior to submitting to the CITY, pursuant to Section 7.17, certification that the Project is complete; (5) any material adverse change in the condition of FWCED 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) FWCED's failure to remedy any deficiencies in record keeping or failure to provide records to the CITY upon the CITY's request; (7) FWCED'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 FWCED shall prove to be materially false as of the date of which the representation, warranty, or certification was given, or that FWCED 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 FWCED's inadvertence, FWCED 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. FWCED 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. FWCED's failure, inability or admission in writing of its inability to pay its debts as they become due or FWCED assignment for the benefit of creditors;

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

H. The failure of FWCED to cause completion of the Project prior to December 29, 2006;

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

J. Any substantial or continuous breach by FWCED of any material obligation owed by FWCED 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; and

10.2 Notice of Default and Opportunity to Cure. The CITY shall give written notice to FWCED 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, FWCED 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.

10.3 Remedies Upon an Event of Default. Upon the happening of an Event of Default by FWCED 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 FWCED;

B. Bring an action in equitable relief (1) seeking specific performance by FWCED 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.

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 nominees, 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 FWCED, 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 FWCED 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.

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. FWCED 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 FWCED 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 FWCED in, under,

or to this Agreement, or the Project, may be assigned or transferred by FWCED 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 FWCED 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 FWCED 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 FWCED 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 FWCED in any case shall entitle FWCED 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. FWCED hereby acknowledges 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, it 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
Planning and Development Department
Housing and Community Development Division
Attn: Housing Manager
2600 Fresno Street, Room 3076
Fresno, CA 93721-3605

If to FWCED: Keith Kelley, Executive Director
Fresno West Coalition for Economic Development
302 West Fresno Street, Suite 212
Fresno, CA 93705

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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. FWCED 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: _____
JON RUIZ
Assistant City Manager
(Attach notary certificate of acknowledgment)

Date: 6/16/05

ATTEST:
REBECCA E. KLISCH
City Clerk

By: _____
Deputy

Date: 6/20/05

APPROVED AS TO FORM:
HILDA CANTÚ MONTOY
City Attorney

By: _____
Deputy/Assistant

Date: 6-14-05

FRESNO WEST COALITION FOR ECONOMIC DEVELOPMENT
a California non-profit public benefit corporation.

By: _____
KEITH A. KELLEY
Executive Officer
(Attach notary certificate of acknowledgment)

Date: 6/6/05

Attachments:

EXHIBIT A: PROPERTY DESCRIPTION
EXHIBIT B: PROJECT DESCRIPTION AND SCHEDULE
EXHIBIT C: EXEMPLAR DECLARATION OF RESTRICTIONS
EXHIBIT D: BUDGET
EXHIBIT E: EXEMPLAR CERTIFICATE OF COMPLETION
EXHIBIT F: EXEMPLAR NOTE

RRC:eb [33549eb/Agmt] 4/26/05

50 33 KK

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Fresno } ss.

On June 6, 2005 (Date), before me, Maureen L. Barnes, Notary Public (Name and Title of Officer (e.g., "Jane Doe, Notary Public")),

personally appeared Keith A. Kelley (Name(s) of Signer(s)),

☒ personally known to me

☐ 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.

MAUREEN L. BARNES
COMM. #1402455
NOTARY PUBLIC - CALIFORNIA
FRESNO COUNTY
My Comm. Expires Feb. 25, 2007

Place Notary Seal Above

WITNESS my hand and official seal.

Signature of Notary Public

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 Program CHDO Agreement / South CLara Estates

Document Date: N/A Number of Pages: 47

Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

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

Signer Is Representing:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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

Signer Is Representing:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Fresno } ss.

On June 16, 2005 (Date), before me, Theresa Saldivar, Notary Public (Name and Title of Officer (e.g., "Jane Doe, Notary Public"))

personally appeared Jon Ruiz (Name(s) of Signer(s))

☑ personally known to me

☐ 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.

THERESA SALDIVAR
COMM. #1348617
NOTARY PUBLIC - CALIFORNIA
FRESNO COUNTY
My Comm. Expires Apr. 3, 2006

Place Notary Seal Above

WITNESS my hand and official seal.

Theresa Saldivar
Signature of Notary Public

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: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

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

Signer is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____

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

Signer is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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EXHIBIT A: PROPERTY DESCRIPTION

The Property includes an approximately 2.5 acre site at the southeast corner of Clara and North Avenue in Fresno, California. The parcel will be subdivided by FWCED at its sole expense to include ten contiguous parcels for the development of single family affordable housing.

