

2:00pm #3 - B  
6/24/10

RECORDED AT THE REQUEST OF  
AND WHEN RECORDED RETURN TO:

CITY OF FRESNO  
City Clerk's Office (Original)

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

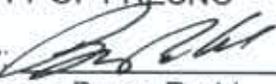
(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

This Amendment No. III 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.

**In reference to:**

City of Fresno Disposition and Development Agreement and HOME Program Agreement recorded on 1/6/09 as document No. 2009-0001274, and Amendment No. 1 to the Disposition and Disposition and Development and HOME Program Agreement recorded on 8/13/09 as document No. 2009-0112713, and Amendment No. II to the Disposition and Development Agreement and HOME Program Agreement recorded on 3/24/10 as document No. 2010-0038658.

CITY OF FRESNO

By:   
Name: Bruce Rudd  
Its: Assistant City Manager  
Date: 8/2/10

**AMENDMENT NO. III TO  
CITY OF FRESNO  
DISPOSITION AND DEVELOPMENT  
AGREEMENT  
AND HOME PROGRAM  
AGREEMENT**

by and between

CITY OF FRESNO,  
a municipal corporation

and

ROEM Development Corporation, a California Corporation

Regarding

"Palm View Gardens, Phase I"  
APN: 472-021-61T

(South side of Kings Canyon between Peach and Adler Avenues, Fresno, CA 93727)

## AMENDMENT NO. III TO

### **Disposition and Development Agreement and HOME Program Agreement regarding Construction of Affordable Multi-Family Senior Housing**

This Amendment No. III to the Disposition and Development Agreement (DDA) and HOME Agreement, effective \_\_\_\_\_, 2010, is entered into between ROEM Development Corporation, a California corporation ("ROEM"), and the City of Fresno, a municipal corporation, acting through its Downtown and Community Revitalization Department - Housing and Community Development Division ("CITY").

#### RECITALS

WHEREAS, the CITY and ROEM are parties to a December 10, 2008 DDA and HOME Agreement and Exhibits/Attachments thereto, including covenants running with the land, as amended on July 30, 2009 (Amendment No. 1), and as further amended on March 4, 2010 (Amendment No. II), (hereinafter collectively the "DDA and HOME Agreement"), incorporated herein, pursuant to which the CITY, to further its goal to increase the supply of Affordable Housing within the City of Fresno, agreed to assist ROEM by providing HOME Program funds, upon the terms and conditions in the DDA and HOME Agreement, related to a one hundred and thirty-three (133) unit senior rental housing project to be funded and constructed in two phases, in part, with U.S. Department of Housing and Urban Development (HUD) HOME Program funds, upon HOME eligible property located on Kings Canyon between Peach Avenue and Adler Avenue, within the boundaries of the City of Fresno, APN 472-021-61T, as more particularly described in the DDA and HOME Agreement, as amended, said Project subject to Affordability restrictions as provided in the DDA and HOME Agreement; and

WHEREAS, the City desires to modify the DDA and HOME Agreement to increase and commit an allocation of the CITY's 2009-2010 fiscal year HOME Program funds from HUD to the Affordable Housing Project from the sum of Two Million and 00/100 Dollars (\$2,000,000.00) to a not to exceed total of Two Million Five Hundred Thousand and 00/100 Dollars (\$2,500,000.00), upon the terms and conditions herein; and

WHEREAS, the parties desire to modify the number of HOME-Assisted Units in Phase I from 16 to 37; and

WHEREAS, ROEM Board of Directors approved this Amendment III on June 2, 2010; and

WHEREAS, the Housing and Community Development Commission recommended approval of this Amendment No. III on June 9, 2010; and

WHEREAS, the Fresno City Council approved this Amendment No. III on June 24, 2020;  
and

WHEREAS, the entry into this Amendment No. III, ROEM agrees that ROEM has no claim, demands or disputes against the CITY, and ROEM waives and releases any and all claims against CITY arising out of this Amendment No. III.

### 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. HOME Loan funds shall be increased from Two Million and 00/100 Dollars (\$2,000,000.00) to a not to exceed total of Two Million Five Hundred Thousand and 00/100 Dollars (\$2,500,000.00) to Phase I, subject to and to the extent of allocated and available 2009-2010 fiscal year funding, contingent upon ROEM's full funding of Phase I, and Loan Documents shall be modified accordingly, subject to approval as to form by CITY Attorney's Office.
2. The Property Description attached to the DDA and HOME Agreement as Exhibit "A" is hereby stricken and replaced with the Revised Property Description attached hereto as Exhibit "A" and incorporated herein.
3. The Project Description and Schedule attached to the DDA and HOME Agreement as Exhibit "B" is hereby stricken and replaced with the Revised Project Description and Schedule attached hereto as Exhibit "B" and incorporated herein.
4. The Project Budget attached to the DDA and HOME Agreement as Exhibit "C" is hereby stricken and replaced with the Revised Project Budget attached hereto as Exhibit "C" and incorporated herein.
5. The Project 55-year Cash Flow Statement attached to the DDA and HOME Agreement as Exhibit "D" is hereby stricken and replaced with the Revised Project 55-year Cash Flow Statement attached hereto as Exhibit "D" and incorporated herein.
6. The Project Promissory Note attached to the DDA and HOME Agreement as Exhibit "F" is hereby stricken and replace with the Restated and Superseding Promissory Note as Exhibit "F" and incorporated herein.
7. The Project Deed of Trust attached to the DDA and HOME Agreement as Exhibit "H" is hereby stricken and replace with the revised Deed of Trust Assignment of Rents as Exhibit "H" and incorporated herein.
8. The Project Declaration of Restrictions attached to the DDA and HOME Agreement as Exhibit "I" is hereby stricken and replaced with the revised Declaration of Restrictions attached as Exhibit "I" and incorporated herein.

9. In the event of any conflict between the body of this Amendment No. III, and any exhibit or attachment hereto, the terms and conditions of the body of this Amendment No. III shall control and take precedence over the exhibit/attachment.
10. All capitalized terms used in this Amendment No. III, unless otherwise defined herein, shall have the meanings assigned to such terms in the DDA and HOME Agreement.
11. Except as expressly modified and amended hereby, the DDA and HOME Agreement shall remain in full force and effect. From and after the effective date of this Amendment III, references in the DDA and HOME Agreement to "this Agreement" shall mean the DDA and HOME Agreement as hereby amended.
12. This Amendment No. III shall be conditional upon any/all required HUD approvals.

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///  
///

IN WITNESS WHEREOF, the authorized agents of the parties hereto have executed this Amendment No III, at Fresno, California, the day and year first above written.

CITY OF FRESNO, a Municipal Corporation

By:   
Bruce Rudd, Assistant City Manager  
(Attach notary certificate of acknowledgment)

8/31/10  
Date

ATTEST  
Rebecca E. Klisch  
City Clerk

By:   
(Deputy)

Date: sep 2, 2010

APPROVED AS TO FORM:  
James Sanchez  
City Attorney

By:   
Robert Coyle, Deputy

Date: 8-25-10

ROEM Development Corporation

BY:   
(Attach notary certificate of acknowledgment)

Name: Jonathan Emami

Title: Vice President

- Exhibit A: Property Description
- Exhibit B: Revised Project Description and Schedule
- Exhibit C: Revised Project Budget
- Exhibit D: Revised Project 55-Year Cash Flow Statement
- Exhibit F: Restated and Superseding Promissory Note
- Exhibit H: Deed of Trust Assignment of Rents
- Exhibit I: Declarations of Restrictions

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Fresno

On 8-31-10 before me, Emma L. Baker Notary Public  
(Here insert name and title of the officer)

personally appeared Bruce Rudd

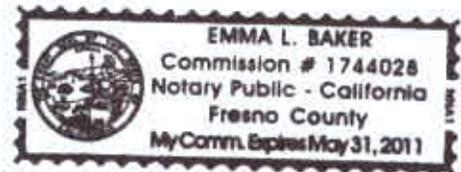
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), 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.

Emma L. Baker  
Signature of Notary Public

(Notary Seal)



## ADDITIONAL OPTIONAL INFORMATION

### 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

### DESCRIPTION OF THE ATTACHED DOCUMENT

Amendment No III to COF  
(Title or description of attached document)

Disposition & Dev Agreement  
(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 \_\_\_\_\_

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Santa Clara

On Aug. 20, 2010 before me, Farheen Ghatala, Notary Public  
(Here insert name and title of the officer)

personally appeared Jonathan Emami

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.

Farheen Ghatala  
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)

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- Individual (s)  
 Corporate Officer

(Title)

- Partner(s)  
 Attorney-in-Fact  
 Trustee(s)  
 Other \_\_\_\_\_

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- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
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- 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.
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  - ❖ 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.