Legal Description

APN: 329-020-07t

The land referred to herein is situated in the City of Fresno, County of Fresno, State of California, and is described as follows:

The west half of the west half of Lot 65 of Central California Colony, according to the map recorded in Book 2, Page 1 of Plats, in the Office of County Recorder of said County.

EXCEPTING THEREFROM the following described parcels:

(a) The south 206 feet thereof:

(b) That portion thereof described as follows: BEGINNING at the northeast corner of said west half of the west half of said Lot 65; thence west along the north line of said lot, a distance of 115 feet; thence at right angles, a distance of 158 feet; thence at a right angle east and parallel to the north line of said lot 65, a distance of 115 feet; thence at a right angle north along the east line of said west half of the west half of said lot 65, a distance of 158 feet to the POINT OF BEGINNING.

(c) That portion thereof described as follows: BEGINNING at a point on the north line of said Lot 65, a distance of 115 feet west from the northeast corner of said west half of the west quarter of said Lot 65; thence west along the north line of said Lot 65, a distance of 95 feet; thence at right angle south, a distance of 150 feet; thence at a right angle east and parallel to the north line of said Lot 65, a distance of 95 feet, thence at a right angle north, a distance of 150 feet to the POINT OF BEGINNING.

For the purposes of this description, the north line of said Lot 65 is taken to be 30 feet south of the north line of the northeast quarter of Section 28, Township 14 South, Range 20 East, Mount Diablo Base and Meridian, and the east line of said Lot 65 is taken to be 30 feet west of the east line of said northeast quarter.

EXHIBIT B: PROJECT DESCRIPTION AND SCHEDULE

I. PROJECT DESCRIPTION

The Project will include the construction of ten (10) single family homes for occupancy by low-income families. FWCED, at its sole cost will parcelize the land, pay for on-site and off-site improvements, construct, market and sell the Homes. Consistent with the attached Budget, FWCED will fund all pre-construction and construction costs with non-HOME Program Funds. FWCED, or its CITY-approved lender, will qualify all households. Upon CITY approval and consistent with the Agreement to which this Exhibit A is an attachment, the Homes shall be sold to the low-income families.

HOME Funds will be made available through the sales escrow or as otherwise directed by CITY as reimbursement for HOME eligible costs not to exceed Fifty-Five Thousand Dollars ($55,000), as needed, for the affordability of the purchase of each Home. At the expiration of the Affordability Period, $15,000 will be forgiven from the principal due on the Note(s) for each Project home. Maximum total HOME funding for the Project will be Five Hundred Fifty Thousand Dollars ($550,000).

II. PROJECT SCHEDULE

A. Commencement of Construction: Not later than 60 days following parcel map approval by CITY.

B. Completion of Construction: Not later than December 29, 2006.

C. Completion of Home Sales: Not later than March 30, 2007.

EXHIBIT C: EXEMPLAR DECLARATION OF RESTRICTIONS

RECORDING REQUESTED BY AND for the benefit of the City of Fresno and is exempt from the payment of a recording fee in accordance with Government Code Sections 6103 and 27383.

AND WHEN RECORDED MAIL TO:

CITY OF FRESNO
Planning and Development Department
Housing and Community Development Division
Attn: Housing Manager
2600 Fresno Street, Rm. 3076
Fresno, CA 93721-3605

Title Order No._____ Escrow No._____

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS, ("Declaration"), is executed as of this _____, by [_____], ("Declarant") in favor of the City of Fresno, acting by and through its Planning and Development Department, Housing and Community Development Division, ("City").

WHEREAS, Declarant is the owner of the real estate in the county of Fresno, state of California, consisting of APN [_____], 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 Community Development Housing Organization (CHDO) Agreement dated [---] incorporated herein, ("HOME CHDO Agreement") and instruments referenced therein, Declarant agrees to utilize and City agrees to provide certain HOME Program CHDO Funds from the United States Department of Housing and Urban Development, to Declarant for certain affordable housing (the "Project") upon the Property to be sold and maintained as affordable to low income families, subject to the terms and conditions set forth in the HOME CHDO Agreement; and

WHEREAS, the HOME Program regulations promulgated by HUD, including without limitation 24 CFR Section 92.254, and the HOME CHDO Agreement impose certain affordability requirements upon property benefited thereby, which affordability restrictions shall be enforceable for a [30] year period; and

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

NOW THEREFORE, Declarant declares that the Project Home upon 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 Declaration, all of which are declared and agreed to be in furtherance of the plan for the construction, sale and occupancy of the Home upon the Property. 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 Project Home upon the Property or any part thereof, will inure to the benefit of the future Owners of the Home or any part thereof, the United States and the City, and will be enforceable by any of them. Any purchaser under a contract of sale covering any right, title or interest in any part of the Project Home upon 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, covenant, and limitations set forth in this Declaration for the period of [30] years constituting the Affordability Period.

1. Declarations. Declarant hereby declares that the Home upon 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 CHDO Agreement Project, and are established and agreed upon for the purpose of enhancing and protecting the value of the Project Property and in consideration for City entering into the HOME CHDO Agreement with Declarant. All terms not otherwise defined herein shall have the meaning ascribed to such term in the HOME CHDO Agreement.

2. Restrictions. The following covenants and restrictions on the use and enjoyment of the Project Home upon the Property shall be in addition to any other covenants and restrictions affecting the Project Property, and all such covenants and restrictions are for the benefit and protection of City, and shall run with the Home upon the Property and be binding on any future owner's of the Project Home upon 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 from the Project Completion Date(s) until the expiration of the Affordability Period it shall cause the Project Homes upon the Property to be used as Affordable Housing. Declarant further agrees to file a recordable document setting forth the Project Completion Date(s) and the Affordability Period when determined by the City. Unless otherwise provided in the HOME CHDO Agreement, the term Affordable Housing shall include, without limitation, compliance with the following requirements:

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 Project 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.

Principal Residence. Each Home constituting the Project upon the Property shall be sold only to natural persons, who shall occupy the home as the purchaser's principal residence. The foregoing requirement that the purchaser of each Home constituting the Project Property occupy the home as the purchaser's 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 (ii) HUD qualified entities that acquire the Project Property or portion thereof, with the consent of the City.

Homeowner Income Requirements. The Homes constituting the Project upon the Property and each of them may be conveyed only to (a) natural person(s) whose annual household income at the time is not greater than eighty percent (80%) of the most recent annual median income calculated and published by HUD for the Fresno Metropolitan Statistical Area applicable to such household's size.

Recapture Requirements. Should each Home constituting the Project upon the Property not continue to be the principal residence of the family purchasing the Property/Home as affordable housing for the duration of the period of affordability then the entire financial assistance provided by City and allocated to the Property/Home including all HOME Program Funding assistance shall immediately come due and must be repaid to/recaptured by the City's HOME Program Trust Fund and thereupon the balance of the affordability restrictions shall be released. The affordability restrictions also may terminate upon occurrence of any of the following termination events: foreclosure, transfer in lieu of foreclosure or assignment of an FHA insured mortgage to HUD, provided the affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before such termination events obtains an ownership interest in the housing. The City shall be possessed of a first right of refusal to purchase the Home before foreclosure to preserve affordability.

Item (a) above is hereinafter referred to as the Covenant and Restrictions.

3. Enforcement of Restrictions. 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.

4. Acceptance and Ratification. All present and future owners of the Project Home upon 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 Project 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 Project 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 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.

5. Benefit. This Declaration shall run with and bind the Project Homes upon the Property for a term commencing on the date this Declaration is recorded in the Office of the Recorder of the county 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.

6. Costs and Attorney's Fees. In any proceeding arising because of failure of Declarant or any future owner of the Project Homes upon 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.

7. Waiver. Neither Declarant nor any future owner of the Project Homes upon the Property may exempt itself from liability for failure to comply with the Covenant and Restrictions required in this Declaration.

8. 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.

9. 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.

10. 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.

11. Amendment. No amendment or modification of this Declaration shall be permitted without the prior written consent of City.

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

13. 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 CHDO Agreement by and between Declarant and City, of even date.

14. 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"

By:_____

Date:_____

By:_____

Date:_____

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EXHIBIT D: BUDGET

	Total	Private Funds	HOME Funds
LAND	$40,000.00		
SOFT COSTS			
Permit and Fees	$71,866.00		
Architecture and Engineering	$50,225.00		
Legal	$10,000.00		
Taxes/Insurance	$15,000.00		
Other	$15,400.00		
Total Soft Costs	$162,491.00		
HARD COSTS			
Site Prep/Grading	$6,500.00		
Off Site Improvements	$82,642.00		
On Site Improvements	$82,500.00		
Direct Construction	$896,113.00		
Contingencies	$90,000.00		
Contractor Overhead	$89,611.30		
Other	$62,500.00		
Total Hard Costs	$1,309,866.30		
DEVELOPER FEE	$147,235.73		
CONSTRUCTION FINANCING FEES	$30,250.00		
OTHER			
Subdivision/Title/Consulting Fees	$18,600.00		
Marketing and Sales	$90,000.00		
Total Other Costs	$108,600.00		
TOTAL EXPENSES	$1,798,443.03		
PROJECTED SALES PRICE	$1,800,000.00		
PERMANENT FINANCING	$1,800,000.00	$1,250,000.00	$550,000.00