**EXHIBIT A**

**PROPERTY DESCRIPTION**

(Attached)

## EXHIBIT "A"

APN 472-021-59T (PORTION)

That real property situated in the City of Fresno, County of Fresno, State of California, said real property being a portion of Lot 75 of Easterby Rancho, according to the map thereof recorded in Volume 2 of Plats at Page 6, Fresno County Records, said real property also being a portion of that parcel of land conveyed to the City of Fresno by the Grant Deed recorded August 30, 2007 as Document No. 2007-0163315, Official Records of Fresno County, hereinafter referred to as "Deeded Parcel", said real property being more particularly described as follows:

**COMMENCING** at the Northwest corner of Lot 76 of said Easterby Rancho; thence South  $89^{\circ}27'54''$  East, 647.00 feet along the North line of said Lots 75 and 76; thence South  $00^{\circ}45'49''$  West, 29.00 feet, parallel with the West line of said Lot 76 to the Northwest corner of said Deeded Parcel; thence continuing South  $00^{\circ}45'49''$  West, 137.00 feet, parallel with the West line of said Lot 76 and along the West line of said Deeded Parcel to the **TRUE POINT OF BEGINNING** of this description, said point of beginning also being the Southwest corner of the land described in the Grant Deed recorded March 28, 2008 as Document No. 2008-0046264, Official Records of Fresno County; thence Easterly along the Southerly boundary of the land described in said Document No. 2008-0046264 the following three courses 1) South  $89^{\circ}27'54''$  East, 288.59 feet along a line 137.00 feet South of and parallel with the North line of said Deeded Parcel to the beginning of a non-tangent curve concave to the South having a radius of 45.00 feet and to which beginning a radial lines bears North  $58^{\circ}50'16''$  West; thence 2) Northeasterly and Southeasterly, 93.26 feet along said curve through a central angle of  $118^{\circ}44'43''$  to a point on a line 137.00 feet South of and parallel with the North line of said Deeded Parcel; thence 3) South  $89^{\circ}27'54''$  East, 255.47 feet on a non-tangent line and along last said parallel line to a point on the East line of said Deeded Parcel; thence South  $00^{\circ}45'49''$  West, 298.20 feet, parallel with the West line of said Lot 76 and along the East line of said Deeded Parcel to the Southeast corner of said Deeded Parcel; thence Westerly along the Southerly boundary of said Deeded Parcel the following five courses 1) North  $89^{\circ}28'15''$  West, 142.15 feet; thence 2) North  $00^{\circ}31'45''$  East, 50.75 feet; thence 3) North  $89^{\circ}24'52''$  West, 194.29 feet; thence 4) North  $00^{\circ}32'24''$  East, 40.00 feet; thence 5) North  $89^{\circ}29'37''$  West, 284.69 feet to the Southwest corner of said Deeded Parcel; thence North  $00^{\circ}45'49''$  East, 207.44 feet parallel with the West line of said Lot 76 and along the West line of said Deeded Parcel to the **TRUE POINT OF BEGINNING**.

**EXCEPTING THEREFROM** all that portion of the above described real property more particularly described as follows:

**COMMENCING** at the Northwest corner of Lot 76 of said Easterby Rancho; thence South  $89^{\circ}27'54''$  East, 647.00 feet along the North line of said Lots 75 and 76; thence South  $00^{\circ}45'49''$  West, 29.00 feet, parallel with the West line of said Lot 76 to the Northwest corner of said Deeded Parcel; thence continuing South  $00^{\circ}45'49''$  West,

137.00 feet, parallel with the West line of said Lot 76 and along the West line of said Deeded Parcel to the **TRUE POINT OF BEGINNING** of this description, said point of beginning also being the Southwest corner of the land described in the Grant Deed recorded March 28, 2008 as Document No. 2008-0046264, Official Records of Fresno County; thence Easterly along the Southerly boundary of the land described in said Document No. 2008-0046264 the following two courses 1) South  $89^{\circ}27'54''$  East, 288.59 feet along a line 137.00 feet South of and parallel with the North line of said Deeded Parcel to the beginning of a non-tangent curve concave to the Southeast having a radius of 45.00 feet and to which beginning a radial line bears North  $58^{\circ}50'16''$  West; thence 2) Northeasterly, 46.21 feet along said curve through a central angle of  $58^{\circ}49'58''$ ; thence South  $00^{\circ}45'49''$  West, 269.40 feet on a non-tangent line to last said curve and parallel with the West line of said Lot 76, to a point on the Southerly boundary of said Deeded Parcel; thence Westerly along the Southerly boundary of said Deeded Parcel the following three courses 1) North  $89^{\circ}24'52''$  West, 41.95 feet; thence 2) North  $00^{\circ}32'24''$  East, 40.00 feet; thence 3) North  $89^{\circ}29'37''$  West, 284.69 feet to the Southwest corner of said Deeded Parcel; thence North  $00^{\circ}45'49''$  East, 207.44 feet, parallel with the West line of said Lot 76 and along the West line of said Deeded Parcel to the **TRUE POINT OF BEGINNING**.

Contains an area of 80,752 square feet, more or less.

For the purpose of this description the North line of said Lots 75 and 76 is taken to be a line 30.00 feet South of and parallel with the North line of the Northeast quarter of Section 7, Township 14 South, Range 21 East, Mount Diablo Base and Meridian, and the West line of said Lot 76 is taken to be a line 20.00 feet East of and parallel with the West line of the Northeast quarter of said Section 7.

*HDJue*  
*5/14/10*



2010-037B  
PLAT 2763

**EXHIBIT B**

REVISED PROJECT DESCRIPTION AND SCHEDULE

(Attached)

## EXHIBIT "B"

### REVISED PROJECT DESCRIPTION AND SCHEDULE

Palm View Gardens, a one hundred and thirty-three (133) unit senior affordable housing project, will be constructed as described in the December 10, 2008 Disposition and Development Agreement and HOME Agreement, as amended in the July 30, 2009 Amendment I, and as further amended on March 4, 2010 Amendment II, and as further amended on June 24, 2010 Amendment III, and provides for the one hundred and thirty-three (133) units and amenities to be constructed in two phases; seventy-four (74) units in Phase I and fifty-nine (59) units in Phase II.

#### PHASE I PROJECT DESCRIPTION

Phase I will consist of acquisition of the property APN: 472-021-61T, related on- and off-site improvements for Phase I, installation of utility connections for Phase I, construction of seventy-four (74) units of which thirty-seven (37) HOME-Assisted units will be preserved as Low- to Very Low-Income Senior Housing, a community room, laundry facility, courtyard area with a barbecue pit, fountains, benches, lighting and landscaping, vegetable garden area, security fence and gate, carports, uncovered parking spaces, guest parking spaces, and trash enclosures. There will be one (1) two-bedroom/one-bath manager unit in Phase I.

HOME Funds for Phase I will be made available by the CITY for payment of HOME eligible costs not to exceed Two Million Five Hundred Thousand and 00/100 Dollars (\$2,500,000.00), for HOME eligible project development costs.

The Low- to Very Low-Income units in Phase I will be provided in accordance with the following chart:

#### PHASE I – UNIT MIX

Percent of Median Income	One Bedroom
<50% or below (HOME)	30
<60% or below (HOME)	7
<60% or below	36
Manager Unit	1
<b>Total</b>	<b>74</b>

The thirty-seven (37) HOME-Assisted units will be reserved as affordable for a period of fifty-five (55) years. Seventy-three (73) units will be one-bedroom/one-bath units, ranging in size from approximately 550 square feet to approximately 692 square feet. Selected units will have decks or patios. One (1) two-bedroom/one-bath unit will be reserved for an on-site property manager in Phase I.

#### PHASE I - PROJECT SCHEDULE

Activity	Date
Finance Plan	September 2010
Acquisition/Escrow Close	October 2010
Obtain Building Permits	December 2010
Start Construction	December 2010
Complete Construction	April 2012
Complete Lease Up	September 2012

**PHASE II PROJECT DESCRIPTION**

Phase II will consist of acquisition of the property APN: 472-021-60T, related on-site improvements, construction of fifty-nine (59) units preserved as Low- to Very Low-Income Senior Housing, a laundry facility, courtyard area with a barbecue pit, fountains, benches, lighting and landscaping, vegetable garden area, security fence and gate, carports, uncovered parking spaces, guest parking, and trash enclosures. There will be one (1) two-bedroom/one-bath manager unit in Phase II.

HOME Funds for Phase II will be determined by the CITY at a future date, as needed, for payment of HOME eligible project development costs. Any proposed HOME funds to Phase II will be provided for as an additional amendment to the Disposition and Development Agreement and HOME Agreement.

The Low- to Very Low-Income units in Phase II will be provided in accordance with the following chart:

**PHASE II – UNIT MIX**

<b>Percent of Median Income</b>	<b>One Bedroom</b>
<50% or below (HOME)	To Be Determined
<60% or below (HOME)	To Be Determined
<60% or below	To Be Determined
Manager Unit	1
<b>Total</b>	<b>59</b>

The Low- to Very Low-Income Senior Housing units will be reserved as affordable for a period of fifty-five (55) years. Fifty-eight (58) units will be one-bedroom/one-bath units, ranging in size from approximately 550 square feet to approximately 600 square feet. Selected units will have decks or patios. One (1) two-bedroom/one-bath unit will be reserved for an on-site property manager in Phase II.

**PHASE II - PROJECT SCHEDULE**

<b>Activity</b>	<b>Date</b>
Finance Plan	September 2011
Obtain Building Permits	December 2011
Start Construction	December 2011
Complete Construction	April 2013
Complete Lease Up	September 2013

Phase II will be located west of Phase I. ROEM shall start construction of Phase II within three (3) years from the end of lease up for Phase I and shall cause construction of the one hundred and thirty-three (133) units and related improvement and amenities to be fully constructed within five (5) years from the Notice of Completion date of Phase I. ROEM shall maintain and secure the vacant undeveloped Phase II area until construction commences.