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EXHIBIT E: EXEMPLAR CERTIFICATE OF COMPLETION

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

City of Fresno
Department of Planning and Development
Housing and Community Development Division
2600 Fresno Street, Room 3076
Fresno, CA 93721-3605
Attention: Housing 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:_____
Nick P. Yovino, Director
Planning and Development Department

Date:_____

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CERTIFICATE OF COMPLETION

APN:_____

Recitals:

A. By a HOME Investment Partnerships Program CHDO Agreement dated _____, 2005, ("HOME CHDO Agreement") between the City of Fresno, a municipal corporation ("CITY"), and Fresno West Coalition for Economic Development, a California non-profit public benefit corporation, ("FWCED"), FWCED agreed to develop ten (10) affordable single family homes ("Project"), upon the premises legally described in EXHIBIT A attached to the HOME CHDO Agreement as amended from time to time, made a part hereof by this reference, (the "Property") for the sale to/occupancy by low-income homebuyers, 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 CHDO Agreement or a memorandum of it was recorded on _____ _____, 2005 as Instrument No. _____ in the Official Records of Fresno County, California.

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

D. FWCED has asked CITY to furnish FWCED with a recordable Certificate of Completion.

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

NOW THEREFORE:

1. CITY certifies that FWCED commenced the construction of the Project Unit on _____, 2005 and completed the construction work on the Project Unit on _____, 200[---], and has done so in full compliance with the HOME CHDO Agreement.

2. This Certificate of Completion is not evidence of FWCED 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 _____, 200[---]_.

CITY OF FRESNO

By:_____
Nick P. Yovino, Director
Planning and Development Department

ATTEST:
CITY CLERK

By:_____
Deputy

Date: _____

APPROVED AS TO FORM:
CITY ATTORNEY

By:_____
Assistant/Deputy

Date: _____

CONSENT OF OWNER

Owner Name:_____

Owner Name:_____

By signing below, the owner(s) of the property consent(s) to recording this Certificate of Completion against the Property described herein.

_____
(Attach notary certificate of acknowledgment)

_____
(Attach notary certificate of acknowledgment)

BY PROJECT DEVELOPER

FRESNO WEST COALITION FOR ECONOMIC DEVELOPMENT., a California non-profit public benefit corporation, the developer of the Property, consents and agrees that all construction covenants of the Agreement have been met.

By:_____
(Attach notary certificate of acknowledgment

Date:_____

EXHIBIT F: EXEMPLAR NOTE

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

PROMISSORY NOTE

[$_____] Fresno, California [_____],
200[---]

For value received, the undersigned, [_____], a [_____] ("Borrower"), promises to pay to the order of the City of Fresno, a California municipal corporation, ("Lender"), the sum of [_____] Dollars, ($_____), payable without interest; all due and payable on or before the earlier of (i) Borrower's sale or other transfer of that Affordable Housing Unit referenced in the parties' HOME Investment Partnerships Program Community Development Housing Organization Agreement dated [_____] ("HOME CHDO Agreement") to which this Promissory Note relates, and (ii) Borrower's failure to maintain as his/her principal residence that Affordable Housing Unit referenced in the parties' HOME CDHO Agreement, on which date ("Maturity Date") the unpaid principal balance (interest free) together with unpaid penalties or late charges where applicable thereon shall be due and payable, along with attorney's fees and costs of collection, and without relief from valuation and appraisement laws, provided that if Borrower fully complies with the terms of the HOME CHDO Agreement, Loan Documents (including this Promissory Note), HUD regulations at 24 CFR Part 92 for 30 years following the date the Lender issues the Project Certificate of Completion, then Fifteen Thousand ($15,000) of said principal due shall be forgiven and this Note canceled to said extent, and the trustee instructed to reconvey pro rata the securing Deed of Trust.

All capitalized terms used in this Note, unless otherwise defined, will have the respective meanings specified in the HOME CHDO Agreement. 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.

Maturity Date means the date above defined. The Affordability Period begins on the date the Lender issues the Project Certificate of Completion.

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

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this Note, and executed in favor of and delivered to the Lender ("Deed of Trust"), insured as a not worse than 2nd position lien on the Property.