**EXHIBIT C**

**REVISED PROJECT BUDGET**

(Attached)

## EXHIBIT "C"

### DEVELOPMENT SOURCES & USES (Cost Estimates)

9% Credits

Palm View Gardens (Phase I)  
Fresno, California

CONSTRUCTION SOURCES	Total
Investor Capital	4,035,375
Construction Loan	5,062,000
City Loan - HOME	2,500,000
Accrued Interest - City Loan	193,786
RDA Grant	100,000
Prop IC Funds	1,750,000
Lease Up Income	91,049
Deferred Developer Fee	1,100,000
<b>TOTAL CONS. SOURCES</b>	<b>14,832,209</b>

PERMANENT SOURCES	Total
Investor Capital	8,070,750.00
Perm - Loan	1,724,068.34
City Loan - HOME	2,500,000.00
Accrued Interest - City Loan	193,785.72
RDA Grant	100,000.00
Prop IC Funds	1,750,000.00
Lease Up Income	93,618.16
Deferred Developer Fee	399,987.22
<b>TOTAL PERM. SOURCES</b>	<b>14,832,209</b>

## EXHIBIT "C"

### DEVELOPMENT SOURCES & USES (Cost Estimates) 9% Credits

Palm View Gardens (Phase I)  
Fresno, California

DEVELOPMENT COSTS		Per Gross Square Foot	Per Unit	Eligible Basis
Land	154,000	2.20	2,081	-
<b>LAND COSTS TOTAL</b>	<b>154,000</b>	<b>2.20</b>	<b>2,081</b>	<b>-</b>
Off-Site Improvements/Demolition	673,882	9.61	9,107	673,882
Construction	8,059,345	114.88	108,910	8,059,345
General Requirements	523,994	7.47	7,081	523,994
Overhead	185,144	2.64	2,502	185,144
Profit	555,433	7.92	7,506	555,433
Hard Cost Contingency <span style="float: left;">5%</span>	499,890	7.13	6,755	499,890
<b>HARD COSTS TOTAL</b>	<b>10,497,688</b>	<b>149.64</b>	<b>141,861</b>	<b>10,497,688</b>
Construction/Liability Insurance	100,432	1.43	1,357	100,432
Appraisal/Market Study	15,000	0.21	203	15,000
Architect	479,690	6.84	6,482	479,690
Engineering/Consultants	288,000	4.11	3,892	288,000
Permits & Fees	573,365	8.17	7,748	573,365
Title / Recording - Construction Loan	25,000	0.36	338	25,000
Taxes/Assessment	35,000	0.50	473	35,000
Construction Bond	109,165	1.56	1,475	109,165
Accounting	20,000	0.29	270	20,000
Construction Loan Interest	299,027	4.26	4,041	110,311
Lender Inspections	22,000	0.31	297	22,000
City Loan Interest	193,786	2.76	2,619	135,452
Borrower Legal	125,000	1.78	1,689	125,000
Construction Loan Fee	37,965	0.54	513	37,965
Construction Loan Application Fee	15,000	0.21	203	15,000
Marketing/Lease Up/Start Up	75,000	1.07	1,014	-
Permanent Loan Fees	21,551	0.31	291	-
Title / Recording - Permanent Loan	25,000	0.36	338	-
Legal - Construction Lender	30,000	0.43	405	30,000
Legal - Permanent Lender	35,000	0.50	473	-
TCAC Application Fee	2,000	0.03	27	-
TCAC Allocation Fee	42,482	0.61	574	-
TCAC Monitoring Fee	30,340	0.43	410	-
Soft Cost Contingency	91,809	1.31	1,241	91,809
Cash Reserves	88,910	1.27	1,201	-
<b>SOFT COSTS TOTAL</b>	<b>2,780,521</b>	<b>39.64</b>	<b>37,575</b>	<b>2,213,189</b>
Developer Fee	1,400,000	19.96	18,919	1,400,000
<b>DEVELOPMENT TOTAL</b>	<b>14,832,209</b>	<b>211.43</b>	<b>200,435</b>	<b>14,110,878</b>

**EXHIBIT D**

**REVISED PROJECT 55-YEAR CASH FLOW STATEMENT**

(Attached)

## EXHIBIT "D"

### Cash Flow Schedule

**Palm View Gardens (Phase I)**  
Fresno, California

**ROEM Corporation**  
Santa Clara, CA

### 55 Year Cash Flow Schedule

Annual Rental Income Increase 2.50%  
Annual Misc. Income Increase 2.50%  
Annual Expense Increase 3.50%  
Partnership Management Fee Index 3.00%

Vacancy/Collection Loss 5.00%  
Replacement Reserve/Per Unit \$250  
1st Mortgage Amount \$ 1,724,068  
Interest Rate 7.75%  
Amortization Period (Years) 35

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Gross Potential Revenue	406,668	416,835	427,256	437,937	448,885	460,108	471,610
Other Income	9,768	10,012	10,263	10,519	10,782	11,052	11,328
Less: Vacancy	(20,822)	(21,342)	(21,876)	(22,423)	(22,983)	(23,558)	(24,147)
Effective Gross Income	395,614	405,505	415,642	426,033	436,684	447,601	458,791
less Operating Expenses	(212,431)	(219,866)	(227,561)	(235,526)	(243,769)	(252,301)	(261,132)
less Replacement Reserves	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)
Net Operating Income	164,683	167,139	169,581	172,007	174,415	176,800	179,160
less Debt Service - 1st Mortgage	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)
Net Cash Flow	21,475	23,931	26,373	28,799	31,207	33,592	35,952
less Partnership Asset Mgt Fees	(10,300)	(10,609)	(10,927)	(11,255)	(11,593)	(11,941)	(12,299)
less Def. Dev. Fee/Inc. Mgt. Fee	0%	(11,175)	(13,322)	(15,446)	(17,544)	(19,614)	(21,652)
Cash Flow After GP Payments	0	0	0	0	0	0	0
City of Fresno Loan	50%	0	0	0	0	0	0
Net Cash Flow	0	0	0	0	0	0	0

	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15
Gross Potential Revenue	483,400	495,485	507,873	520,569	533,584	546,923	560,596	574,611
Other Income	11,611	11,901	12,199	12,504	12,816	13,137	13,465	13,802
Less: Vacancy	(24,751)	(25,369)	(26,004)	(26,654)	(27,320)	(28,003)	(28,703)	(29,421)
Effective Gross Income	470,261	482,017	494,068	506,420	519,080	532,057	545,359	558,993
less Operating Expenses	(270,271)	(279,731)	(289,521)	(299,654)	(310,142)	(320,997)	(332,232)	(343,860)
less Replacement Reserves	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)
Net Operating Income	181,490	183,787	186,047	188,265	190,438	192,560	194,626	196,632
less Debt Service - 1st Mortgage	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)
Net Cash Flow	38,282	40,579	42,839	45,057	47,230	49,352	51,418	53,424
less Partnership Asset Mgt Fees	(12,668)	(13,048)	(13,439)	(13,842)	(14,258)	(14,685)	(15,126)	(15,580)
less Def. Dev. Fee/Inc. Mgt. Fee	0%	(25,614)	(27,531)	(29,400)	(31,215)	(32,972)	0	0
Cash Flow After GP Payments	0	0	0	0	0	0	36,292	37,844
City of Fresno Loan	50%	0	0	0	0	0	(18,146)	(18,922)
Net Cash Flow	0	0	0	0	0	0	18,146	18,922

	Year 16	Year 17	Year 18	Year 19	Year 20	Year 21	Year 22	Year 23
Gross Potential Revenue	588,977	603,701	618,793	634,263	650,120	666,373	683,032	700,108
Other Income	14,147	14,501	14,863	15,235	15,616	16,006	16,406	16,816
Less: Vacancy	(30,156)	(30,910)	(31,683)	(32,475)	(33,287)	(34,119)	(34,972)	(35,846)
Effective Gross Income	572,967	587,292	601,974	617,023	632,449	648,260	664,466	681,078
less Operating Expenses	(355,896)	(368,352)	(381,244)	(394,588)	(408,398)	(422,692)	(437,486)	(452,799)
less Replacement Reserves	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)
Net Operating Income	198,572	200,440	202,230	203,935	205,550	207,068	208,480	209,780
less Debt Service - 1st Mortgage	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)
Net Cash Flow	55,364	57,232	59,022	60,727	62,342	63,860	65,272	66,572
less Partnership Asset Mgt Fees	(16,047)	(16,528)	(17,024)	(17,535)	(18,061)	(18,603)	(19,161)	(19,736)
less Def. Dev. Fee/Inc. Mgt. Fee	0%	0	0	0	0	0	0	0
Cash Flow After GP Payments	39,317	40,703	41,997	43,192	44,281	45,257	46,111	46,836
City of Fresno Loan	50%	(19,658)	(20,352)	(20,999)	(21,596)	(22,141)	(22,628)	(23,055)
Net Cash Flow	19,658	20,352	20,999	21,596	22,141	22,628	23,055	23,418

## EXHIBIT "D"

Palm View Gardens (Phase I)  
Fresno, California

ROEM Corporation  
Santa Clara, CA

### 55 Year Cash Flow Schedule

	Year 24	Year 25	Year 26	Year 27	Year 28	Year 29	Year 30	Year 31
Gross Potential Revenue	717,611	735,551	753,940	772,788	792,108	811,911	832,208	853,014
Other Income	17,237	17,668	18,109	18,562	19,026	19,502	19,989	20,489
Less: Vacancy	(36,742)	(37,661)	(38,602)	(39,568)	(40,557)	(41,571)	(42,610)	(43,675)
Effective Gross Income	698,105	715,558	733,447	751,783	770,577	789,842	809,588	829,828
less Operating Expenses	(468,646)	(485,049)	(502,026)	(519,597)	(537,783)	(556,605)	(576,086)	(596,249)
less Replacement Reserves	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)
Net Operating Income	210,959	212,009	212,921	213,686	214,295	214,737	215,002	215,078
less Debt Service - 1st Mortgage	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)
Net Cash Flow	67,751	68,801	69,713	70,478	71,087	71,529	71,794	71,870
less Partnership Asset Mgt Fees	(20,328)	(20,938)	(21,566)	(22,213)	(22,879)	(23,566)	(24,273)	(25,001)
less Def. Dev. Fee/Inc. Mgt. Fee	0%	0	0	0	0	0	0	0
Cash Flow After GP Payments	47,423	47,863	48,147	48,265	48,207	47,963	47,521	46,870
City of Fresno Loan	50%	(23,711)	(23,931)	(24,073)	(24,133)	(24,104)	(23,982)	(23,761)
Net Cash Flow	23,711	23,931	24,073	24,133	24,104	23,982	23,761	23,435

	Year 32	Year 33	Year 34	Year 35	Year 36	Year 37	Year 38	Year 39
Gross Potential Revenue	874,339	896,197	918,602	941,567	965,107	989,234	1,013,965	1,039,314
Other Income	21,001	21,526	22,064	22,616	23,181	23,761	24,355	24,964
Less: Vacancy	(44,767)	(45,886)	(47,033)	(48,209)	(49,414)	(50,650)	(51,916)	(53,214)
Effective Gross Income	850,573	871,838	893,633	915,974	938,874	962,346	986,404	1,011,064
less Operating Expenses	(617,118)	(638,717)	(661,072)	(684,210)	(708,157)	(732,942)	(758,595)	(785,146)
less Replacement Reserves	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)
Net Operating Income	214,955	214,621	214,061	213,265	212,217	210,903	209,309	207,418
less Debt Service - 1st Mortgage	(143,208)	(143,208)	(143,208)	(143,208)	(143,208)	0	0	0
Net Cash Flow	71,747	71,413	70,853	70,057	69,009	210,903	209,309	207,418
less Partnership Asset Mgt Fees	(25,751)	(26,523)	(27,319)	(28,139)	(28,983)	(29,852)	(30,748)	(31,670)
less Def. Dev. Fee/Inc. Mgt. Fee	0%	0	0	0	0	0	0	0
Cash Flow After GP Payments	45,996	44,889	43,534	41,918	40,026	181,051	178,561	175,748
City of Fresno Loan	50%	(22,998)	(22,445)	(21,767)	(20,959)	(20,013)	(19,525)	(18,784)
Net Cash Flow	22,998	22,445	21,767	20,959	20,013	90,525	89,280	87,874