Time is of the essence. It will be a default under this Note if Borrower defaults under the HOME CHDO 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 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.

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 CHDO 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.

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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.

In witness whereof, Borrower has caused this Promissory Note to be executed by its authorized agent as of the date and year first above written.

[_____] Borrower
[_____] Borrower

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

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DC

FRESNO County Recorder
Robert C. Werner
DOC- 2007-0138810
Thursday, JUL 19, 2007 14:10:34
Ttl Pd $0.00 Nbr-0002559213
APR/R1/1-58

Recorded at the Request of
and When Recorded Return to:

City of Fresno
Planning and Development Department
Housing and Community Development Division
Attention: Housing Manager
2600 Fresno Street, Room 3076
Fresno, CA 93721-3605

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

This Amendment No. One to 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

Recording CONCURRENTLY HEREWITH

By: _____
Jon Ruiz
Assistant City Manager
Date: 6/21/07

AMENDMENT NO. ONE TO CITY OF FRESNO HOME PROGRAM CHDO AGREEMENT

by and between

CITY OF FRESNO,
a municipal corporation

and

FRESNO WEST COALITION FOR ECONOMIC DEVELOPMENT
a California non-profit public benefit corporation

regarding

"South Clara Estates"
Southeast Corner of Clara and North Avenues - APN: 329-020-07t
An Affordable Single Family Homes Project

Exhibit B

AMENDMENT NO. ONE TO
HOME INVESTMENT PARTNERSHIPS PROGRAM AGREEMENT
"SOUTH CLARA ESTATES"

This Amendment No. One to the HOME Investment Partnerships Program Community Housing Development Organization (CHDO) Agreement, hereinafter referred to as "Amendment No. One", is made and effective this May 15, 2007, by and between the CITY OF FRESNO, a municipal corporation, acting through its Planning and Development Department - Housing and Community Development Division (hereinafter referred to as the "CITY"), and FRESNO WEST COALITION FOR ECONOMIC DEVELOPMENT, a California non-profit public benefit corporation in good standing with principal offices in Fresno, California, including any and all nominees/assignees thereof consented to by CITY (collectively hereinafter referred to as "FWCED").

RECITALS

WHEREAS, the CITY and FWCED are parties to a June 16, 2005 HOME Investment Partnerships Program CHDO Agreement, referred to herein as the "HOME CHDO Agreement" incorporated herein, pursuant to which the CITY, to further its goal to increase the supply of Affordable Housing within the City of Fresno, desires to make available HOME funding for reimbursement of HOME eligible Project costs upon the terms and conditions in the HOME CHDO Agreement, related to ten (10) separate single-family Affordable Housing Units Located on APN 329-020-07T, referred to herein as "Project". The HOME CHDO Agreement is attached hereto as Exhibit A; and

WHEREAS, due to unforeseen delays in the on and off-site improvements during the final map process, including unexpected time needed to design, engineer and obtain permit approvals, FWCED has requested a time extension to June 30, 2008, for the Completion of the Project; and

WHEREAS, FWCED's Board of Directors approved this Amendment No. One on June 6, 2007.

AMENDMENT

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 acknowledged, the parties agree to the following:

1. The HOME Agreement is hereby amended to extend the Project Completion Date through June 30, 2008, consistent with the Revised Project Schedule attached hereto as Exhibit "B" and incorporated herein.

2. FWCED hereby waives and releases any and all claims or causes of action against CITY it possesses or may possess arising out of or related to this Amendment No. One.

3. In the event of a conflict between the body of this Amendment No. One and any exhibit or Attachment hereto, the terms and conditions of the body of this Amendment No. One shall control and take precedence over the Exhibit/Attachment.

4. Except as expressly modified and amended hereby, the HOME Agreement shall remain in full force and effect. From and after the effective date of this Amendment, references in the HOME Agreement to "this Agreement" shall mean the Home Agreement as hereby amended.

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IN WITNESS WHEREOF, the parties have executed this Amendment No. One to Agreement in Fresno, California, the day and year first above written.