	Year 40	Year 41	Year 42	Year 43	Year 44	Year 45	Year 46	Year 47
Gross Potential Revenue	1,065,297	1,091,930	1,119,228	1,147,208	1,175,889	1,205,286	1,235,418	1,266,304
Other Income	25,588	26,228	26,883	27,555	28,244	28,950	29,674	30,416
Less: Vacancy	(54,544)	(55,908)	(57,306)	(58,738)	(60,207)	(61,712)	(63,255)	(64,836)
Effective Gross Income	1,036,341	1,062,249	1,088,806	1,116,026	1,143,926	1,172,525	1,201,838	1,231,884
less Operating Expenses	(812,626)	(841,068)	(870,506)	(900,973)	(932,508)	(965,145)	(998,925)	(1,033,888)
less Replacement Reserves	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)
Net Operating Income	205,214	202,681	199,800	196,552	192,919	188,879	184,412	179,496
less Debt Service - 1st Mortgage	0	0	0	0	0	0	0	0
Net Cash Flow	205,214	202,681	199,800	196,552	192,919	188,879	184,412	179,496
less Partnership Asset Mgt Fees	(32,620)	(33,599)	(34,607)	(35,645)	(36,715)	(37,816)	(38,950)	(40,119)
less Def. Dev. Fee/Inc. Mgt. Fee	0%	0	0	0	0	0	0	0
Cash Flow After GP Payments	172,594	169,082	165,193	160,907	156,204	151,063	145,462	139,377
City of Fresno Loan	50%	(86,297)	(84,541)	(82,596)	(80,454)	(78,102)	(75,532)	(72,731)
Net Cash Flow	86,297	84,541	82,596	80,454	78,102	75,532	72,731	69,688

## EXHIBIT "D"

Palm View Gardens (Phase I)  
Fresno, California

ROEM Corporation  
Santa Clara, CA

### 55 Year Cash Flow Schedule

	Year 48	Year 49	Year 50	Year 51	Year 52	Year 53	Year 54	Year 55
Gross Potential Revenue	1,297,961	1,330,410	1,363,670	1,397,762	1,432,706	1,468,524	1,505,237	1,542,868
Other Income	31,176	31,956	32,755	33,574	34,413	35,273	36,155	37,059
Less: Vacancy	(66,457)	(68,118)	(69,821)	(71,567)	(73,356)	(75,190)	(77,070)	(78,996)
Effective Gross Income	1,262,681	1,294,248	1,326,604	1,359,769	1,393,763	1,428,607	1,464,323	1,500,931
less Operating Expenses	(1,070,074)	(1,107,526)	(1,146,290)	(1,186,410)	(1,227,934)	(1,270,912)	(1,315,394)	(1,361,433)
less Replacement Reserves	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)
Net Operating Income	174,107	168,221	161,814	154,859	147,329	139,195	130,429	120,998
less Debt Service - 1st Mortgage	0	0	0	0	0	0	0	0
Net Cash Flow	174,107	168,221	161,814	154,859	147,329	139,195	130,429	120,998
less Partnership Asset Mgt Fees	(41,323)	(42,562)	(43,839)	(45,154)	(46,509)	(47,904)	(49,341)	(50,821)
less Def. Dev. Fee/Inc. Mgt. Fee	0%	0	0	0	0	0	0	0
Cash Flow After GP Payments	132,784	125,659	117,975	109,705	100,820	91,291	81,087	70,176
City of Fresno Loan	50%	(66,392)	(62,830)	(58,988)	(54,852)	(50,410)	(45,646)	(40,544)
Net Cash Flow	66,392	62,830	58,988	54,852	50,410	45,646	40,544	35,088

### Deferred Developer Fee Payment

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Beginning Balance	399,987	388,812	375,490	360,044	342,500	322,886	301,234
Payment	(11,175)	(13,322)	(15,446)	(17,544)	(19,614)	(21,652)	(23,653)
Ending Balance	388,812	375,490	360,044	342,500	322,886	301,234	277,581

	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13
Beginning Balance	277,581	251,967	224,436	195,036	163,822	130,850
Payment	(25,614)	(27,531)	(29,400)	(31,215)	(32,972)	(34,666)
Ending Balance	251,967	224,436	195,036	163,822	130,850	96,183

**EXHIBIT F**

RESTATED AND SUPERSEDING PROMISSORY NOTE

(Attached)

## REVISED AND SUPERSEDING PROMISSORY NOTE

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

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### PROMISSORY NOTE

Loan Amount: \$2,500,000.00

Date: \_\_\_\_\_, 2010

APN: 472-021-61T  
Fresno, California

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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 Two Million Five Hundred Thousand and 00/100 Dollars (\$2,500,000.00), to the extent that such funds are loaned to Borrower, with interest on the unpaid principal balance running from the date of the permanent loan conversion with simple interest at the rate of 4% annually in accordance with the Disposition and Development and HOME Agreement Regarding Senior Affordable Housing, dated December 10, 2008, entered into between ROEM Development Corporation and the City of Fresno, as amended on July 30, 2009, as further amended on March 4, 2010, and as further amended on June 24, 2010, (hereinafter collectively, "Agreement"), with principal and interest due and payable annually from Residual Receipts, as provided herein, and with all remaining principal and interest due and payable on or before the earlier of (i) Borrower's uncured default under the Agreement with respect to the Affordable Project, along with attorney's fees and costs of collection, and without relief from valuation and appraisal laws, or (ii) fifty-five (55) years from the permanent loan conversion date, ("Maturity Date").

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

Residual Receipts means in each operating year after the conversion of the Affordable Senior Rental Housing Project financing to its permanent financing phase, fifty percent (50%) of the sum of (i) all cash received by the Affordable Senior Rental Housing Project from (A) rents, lease payments, and all sources generally considered in the apartment industry to be "other income" (which does not include payments for optional services provided by Borrower), (B)

payments from HUD under a Housing Assistance Program Section 8 Contract to the Project, if any, and excluding (a) tenant security or other deposits required by law to be segregated, and (b) interest on reserves not available for distribution, and (ii) the net proceeds of any insurance (including rental interruption insurance), other than fire and extended coverage and title insurance, to the extent not reinvested, less the sum of (i) all cash expenditures, and all expenses unpaid but properly accrued, which are Operating Expenses incurred in the operation of the Affordable Project's business, excluding expenditures paid from any reserve account (whether or not such expenditure is deducted, amortized or capitalized for tax purposes), (ii) the Affordable Project related annual fee payable to the investment limited partner and the annual fees payable to the nonprofit managing general partner, (iii) all payments on account of any loans (including unpaid principal and accrued reasonable interest) made for the benefit of the Affordable Project by the partners of the Borrower pursuant to the terms of the amended and restated limited partnership agreement of the Partnership, and, (iv) payments towards the deferred developer fee (including repayment of loans or capital contributions made by the general partner to the partnership specifically for the purpose of paying the deferred developer fee), (v) contributions to any prudent and reasonable cash reserves for working capital, capital expenditures, repairs, replacements and anticipated expenditures, in such amounts as may be reasonably required by the lenders to the Affordable Project and the limited partners of the Borrower for the operation of the Project not to exceed the amount required by the Affordable Project's permanent lender, annually adjusted if required by the permanent lender or limited partners, (vi) the payment of principal and interest, and any associated fees, expenses, and costs, with respect to Senior Financing, (vii) payments made to the investor limited partner which are required to reimburse the investor a portion of its capital contribution in relation to the Affordable Project when there is a shortfall in the tax credits initially promised to the investor pursuant to the terms of the amended and restated limited partnership agreement of the Borrower.

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

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

Maturity Date means fifty-five (55) years from the permanent financing conversion date of this Note.

This Note, and any extensions or renewals hereof, is secured by a Deed of Trust, Security Agreement and Fixture Filing with Assignment of Rents on real estate in Fresno County, California, that provides for acceleration upon stated events, dated as of the same date as this Note, and executed in favor of and delivered to the Lender ("Deed of Trust"), insured as a 2<sup>nd</sup> position lien on the Property.

Time is of the essence. It will be a default under this Note if Borrower defaults under the Agreement, any other Loan Document with City, or this Note and such default continues beyond the notice and cure period as provided in such documents. In the event of a default by Borrower with respect to any sum payable under this Note and the failure to cure such default within ten (10) days, 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 an uncured 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. Lender acknowledges and agrees that it shall send notice of any default hereunder to the limited partners of Borrower and shall accept any cure offered by such limited partners on the same basis as it would accept a cure from Borrower.

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.

Borrower agrees to pay all costs including, without limitation, reasonable attorney fees, incurred by the holder of this Note in the successful enforcement of payment, whether or not suit is filed, and including, without limitation, all costs, reasonable attorney fees, and expenses incurred by the holder of this Note in connection with any bankruptcy, reorganization, arrangement, or other similar proceedings involving the Borrower 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.

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

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

The Deed of Trust provides as follows:

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

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 and Lender agree 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 and Borrower may consent to in a writing duly signed by Borrower or Lender or its authorized agents.

This Note shall be nonrecourse to Borrower and all its constituent members and may be prepaid at any time without penalty. Neither Borrower nor any of its general and limited partners shall have any personal liability for repayment of the Loan. The sole recourse of the Lender under the Loan Documents for repayment of the Loan shall be the exercise of its rights against the Property pursuant to the Deed of Trust and Lender shall have no right to seek or recover any deficiency amount from Borrower or any partner of Borrower.

///

In witness whereof, Borrower has caused this Revised and Superseding Promissory Note to be executed as of the date and year first above written.

By:

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**EXHIBIT H**

DEED OF TRUST ASSIGNMENT OF RENTS

(Attached)

RECORDING REQUESTED BY  
Chicago Title Company

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

Space Above This Line for Recorder's Use Only

A.P.N.: 472-021-61T

File No.: \_\_\_\_\_

## DEED OF TRUST AND ASSIGNMENT OF RENTS

THIS DEED OF TRUST, made this \_\_\_\_\_, 2010, by

TRUSTOR: \_\_\_\_\_

whose address is **1650 Lafayette Street**, Santa Clara, California, 95050

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

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

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

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

FOR THE PURPOSE OF SECURING: 1. Performance of each agreement of Trustor, incorporated by reference or contained herein, including without limitation the Development and Disposition Agreement and HOME Agreement entered between ROEM Development Corporation and as assigned to Trustor and Beneficiary dated December 10, 2008, as amended. 2. Payment of the indebtedness evidenced by a Promissory Note of even date herewith, and any extension or renewal thereof, in the principal sum of \$2,500,000.00 to **City of Fresno** executed by Trustor in favor of Beneficiary or order. 3. Payment of such further sums as the then record Owner of said property hereafter may borrow from Beneficiary, when evidenced by another Note (or Notes) reciting it is so secured.

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

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

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

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

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

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

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

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

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

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

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

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

application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act pursuant to such notice.

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

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

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

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

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

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

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

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

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

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

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

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

Dated: \_\_\_\_\_, 2010

Signature of Trustor(s):

By: \_\_\_\_\_

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

[ALL SIGNATURES MUST BE NOTARIZED]

**EXHIBIT A**  
**TO DEED OF TRUST**  
(Attached)

## EXHIBIT "A"

APN 472-021-59T (PORTION)

That real property situated in the City of Fresno, County of Fresno, State of California, said real property being a portion of Lot 75 of Easterby Rancho, according to the map thereof recorded in Volume 2 of Plats at Page 6, Fresno County Records, said real property also being a portion of that parcel of land conveyed to the City of Fresno by the Grant Deed recorded August 30, 2007 as Document No. 2007-0163315, Official Records of Fresno County, hereinafter referred to as "Deeded Parcel", said real property being more particularly described as follows:

**COMMENCING** at the Northwest corner of Lot 76 of said Easterby Rancho; thence South  $89^{\circ}27'54''$  East, 647.00 feet along the North line of said Lots 75 and 76; thence South  $00^{\circ}45'49''$  West, 29.00 feet, parallel with the West line of said Lot 76 to the Northwest corner of said Deeded Parcel; thence continuing South  $00^{\circ}45'49''$  West, 137.00 feet, parallel with the West line of said Lot 76 and along the West line of said Deeded Parcel to the **TRUE POINT OF BEGINNING** of this description, said point of beginning also being the Southwest corner of the land described in the Grant Deed recorded March 28, 2008 as Document No. 2008-0046264, Official Records of Fresno County; thence Easterly along the Southerly boundary of the land described in said Document No. 2008-0046264 the following three courses 1) South  $89^{\circ}27'54''$  East, 288.59 feet along a line 137.00 feet South of and parallel with the North line of said Deeded Parcel to the beginning of a non-tangent curve concave to the South having a radius of 45.00 feet and to which beginning a radial lines bears North  $58^{\circ}50'16''$  West; thence 2) Northeasterly and Southeasterly, 93.26 feet along said curve through a central angle of  $118^{\circ}44'43''$  to a point on a line 137.00 feet South of and parallel with the North line of said Deeded Parcel; thence 3) South  $89^{\circ}27'54''$  East, 255.47 feet on a non-tangent line and along last said parallel line to a point on the East line of said Deeded Parcel; thence South  $00^{\circ}45'49''$  West, 298.20 feet, parallel with the West line of said Lot 76 and along the East line of said Deeded Parcel to the Southeast corner of said Deeded Parcel; thence Westerly along the Southerly boundary of said Deeded Parcel the following five courses 1) North  $89^{\circ}28'15''$  West, 142.15 feet; thence 2) North  $00^{\circ}31'45''$  East, 50.75 feet; thence 3) North  $89^{\circ}24'52''$  West, 194.29 feet; thence 4) North  $00^{\circ}32'24''$  East, 40.00 feet; thence 5) North  $89^{\circ}29'37''$  West, 284.69 feet to the Southwest corner of said Deeded Parcel; thence North  $00^{\circ}45'49''$  East, 207.44 feet parallel with the West line of said Lot 76 and along the West line of said Deeded Parcel to the **TRUE POINT OF BEGINNING**.

**EXCEPTING THEREFROM** all that portion of the above described real property more particularly described as follows:

**COMMENCING** at the Northwest corner of Lot 76 of said Easterby Rancho; thence South  $89^{\circ}27'54''$  East, 647.00 feet along the North line of said Lots 75 and 76; thence South  $00^{\circ}45'49''$  West, 29.00 feet, parallel with the West line of said Lot 76 to the Northwest corner of said Deeded Parcel; thence continuing South  $00^{\circ}45'49''$  West,

137.00 feet, parallel with the West line of said Lot 76 and along the West line of said Deeded Parcel to the **TRUE POINT OF BEGINNING** of this description, said point of beginning also being the Southwest corner of the land described in the Grant Deed recorded March 28, 2008 as Document No. 2008-0046264, Official Records of Fresno County; thence Easterly along the Southerly boundary of the land described in said Document No. 2008-0046264 the following two courses 1) South 89°27'54" East, 288.59 feet along a line 137.00 feet South of and parallel with the North line of said Deeded Parcel to the beginning of a non-tangent curve concave to the Southeast having a radius of 45.00 feet and to which beginning a radial line bears North 58°50'16" West; thence 2) Northeasterly, 46.21 feet along said curve through a central angle of 58°49'58"; thence South 00°45'49" West, 269.40 feet on a non-tangent line to last said curve and parallel with the West line of said Lot 76, to a point on the Southerly boundary of said Deeded Parcel; thence Westerly along the Southerly boundary of said Deeded Parcel the following three courses 1) North 89°24'52" West, 41.95 feet; thence 2) North 00°32'24" East, 40.00 feet; thence 3) North 89°29'37" West, 284.69 feet to the Southwest corner of said Deeded Parcel; thence North 00°45'49" East, 207.44 feet, parallel with the West line of said Lot 76 and along the West line of said Deeded Parcel to the **TRUE POINT OF BEGINNING**.

Contains an area of 80,752 square feet, more or less.

For the purpose of this description the North line of said Lots 75 and 76 is taken to be a line 30.00 feet South of and parallel with the North line of the Northeast quarter of Section 7, Township 14 South, Range 21 East, Mount Diablo Base and Meridian, and the West line of said Lot 76 is taken to be a line 20.00 feet East of and parallel with the West line of the Northeast quarter of said Section 7.

*HDJue*  
*5/14/10*



2010-037B  
PLAT 2763

**EXHIBIT I**

**DECLARATION OF RESTRICTIONS**

(Attached)

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  
Downtown and Community Revitalization Department  
Housing and Community Development Division  
2600 Fresno Street, Rm. 3070  
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 \_\_\_\_\_, 2010 by \_\_\_\_\_ a \_\_\_\_\_ ("Declarant") in favor of the City of Fresno, acting by and through its Downtown and Community Revitalization 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: 472-021-61T, which is more particularly described in Exhibit "A", attached hereto and made a part hereof (the "Property"); and

WHEREAS, Pursuant to a certain Development and Disposition Agreement and HOME Agreement dated December 10, 2008, as amended ("Amendment I") on July 30, 2009, as further amended ("Amendment II") on March 4, 2010, and as further amended ("Amendment III") on June 24, 2010, (hereinafter, collectively "HOME Agreement") incorporated herein, and instruments referenced therein, Declarant agrees to utilize and City agrees to provide certain HOME Program Funds from the United States Department of Housing and Urban Development ("HUD"), to Declarant and Declarant agrees to provide in Phase I, no less than thirty-seven (37) of the seventy-three (73) Units to be constructed and preserved as Low to Very Low-Income Affordable Senior Rental Housing for Seniors (or other qualified persons under California Civil Code section 51.2 et seq) with thirty (30) Units occupied by seniors earning fifty percent (50%) or below of the area median income for the Fresno MSA and seven (7) Units occupied by seniors earning sixty percent (60%) or below of the area median income for the Fresno MSA ("Affordable Senior Housing Project"). The seventy-three (73) Low to Very Low Income Units shall be subject to the terms and conditions set forth in the HOME Agreement; and

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

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

NOW THEREFORE, Declarant declares that the Property is held and will be held,

transferred, encumbered, used, sold, conveyed and occupied subject to the covenants, restrictions, and limitations set forth in this Declaration, all of which are declared and agreed to be in furtherance of the proposed Affordable Senior Housing Project. All of the restrictions, covenants and limitations will run with the land and will be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, will inure to the benefit of the City, and will be enforceable by it. Any purchaser under a contract of sale covering any right, title or interest in any part of the Property, by accepting a deed or a contract of sale or agreement of purchase, accepts the document subject to, and agrees to be bound by, any and all restrictions, covenants, and limitations set forth in this Declaration commencing on the date a Certificate of Completing for the Affordable Senior Housing Project is recorded in the Official Records and continue for fifty-five (55) years thereafter ("Affordability Period").

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

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

a. Declarant for itself and its successor(s) on title covenants and agrees that from the date of recordation of the City's Certificate of Completion, until the expiration of the Affordability Period it shall cause the Project Units to be used as Affordable Senior Rental 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 Agreement, the term Affordable Rental Housing shall include, without limitation, compliance with the following requirements:

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

(b) **Principal Residence.** Each of the Units constituting the Project upon the Property shall be leased only to persons and families age 55 and older or other qualified persons under California Civil Code section 51.2 et seq (collectively, "Seniors") , who shall occupy such as a principal residence. The foregoing requirement that the Property tenants occupy the Units as their principal residence does not apply to persons, other than natural persons, who acquire the Property or portion thereof by foreclosure or deed in lieu of foreclosure; or (ii) HUD qualified entities that acquire the Property or portion

thereof, with the consent of the City.