CITY OF FRESNO,

a Municipal Corporation

By: _____
(Attach notary certificate of acknowledgment)
ANDREW T. SOUZA
City Manager

Date: 6/28/07

FRESNO WEST COALITION FOR ECONOMIC DEVELOPMENT
a California non-profit Public Benefit Corporation

By: _____
(Attach notary certificate of acknowledgment)
KEITH A. KELLEY
Executive Officer

Date: 6/06/07

APPROVED AS TO FORM:
JAMES SANCHEZ
City Attorney

By: _____
Robert Coyle, Deputy

Date: 6-12-07

ATTEST:
REBECCA E. KLISCH
City Clerk

By: Sherrie L. Baderstocker
Deputy

Date: 6/29/07

Attachment:
Exhibit A: June 16, 2005 HOME Agreement
Exhibit B: REVISED Project Schedule

ACKNOWLEDGMENT

State of California
County of Fresno

On June 6, 2007 before me, Rosemary Sambrano Notary Public
(here insert name and title of the officer)

personally appeared Keith A Kelley

personally known to me (or 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.

WITNESS my hand and official seal.

Signature Rosemary Sambrano

ROSEMARY SAMBRANO
COMM. #1605343
NOTARY PUBLIC - CALIFORNIA
FRESNO COUNTY
My Comm. Expires Sept. 10, 2009

(Seal)

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ACKNOWLEDGMENT

State of California
County of Fresno

On June 26, 2007 before me, Theresa Saldivar, Notary Public,
(here insert name and title of the officer)

personally appeared Jon Ruiz

personally known to me (or 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.

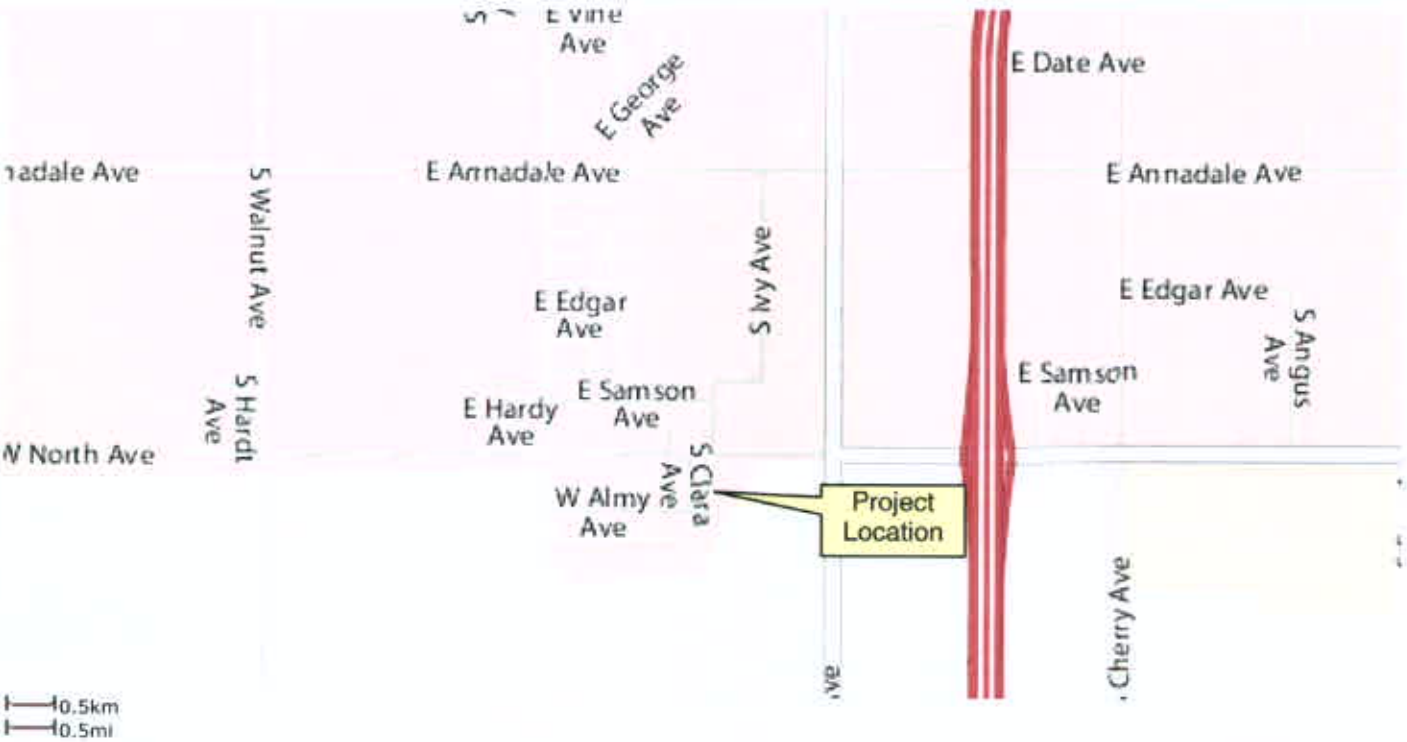
WITNESS my hand and official seal.