(c) Income Requirements. A total of thirty-seven (37) of the seventy-three (73) Units to be leased to Low to Very Low-Income Seniors (or other qualified persons under California Civil Code section 51.2 et seq) with thirty (30) Units occupied by seniors earning fifty percent (50%) or below of the area median income for the Fresno MSA and seven (7) Units occupied by seniors earning sixty percent (60%) or below of the area median income for the Fresno Metropolitan Statistical Area at an affordable rent consistent with HOME Program regulations.

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.

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

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

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

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

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

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 and Declarant.

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 the HOME Agreement.

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

15. Neither Declarant nor any of its general and limited partners shall have any personal liability for the obligations under this Declaration. The sole recourse of the City shall be the exercise of its rights against the Property pursuant to the Deed of Trust and Lender shall have no right to seek or recover any deficiency amount from Declarant or any partner of Declarant.

///

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

DECLARANT:

\_\_\_\_\_  
a California limited partnership

By: \_\_\_\_\_  
Name

**EXHIBIT A**

DECLARATION OF RESTRICTIONS

(Attached)

## EXHIBIT "A"

APN 472-021-59T (PORTION)

That real property situated in the City of Fresno, County of Fresno, State of California, said real property being a portion of Lot 75 of Easterby Rancho, according to the map thereof recorded in Volume 2 of Plats at Page 6, Fresno County Records, said real property also being a portion of that parcel of land conveyed to the City of Fresno by the Grant Deed recorded August 30, 2007 as Document No. 2007-0163315, Official Records of Fresno County, hereinafter referred to as "Deeded Parcel", said real property being more particularly described as follows:

**COMMENCING** at the Northwest corner of Lot 76 of said Easterby Rancho; thence South 89°27'54" East, 647.00 feet along the North line of said Lots 75 and 76; thence South 00°45'49" West, 29.00 feet, parallel with the West line of said Lot 76 to the Northwest corner of said Deeded Parcel; thence continuing South 00°45'49" West, 137.00 feet, parallel with the West line of said Lot 76 and along the West line of said Deeded Parcel to the **TRUE POINT OF BEGINNING** of this description, said point of beginning also being the Southwest corner of the land described in the Grant Deed recorded March 28, 2008 as Document No. 2008-0046264, Official Records of Fresno County; thence Easterly along the Southerly boundary of the land described in said Document No. 2008-0046264 the following three courses 1) South 89°27'54" East, 288.59 feet along a line 137.00 feet South of and parallel with the North line of said Deeded Parcel to the beginning of a non-tangent curve concave to the South having a radius of 45.00 feet and to which beginning a radial line bears North 58°50'16" West; thence 2) Northeasterly and Southeasterly, 93.26 feet along said curve through a central angle of 118°44'43" to a point on a line 137.00 feet South of and parallel with the North line of said Deeded Parcel; thence 3) South 89°27'54" East, 255.47 feet on a non-tangent line and along last said parallel line to a point on the East line of said Deeded Parcel; thence South 00°45'49" West, 298.20 feet, parallel with the West line of said Lot 76 and along the East line of said Deeded Parcel to the Southeast corner of said Deeded Parcel; thence Westerly along the Southerly boundary of said Deeded Parcel the following five courses 1) North 89°28'15" West, 142.15 feet; thence 2) North 00°31'45" East, 50.75 feet; thence 3) North 89°24'52" West, 194.29 feet; thence 4) North 00°32'24" East, 40.00 feet; thence 5) North 89°29'37" West, 284.69 feet to the Southwest corner of said Deeded Parcel; thence North 00°45'49" East, 207.44 feet parallel with the West line of said Lot 76 and along the West line of said Deeded Parcel to the **TRUE POINT OF BEGINNING**.

**EXCEPTING THEREFROM** all that portion of the above described real property more particularly described as follows:

**COMMENCING** at the Northwest corner of Lot 76 of said Easterby Rancho; thence South 89°27'54" East, 647.00 feet along the North line of said Lots 75 and 76; thence South 00°45'49" West, 29.00 feet, parallel with the West line of said Lot 76 to the Northwest corner of said Deeded Parcel; thence continuing South 00°45'49" West,

137.00 feet, parallel with the West line of said Lot 76 and along the West line of said Deeded Parcel to the **TRUE POINT OF BEGINNING** of this description, said point of beginning also being the Southwest corner of the land described in the Grant Deed recorded March 28, 2008 as Document No. 2008-0046264, Official Records of Fresno County; thence Easterly along the Southerly boundary of the land described in said Document No. 2008-0046264 the following two courses 1) South  $89^{\circ}27'54''$  East, 288.59 feet along a line 137.00 feet South of and parallel with the North line of said Deeded Parcel to the beginning of a non-tangent curve concave to the Southeast having a radius of 45.00 feet and to which beginning a radial line bears North  $58^{\circ}50'16''$  West; thence 2) Northeasterly, 46.21 feet along said curve through a central angle of  $58^{\circ}49'58''$ ; thence South  $00^{\circ}45'49''$  West, 269.40 feet on a non-tangent line to last said curve and parallel with the West line of said Lot 76, to a point on the Southerly boundary of said Deeded Parcel; thence Westerly along the Southerly boundary of said Deeded Parcel the following three courses 1) North  $89^{\circ}24'52''$  West, 41.95 feet; thence 2) North  $00^{\circ}32'24''$  East, 40.00 feet; thence 3) North  $89^{\circ}29'37''$  West, 284.69 feet to the Southwest corner of said Deeded Parcel; thence North  $00^{\circ}45'49''$  East, 207.44 feet, parallel with the West line of said Lot 76 and along the West line of said Deeded Parcel to the **TRUE POINT OF BEGINNING**.

Contains an area of 80,752 square feet, more or less.

For the purpose of this description the North line of said Lots 75 and 76 is taken to be a line 30.00 feet South of and parallel with the North line of the Northeast quarter of Section 7, Township 14 South, Range 21 East, Mount Diablo Base and Meridian, and the West line of said Lot 76 is taken to be a line 20.00 feet East of and parallel with the West line of the Northeast quarter of said Section 7.

*HDJue*  
*5/14/10*



2010-037B  
PLAT 2763

ROEM -

*Palm View Gardens*

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

AGENDA ITEM NO. 2:00pm #3 B  
COUNCIL MEETING June 24, 2010  
APPROVED BY

June 24, 2010

*John M. Ryan*  
DEPARTMENT DIRECTOR

FROM: KEITH BERGTHOLD, Assistant Director  
Planning and Development Department

CITY MANAGER *[Signature]*

CLAUDIA CÁZARES, Manager *Claudia C*  
Housing and Community Development Division

BY: CORRINA NUNEZ, Project Manager *[Signature]*  
Housing and Community Development Division

SUBJECT: RECOMMEND APPROVAL TO INCREASE THE HOME PROGRAM FUNDING FOR THE  
CONSTRUCTION OF PALM VIEW GARDENS, A 74-UNIT AFFORDABLE SENIOR  
HOUSING PROJECT IN SOUTHEAST FRESNO, FROM \$2,000,000 TO A MAXIMUM OF  
\$3,000,000

**RECOMMENDATIONS**

Staff recommends that City Council approve:

1. Increasing ROEM Development Corporation's (ROEM) HOME Program loan from \$2 million to a maximum of \$3 million for the development of Palm View Gardens - Phase 1 (74 units); and
2. Increase the number of HOME-assisted units in Phase I from 16 to 37.

**EXECUTIVE SUMMARY**

On July 30, 2009, Council approved Amendment No. I to the HOME Program Agreement, with ROEM Development Corporation, in the amount of \$1 million in HOME Program loan funds for the development of 133 affordable senior housing units at the proposed Palm View Gardens project. Amendment No. II, which was approved by Council on March 4, 2010, increased the HOME loan funding from \$1 million to \$2 million, provided for phasing of the construction, authorized funding for Phase I of the project (74 units), approved Phase II (59 units) to be constructed at a later date, and increased the number of HOME-assisted units from 11 to 16, to facilitate a more competitive tax credit funding application. The proposed changes, including an increase in HOME Program funding from \$2 million to a maximum of \$3 million for Phase I are recommended based on the tie-breaker scoring results of the March 2010 Low Income Housing Tax Credit (LIHTC) round of funding that demonstrated additional local subsidies will be needed to obtain a highly competitive tie-breaker score. If approved, the project will also increase the number of HOME-funded units in Phase I, from 16 to 37.

**BACKGROUND**

Palm View Gardens, an affordable senior housing project, received City Council approval on July 30, 2009 for \$1 million in HOME Program funds for the construction of 133 affordable rental housing units in southeast Fresno. To complete financing of the 133-unit development, ROEM applied for nine percent (9%) LIHTC funds

Presented to City Council  
Date 6/24/10  
Disposition Approved

REPORT TO THE CITY COUNCIL

Re: Approve Increase to HOME Program Funds for Palm View Gardens

June 24, 2010

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in the 2009 single-round of funding, but was unsuccessful due to an unexpected change in tie-breaker scoring introduced by the California Tax Credit Allocation Committee (TCAC).

The scoring change provided higher points to projects that had a higher local subsidy. As a result of the change, ROEM received a low tie-breaker score and no tax credit award. Immediately thereafter, ROEM approached the City with a re-strategizing plan to seek a higher tie-breaker score for the March 2010 round of funding. ROEM requested an additional \$1 million in HOME Program funds and permission to phase construction of the project in order to increase the per unit subsidy and thus obtain an award of tax credits at the next available round of tax credits which was scheduled for March 25, 2010.

On March 4, 2010, Council approved Amendment No. 2, which provided for an increase in HOME Program loan funds from \$1 million to \$2 million and authorized the construction of the 133 units to be completed in two phases (74 units in Phase I and 59 units in Phase II). Although the \$2 million in HOME Program funds for the March 25, 2010 LIHTC application round increased the per unit subsidy and raised ROEM's tie-breaker score from 26.30% to 47.85%, another Central Region project was awarded a majority of the March 2010 tax credits in the Central Region's funding category because the local subsidy to that project produced a tie-breaker score of 63.53%, the highest ranking score of all the other five Central Region projects.

After further analysis of the 2010 March LIHTC project scores, staff recommends that an additional maximum of \$1 million in HOME Program funding be provided to ROEM to further increase its tie-breaker score. The combined public subsidy ratio for Phase I could raise ROEM's tie-breaker score from approximately 47.85% to 74.07%. Based on the March 2010 scores, this should secure an award of LIHTC at the July 2010 second round of applications, which are due to the TCAC by July 6, 2010. Staff is therefore recommending approval for an additional maximum of \$1 million in 2010 HOME Program funds so that ROEM may reflect the increase in its LIHTC application. Housing and Community Development Division staff is currently working with ROEM staff on updating project information for the July 2010 LIHTC application in anticipation of the HOME funding approval.

If awarded tax credits, ROEM anticipates construction of Phase 1 (74 units) to start in March of 2011 and be completed by June of 2012. Phase I will consist of related on- and off-site improvements, construction of seventy-three (73) units preserved as low- to very low-income senior housing, a community room, laundry facility, courtyard area with a barbecue pit, fountains, benches, lighting and landscaping, a vegetable garden area, a security fence and gate, covered and uncovered parking stalls, and guest parking. Rents will range from \$313.00 to \$523.00 depending on location within the complex and square footage of the unit. Unit size will range from approximately 590 square feet to 738 square feet. There will also be a two-bedroom unit reserved for an on-site property manager.

Although, this is an additional request for HOME Program funds to the project, when the project is ultimately awarded tax credits, the City's HOME Program funds will have achieved a leveraging ratio of 1:5. The 9% tax credits are the single most important financial solution to producing affordable housing units within the California Central Region. No other program funding source offered by the State of California or the U.S. Department of Housing and Urban Development yields the amount of subsidy as that received from an award of LIHTC.

REPORT TO THE CITY COUNCIL

Re: Approve Increase to HOME Program Funds for Palm View Gardens

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Additionally, if the recommended action is approved as presented, a commitment letter for the additional funding amount will be issued to ROEM, with disbursement of HOME Program funds contingent upon an award of 2010 LIHTC. The Agreement documents will be developed and fully executed at a later date. As with the current \$2 million in HOME Program funds to ROEM, the additional \$1 million will be provided in the form of a low-interest loan for a 55-year term, with the principal and interest payable in the amount of 50% of annual residual receipts from the project's net operating income, and will be secured by a deed of trust recorded against the property.

The City previously completed a National Environmental Policy Act assessment for the proposed project activities, on March 20, 2006 (EA-01406085), that resulted in a Finding of No Significant Impact. A California Environmental Quality Act assessment for acquisition of the site and proposed project activities (EA-06-03) was completed on November 17, 2006 and resulted in a Mitigated Negative Declaration. Also completed were an Archeological, Historic Property, Noise, Traffic, American Land Title Association and topographic study, and Arborist and Soils Report.

**HOUSING AND COMMUNITY DEVELOPMENT COMMISSION**

The Housing and Community Development Commission considered and recommended this item for approval on June 9, 2010.

**FISCAL IMPACT**

HOME Program funds for the proposed Palm View Gardens Phase I are available in the Planning and Development Department's Fiscal Year 2010 Budget. The total cost of Phase I is estimated at \$15.3 million of which \$7.3 million is expected to be financed with LIHTC and the balance of \$5 million to be financed with other investments.

Attachment:

Exhibit C – Sources and Uses

Exhibit D – Cash Flow Statement

## EXHIBIT "C"

### DEVELOPMENT SOURCES & USES (Cost Estimates)

9% Credits

Palm View Gardens (Phase I)  
Fresno, California

<b>CONSTRUCTION SOURCES</b>	<b>Total</b>
Investor Capital	3,660,595
Construction Loan	4,927,000
City Loan - HOME	3,000,000
Accrued Interest - City Loan	231,439
RDA Grant	100,000
Prop IC Funds	1,750,000
Lease Up Income	93,720
Deferred Developer Fee	1,610,179
<b>TOTAL CONS. SOURCES</b>	<b>15,372,933</b>

<b>PERMANENT SOURCES</b>	<b>Total</b>
Investor Capital	7,321,190
Perm - Loan	1,748,558
City Loan - HOME	3,000,000
Accrued Interest - City Loan	231,439
RDA Grant	100,000
Prop IC Funds	1,750,000
Lease Up Income	112,058
Deferred Developer Fee	1,109,688
<b>TOTAL PERM. SOURCES</b>	<b>15,372,933</b>

## EXHIBIT "C"

### DEVELOPMENT SOURCES & USES (Cost Estimates) 9% Credits

Palm View Gardens (Phase I)  
Fresno, California

DEVELOPMENT COSTS		Per Gross Square Foot	Per Unit	Eligible Basis
Land	154,000	2.20	2,081	-
<b>LAND COSTS TOTAL</b>	<b>154,000</b>	<b>2.20</b>	<b>2,081</b>	<b>-</b>
Off-Site Improvements/Demolition	958,227	13.66	12,949	958,227
Construction	7,775,000	110.83	105,068	7,775,000
General Requirements	523,994	7.47	7,081	523,994
Overhead	185,144	2.64	2,502	185,144
Profit	555,433	7.92	7,506	555,433
Hard Cost Contingency	5% 499,890	7.13	6,755	499,890
<b>HARD COSTS TOTAL</b>	<b>10,497,688</b>	<b>149.64</b>	<b>141,861</b>	<b>10,497,688</b>
Construction/Liability Insurance	100,432	1.43	1,357	100,432
Appraisal/Market Study	15,000	0.21	203	15,000
Architect	479,690	6.84	6,482	479,690
Engineering/Consultants	288,000	4.11	3,892	288,000
Permits & Fees	573,365	8.17	7,748	573,365
Title / Recording - Construction Loan	25,000	0.36	338	25,000
Taxes/Assessment	35,000	0.50	473	35,000
Construction Bond	109,165	1.56	1,475	109,165
Accounting	20,000	0.29	270	20,000
Construction Loan Interest	291,270	4.15	3,936	107,525
Lender Inspections	22,000	0.31	297	22,000
City Loan Interest	231,439	3.30	3,128	161,439
Borrower Legal	125,000	1.78	1,689	125,000
Construction Loan Fee	36,953	0.53	499	36,953
Construction Loan Application Fee	15,000	0.21	203	15,000
Marketing/Lease Up/Start Up	75,000	1.07	1,014	-
Permanent Loan Fees	21,857	0.31	295	-
Title / Recording - Permanent Loan	25,000	0.36	338	-
Legal - Construction Lender	30,000	0.43	405	30,000
Legal - Permanent Lender	35,000	0.50	473	-
TCAC Application Fee	2,000	0.03	27	-
TCAC Allocation Fee	41,840	0.60	565	-
TCAC Monitoring Fee	30,340	0.43	410	-
Soft Cost Contingency	93,269	1.33	1,260	93,269
Cash Reserves	89,447	1.28	1,209	-
<b>SOFT COSTS TOTAL</b>	<b>2,811,067</b>	<b>40.07</b>	<b>37,987</b>	<b>2,236,838</b>
Developer Fee	1,910,179	27.23	25,813	1,400,000
<b>DEVELOPMENT TOTAL</b>	<b>15,372,933</b>	<b>219.13</b>	<b>207,742</b>	<b>14,134,526</b>

## EXHIBIT "D"

### Cash Flow Schedule

**Palm View Gardens (Phase I)**  
Fresno, California

**ROEM Corporation**  
Santa Clara, CA

#### 55 Year Cash Flow Schedule

Annual Rental Income Increase	2.50%	Vacancy/Collection Loss	5.00%
Annual Misc. Income Increase	2.50%	Replacement Reserve/Per Unit	\$250
Annual Expense Increase	3.50%	1st Mortgage Amount	\$ 1,748,558
Partnership Management Fee Index	3.00%	Interest Rate	7.75%
		Amortization Period (Years)	35

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Gross Potential Revenue	409,260	419,492	429,979	440,728	451,746	463,040	474,616
Other Income	9,768	10,012	10,263	10,519	10,782	11,052	11,328
Less: Vacancy	(20,951)	(21,475)	(22,012)	(22,562)	(23,126)	(23,705)	(24,297)
Effective Gross Income	398,077	408,029	418,229	428,685	439,402	450,387	461,647
less Operating Expenses	(212,554)	(219,993)	(227,693)	(235,662)	(243,910)	(252,447)	(261,283)
less Replacement Reserves	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)
Net Operating Income	167,023	169,535	172,036	174,523	176,992	179,440	181,864
less Debt Service - 1st Mortgage	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)
Net Cash Flow	21,787	24,299	26,800	29,287	31,756	34,204	36,628
less Partnership Asset Mgt Fees	(10,300)	(10,609)	(10,927)	(11,255)	(11,593)	(11,941)	(12,299)
less Def. Dev. Fee/Inc. Mgt. Fee	0%	(11,487)	(13,690)	(15,873)	(18,032)	(20,163)	(24,329)
Cash Flow After GP Payments	0	0	0	0	0	0	0
City of Fresno Loan	50%	0	0	0	0	0	0
Net Cash Flow	0	0	0	0	0	0	0