Signature Theresa Saldivar

NRO1 THERESA SALDIVAR
COMM. #1649668
Notary Public - California
Fresno County
My Comm. Expires Apr. 3, 2010 NRO1

(Seal)

Project Location Map



JMR 7-9-08

Exhibit - C Project Location Map

Tentative Schedule

Time Line for North and Clara Project

- Wednesday, June 25th, 2008 – Project is brought before HCDC for approval of project extension.
- Tuesday, July 15th, 2008 – Project is brought before City Council for approval of project extension.
- Tuesday, August 5th, 2008 – New deal points, assignments, new OPA agreement between RDA and Habitat, etc. brought to City Council.
- Wednesday, August 6th, 2008 – Habitat receives bond for final tract map.
- Thursday, August 7th, 2008 – Habitat submits for final tract map.
- September 19th, 2008 - Final tract map is approved.
- October 1st, 2008 – Off-site improvements begin.
- Friday, December 19th, 2008 – Off-site improvements are completed.
- Tuesday, January 6th, 2009 – First four slabs are poured.
- Saturday, February 7th, 2009 – Construction on the first home begins.
- March, 2009 – Construction on second home begins.
- April, 2009 – Construction on third home begins.
- May, 2009 – First home is completed.
- June, 2009 – Construction on fourth home begins.
- July, 2009 – Construction on fifth home begins.
- July, 2009 – Second home is completed.
- September, 2009 – Construction on sixth home begins.
- September, 2009 – Third home is completed.
- October, 2009 – Fourth home is completed.

- November, 2009 – Construction on seventh home begins.
- December, 2009 – Fifth home is completed.
- January, 2010 – Construction on eighth home begins.
- February, 2010 – Construction on ninth home begins.
- February, 2010 – Sixth home is completed.
- March, 2010 – Seventh home is completed.
- April, 2010 – Construction on tenth home begins.
- May, 2010 – Construction on eleventh home begins.
- May, 2010 – Eighth home is completed.
- July, 2010 – Ninth home is completed.
- August, 2010 – Tenth home is completed (HOME Agreement obligations met)
- October, 2010 – Eleventh home is completed.

69 1Q 7/15/08

Recorded at the Request of
and When Recorded Return to:

City of Fresno
Planning and Development Department
Housing and Community Development Division
Attention: Housing Manager
2600 Fresno Street, Room 3076
Fresno, CA 93721-3605

FRESNO County Recorder
Robert C. Werner
DOC- 2008-0124277
Friday, AUG 29, 2008 11:34:05
Ttl Pd $0.00 Nbr-0002836453
EMF/R5/1-68

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

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: Andrew T. Souza
Andrew T. Souza
City Manager

Date: 8/27/08

Amendment No. 2
To HOME Investment Partnerships Program Agreement

by and between

CITY OF FRESNO,
a municipal corporation

and

Fresno West Coalition for Economic Development.
a nonprofit public benefit corporation

regarding

"South Clara Estates"
Southeast Corner of Clara and North Avenues – APN# 329-020-07t
An Affordable Single Family Homes Project
(Time Extension)

AMENDMENT NO. TWO TO
HOME INVESTMENT PARTNERSHIPS AGREEMENT
"South Clara Estates"

This Amendment No. Two to the HOME Investment Partnerships (HOME) Program Agreement, hereinafter referred to as "Amendment No. Two", is made and effective as of July 15, 2008, by and between the CITY OF FRESNO, a municipal corporation, acting through its Planning and Development Department - Housing and Community Development Division ("CITY"), and Fresno West Coalition for Economic Development, a California non-profit public benefit corporation in good standing with principal offices in Fresno, California, including any and all nominees/assignees thereof consented to by CITY (collectively hereinafter referred to as "FWCED").

RECITALS

WHEREAS, the CITY and FWCED are parties to a June 16, 2005 HOME Investment Partnerships Program Agreement as once amended, referred to herein as the "HOME Agreement", attached hereto as Exhibit "A" and incorporated herein, pursuant to which the CITY, to further its goal to increase the supply of Affordable Housing within the City of Fresno, agrees to assist FWCED by providing HOME Program funds, upon the terms and conditions in the HOME Agreement, related to ten (10) separate single-family Affordable Housing Units located on APN# 329-020-07t at the Southeast Corner of Clara and North Avenues southwest Fresno, including related on-site and off-site improvements, referred to herein as the "Project"; and

WHEREAS, due to unexpected delays in processing entitlements and recording the tract map, FWCED has requested a time extension for completion of the Project; and

WHEREAS, FWCED's Board of Directors approved this Amendment No. Two on 7-22, 2008.

AMENDMENT

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 acknowledged, the parties agree to the following:

1. The HOME Agreement is hereby amended to extend the Project Completion Date through September 30, 2010, as more specifically provided in the Tentative Schedule attached hereto as Exhibit B

2. FWCED hereby waives and releases any and all claims or causes of action against CITY it possesses or may possess arising out of or related to this Amendment No. Two.

3. In the event of a conflict between the body of this Amendment No. Two and any Exhibit or Attachment hereto, the terms and conditions of the body of this Amendment No. Two shall control and take precedence over the Exhibit/Attachment.

4. Except as expressly modified and amended hereby, the HOME Agreement shall remain in full force and effect. From and after the effective date of this Amendment, references in the Agreement to "this Agreement" shall mean the HOME Agreement as hereby amended.

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IN WITNESS WHEREOF, the parties have executed this Amendment No. Two to HOME Agreement in Fresno, California, the day and year first above written.

CITY OF FRESNO
a Municipal Corporation

By: _____
(Attach notary certificate of acknowledgment)
ANDREW T. SOUZA
City Manager

Date: 8/27/08

Fresno West Coalition for Economic Development
a non-profit Public Benefit Corporation

By: _____
(Attach notary certificate of acknowledgment)
KEITH A. KELLY,
Executive Officer

Date: 7/30/08

APPROVED AS TO FORM:
JAMES SANCHEZ
City Attorney

By: _____
~~Robert Coyle~~, Deputy
Laurie Avedisian

Date: 8/13/08

ATTEST:
REBECCA E. KLISCH
City Clerk

By: _____
Deputy

Date: 8/28/08

Attachment:
Exhibit I: June 16, 2005 HOME Agreement and Amendment No. 1
Exhibit II: Tentative Schedule

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CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Fresno

On August 28, 2008 before me, Theresa Saldivar, Notary Public,
(Here insert name and title of the officer)

personally appeared Andrew T. Souza -,

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.

THERESA SALDIVAR
COMM. #1649668
Notary Public California
Fresno County
My Comm Expires Apr. 3, 2010
NRO1

Theresa Saldivar
Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages ____ Document Date ____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer

(Title)

- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Fresno

On July 30, 2008 (Date) before me, N June Shimoda, Notary Public (Here Insert Name and Title of the Officer),

personally appeared Keith Kelley (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.

N. JUNE SHIMODA
Commission # 1668539
Notary Public - California
Fresno County
My Comm. Expires May 20, 2010

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 N June Shimoda (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: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

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

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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FRESNO WEST COALITION FOR ECONOMIC DEVELOPMENT

July 22, 2008

Resolution

MEETING OF THE BOARD OF DIRECTORS

OF

FRESNO WEST COALITION FOR ECONOMIC DEVELOPMENT

At a meeting of the Fresno West Coalition for Economic Development (FWCED) Board of Directors held on July 22, 2008, a resolution was unanimously passed authorizing Keith Kelley, FWCED President/by his signature, to enter into a contractual obligation on behalf of this corporation regarding Amendment Two of the City of Fresno HOME Program CHDO Agreement, effective July 22, 2008.

Carolyn Carter

Carolyn Carter, Board Chair

July 22, 2008

Date

Founders
Rev. J.D. Adams
Rev. T.J. Caldwell
Deacon Ira Foster
Joyce Hunter
Myser Keels

Executive Officers

Chair
Carolyn Carter
Resident

Vice Chair
Rey Leon
Executive Director
San Joaquin Valley Latino Environmental Advancement & Policy Project

Secretary
Gloria Torres
Director
CA Latina Leaders in Action

Treasurer
Charles Francis
Director of Training Institute
Fresno City College

Board Members

Dr. Lee Farley
Associate Dean of Students
Federal Trio Program EOP&S
Fresno City College

Richard Keyes
Retired Executive
Organizational Consultant

Eric Mayu
SBA Account Officer

Gary Carter
Broker Associate
London Properties

Glenda Allen-Hill
Superior Court commissioner
Fresno County Court

Gloria Ponce-Rodriguez
Program Manager
San Joaquin Valley Health Consortium

Renee Scott
Community Business Owner

Verona Swanigan
Attorney

Jo Ann Unruh
Community Activist

President and CEO
Keith A. Kelley

302 Fresno Street • Suite 212 • Fresno, California • 93706
Phone: 559.485.1273 • Fax: 559.485.1276

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