	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15
Gross Potential Revenue	486,482	498,644	511,110	523,887	536,985	550,409	564,169	578,274
Other Income	11,611	11,901	12,199	12,504	12,816	13,137	13,465	13,802
Less: Vacancy	(24,905)	(25,527)	(26,165)	(26,820)	(27,490)	(28,177)	(28,882)	(29,604)
Effective Gross Income	473,188	485,018	497,143	509,572	522,311	535,369	548,753	562,472
less Operating Expenses	(270,428)	(279,893)	(289,689)	(299,828)	(310,322)	(321,183)	(332,425)	(344,060)
less Replacement Reserves	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)
Net Operating Income	184,260	186,625	188,954	191,244	193,489	195,685	197,828	199,912
less Debt Service - 1st Mortgage	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)
Net Cash Flow	39,024	41,389	43,718	46,008	48,253	50,449	52,592	54,676
less Partnership Asset Mgt Fees	(12,668)	(13,048)	(13,439)	(13,842)	(14,258)	(14,685)	(15,126)	(15,580)
less Def. Dev. Fee/Inc. Mgt. Fee	0%	(26,356)	(28,341)	(30,279)	(32,165)	(33,995)	0	0
Cash Flow After GP Payments	0	0	0	0	0	0	37,466	39,096
City of Fresno Loan	50%	0	0	0	0	0	(18,733)	(19,548)
Net Cash Flow	0	0	0	0	0	0	18,733	19,548

	Year 16	Year 17	Year 18	Year 19	Year 20	Year 21	Year 22	Year 23
Gross Potential Revenue	592,731	607,549	622,737	638,306	654,264	670,620	687,386	704,570
Other Income	14,147	14,501	14,863	15,235	15,616	16,006	16,406	16,816
Less: Vacancy	(30,344)	(31,102)	(31,880)	(32,677)	(33,494)	(34,331)	(35,190)	(36,069)
Effective Gross Income	576,534	590,947	605,721	620,864	636,385	652,295	668,602	685,317
less Operating Expenses	(356,102)	(368,565)	(381,465)	(394,816)	(408,635)	(422,937)	(437,740)	(453,061)
less Replacement Reserves	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)
Net Operating Income	201,932	203,882	205,755	207,547	209,250	210,858	212,362	213,756
less Debt Service - 1st Mortgage	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)
Net Cash Flow	56,696	58,646	60,519	62,311	64,014	65,622	67,126	68,520
less Partnership Asset Mgt Fees	(16,047)	(16,528)	(17,024)	(17,535)	(18,061)	(18,603)	(19,161)	(19,736)
less Def. Dev. Fee/Inc. Mgt. Fee	0%	0	0	0	0	0	0	0
Cash Flow After GP Payments	40,649	42,117	43,495	44,776	45,953	47,019	47,965	48,784
City of Fresno Loan	50%	(20,324)	(21,059)	(21,748)	(22,388)	(22,977)	(23,509)	(23,983)
Net Cash Flow	20,324	21,059	21,748	22,388	22,977	23,509	23,983	24,392

## EXHIBIT "D"

Palm View Gardens (Phase I)  
Fresno, California

ROEM Corporation  
Santa Clara, CA

### 55 Year Cash Flow Schedule

	Year 24	Year 25	Year 26	Year 27	Year 28	Year 29	Year 30	Year 31
Gross Potential Revenue	722,185	740,239	758,745	777,714	797,157	817,086	837,513	858,451
Other Income	17,237	17,668	18,109	18,562	19,026	19,502	19,989	20,489
Less: Vacancy	(36,971)	(37,895)	(38,843)	(39,814)	(40,809)	(41,829)	(42,875)	(43,947)
Effective Gross Income	702,450	720,011	738,012	756,462	775,374	794,758	814,627	834,993
less Operating Expenses	(468,918)	(485,330)	(502,317)	(519,898)	(538,094)	(556,928)	(576,420)	(596,595)
less Replacement Reserves	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)
Net Operating Income	215,032	216,181	217,195	218,064	218,779	219,330	219,707	219,898
less Debt Service - 1st Mortgage	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)
Net Cash Flow	69,796	70,945	71,959	72,828	73,543	74,094	74,471	74,662
less Partnership Asset Mgt Fees	(20,328)	(20,938)	(21,566)	(22,213)	(22,879)	(23,566)	(24,273)	(25,001)
less Def. Dev. Fee/Inc. Mgt. Fee	0%	0	0	0	0	0	0	0
Cash Flow After GP Payments	49,468	50,007	50,393	50,615	50,664	50,529	50,198	49,661
City of Fresno Loan	50%	(24,734)	(25,004)	(25,197)	(25,308)	(25,332)	(25,264)	(25,099)
Net Cash Flow	24,734	25,004	25,197	25,308	25,332	25,264	25,099	24,831

	Year 32	Year 33	Year 34	Year 35	Year 36	Year 37	Year 38	Year 39
Gross Potential Revenue	879,912	901,910	924,457	947,569	971,258	995,539	1,020,428	1,045,939
Other Income	21,001	21,526	22,064	22,616	23,181	23,761	24,355	24,964
Less: Vacancy	(45,046)	(46,172)	(47,326)	(48,509)	(49,722)	(50,965)	(52,239)	(53,545)
Effective Gross Income	855,867	877,264	899,196	921,676	944,717	968,335	992,544	1,017,357
less Operating Expenses	(617,476)	(639,087)	(661,455)	(684,606)	(708,567)	(733,367)	(759,035)	(785,601)
less Replacement Reserves	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)
Net Operating Income	219,892	219,677	219,240	218,569	217,650	216,468	215,009	213,256
less Debt Service - 1st Mortgage	(145,236)	(145,236)	(145,236)	(145,236)	(145,236)	0	0	0
Net Cash Flow	74,656	74,441	74,004	73,333	72,414	216,468	215,009	213,256
less Partnership Asset Mgt Fees	(25,751)	(26,523)	(27,319)	(28,139)	(28,983)	(29,852)	(30,748)	(31,670)
less Def. Dev. Fee/Inc. Mgt. Fee	0%	0	0	0	0	0	0	0
Cash Flow After GP Payments	48,905	47,918	46,685	45,195	43,431	186,616	184,261	181,586
City of Fresno Loan	50%	(24,452)	(23,959)	(23,343)	(22,597)	(21,716)	(93,308)	(92,130)
Net Cash Flow	24,452	23,959	23,343	22,597	21,716	93,308	92,130	90,793

	Year 40	Year 41	Year 42	Year 43	Year 44	Year 45	Year 46	Year 47
Gross Potential Revenue	1,072,087	1,098,889	1,126,361	1,154,520	1,183,384	1,212,968	1,243,292	1,274,375
Other Income	25,588	26,228	26,883	27,555	28,244	28,950	29,674	30,416
Less: Vacancy	(54,884)	(56,256)	(57,662)	(59,104)	(60,581)	(62,096)	(63,648)	(65,240)
Effective Gross Income	1,042,791	1,068,861	1,095,583	1,122,972	1,151,046	1,179,823	1,209,318	1,239,551
less Operating Expenses	(813,097)	(841,556)	(871,010)	(901,496)	(933,048)	(965,705)	(999,504)	(1,034,487)
less Replacement Reserves	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)
Net Operating Income	211,194	208,805	206,072	202,977	199,499	195,618	191,314	186,564
less Debt Service - 1st Mortgage	0	0	0	0	0	0	0	0
Net Cash Flow	211,194	208,805	206,072	202,977	199,499	195,618	191,314	186,564
less Partnership Asset Mgt Fees	(32,620)	(33,599)	(34,607)	(35,645)	(36,715)	(37,816)	(38,950)	(40,119)
less Def. Dev. Fee/Inc. Mgt. Fee	0%	0	0	0	0	0	0	0
Cash Flow After GP Payments	178,574	175,206	171,465	167,331	162,784	157,802	152,363	146,445
City of Fresno Loan	50%	(89,287)	(87,603)	(85,733)	(83,666)	(81,392)	(78,901)	(76,223)
Net Cash Flow	89,287	87,603	85,733	83,666	81,392	78,901	76,182	73,223

## EXHIBIT "D"

Palm View Gardens (Phase I)  
Fresno, California

ROEM Corporation  
Santa Clara, CA

### 55 Year Cash Flow Schedule

	Year 48	Year 49	Year 50	Year 51	Year 52	Year 53	Year 54	Year 55
Gross Potential Revenue:	1,306,234	1,338,890	1,372,362	1,406,671	1,441,838	1,477,884	1,514,831	1,552,702
Other Income:	31,176	31,956	32,755	33,574	34,413	35,273	36,155	37,059
Less: Vacancy	(66,871)	(68,542)	(70,256)	(72,012)	(73,813)	(75,658)	(77,549)	(79,488)
Effective Gross Income	1,270,540	1,302,303	1,334,861	1,368,233	1,402,438	1,437,499	1,473,437	1,510,273
less Operating Expenses	(1,070,694)	(1,108,168)	(1,146,954)	(1,187,098)	(1,228,646)	(1,271,649)	(1,316,156)	(1,362,222)
less Replacement Reserves	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)	(18,500)
Net Operating Income	181,346	175,635	169,407	162,635	155,292	147,351	138,780	129,551
less Debt Service - 1st Mortgage	0	0	0	0	0	0	0	0
Net Cash Flow	181,346	175,635	169,407	162,635	155,292	147,351	138,780	129,551
less Partnership Asset Mgt Fees	(41,323)	(42,562)	(43,839)	(45,154)	(46,509)	(47,904)	(49,341)	(50,821)
less Def. Dev. Fee/Inc. Mgt. Fee	0%	0	0	0	0	0	0	0
Cash Flow After GP Payments	140,023	133,073	125,568	117,481	108,783	99,447	89,439	78,729
City of Fresno Loan	50%	(70,012)	(66,536)	(62,784)	(58,740)	(54,392)	(49,723)	(39,365)
Net Cash Flow	70,012	66,536	62,784	58,740	54,392	49,723	44,720	39,365

### Deferred Developer Fee Payment

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Beginning Balance	1,109,688	1,098,201	1,084,511	1,068,638	1,050,606	1,030,443	1,008,180
Payment	(11,487)	(13,690)	(15,873)	(18,032)	(20,163)	(22,263)	(24,329)
Ending Balance	1,098,201	1,084,511	1,068,638	1,050,606	1,030,443	1,008,180	983,851

	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13
Beginning Balance	983,851	957,495	929,153	898,874	866,709	832,714
Payment	(26,356)	(28,341)	(30,279)	(32,165)	(33,995)	(35,764)
Ending Balance	957,495	929,153	898,874	866,709	832,714	796,950