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

AGENDA ITEM NO. 9:00 AM C
COUNCIL MEETING August 25, 2011
APPROVED BY
DEPARTMENT DIRECTOR
CITY MANAGER

August 25, 2011

FROM: CRAIG SCHARTON, Assistant Director
Development and Resource Management Dept.

CLAUDIA CAZARES, Division Manger
Housing and Community Development Division

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

SUBJECT: **ADOPT FINDING OF CATEGORICAL EXEMPTION, PURSUANT TO ARTICLE 19, SECTION 15332/CLASS 32 (IN-FILL DEVELOPMENT), OF THE CEQA GUIDELINES, FOR CONSTRUCTION OF A MULTIFAMILY RESIDENCE, AND APPROVE A $1.4 MILLION HOME INVESTMENT PARTNERSHIPS, COMMUNITY HOUSING DEVELOPMENT ORGANIZATION AGREEMENT WITH THE KING OF KINGS HOUSING DEVELOPMENT CORPORATION FOR CONSTRUCTION OF THE BRIDGES AT FLORENCE APARTMENTS, A 21-UNIT AFFORDABLE SENIOR HOUSING PROJECT TO BE LOCATED AT 649 EAST FLORENCE AVENUE IN SOUTHWEST FRESNO**

RECOMMENDATIONS

Staff recommends that the City Council:

1) Adopt Finding of Categorical Exemption, pursuant to Article 19, Section 15332/Class 32 (In-Fill Development), of the California Environmental Quality Act (CEQA) Guidelines, for construction of a multifamily residence; and

2) Approve a $1.4 million HOME Investment Partnerships (HOME) Program, Community Housing Development Organization (CHDO) Agreement (Please see Exhibit "A" – HOME CHDO Agreement) with the King of Kings Housing Development Corporation (Developer) for construction of the Bridges at Florence Apartments, a 21-unit affordable senior housing project to be located at 649 East Florence Avenue (APN: 478-113-27) in southwest Fresno (Please see Exhibit "B" – Project Location Map), subject to prior approval as to form by the City Attorney's Office.

EXECUTIVE SUMMARY

The HOME CHDO Agreement provides for a commitment of $1.4 million in HOME CHDO Program funds to the Bridges at Florence project for 11 HOME-assisted units. The Developer proposes to partner with the Housing Authority of the City of Fresno (Housing Authority) to complete the project. On April 15, 2011, the City received a revised HOME Program funding proposal from the Developer in response to the City's HOME Notice of Funding Availability (NOFA), published March, 2011. Staff has reviewed the Developer's updated application and has determined that the project, as proposed, is financially viable, and applicable as a CHDO project. Staff therefore recommends approval of the HOME CHDO Agreement. If approved as recommended, HOME CHDO funds will be provided to the Developer in the form of a 3% simple interest loan with principal and

interest payable to the City from the project's annual residual receipts. Disbursement of funds to the Developer will be contingent upon an award of federal Low Income Housing Tax Credits (LIHTC) from the State of California Tax Credit Allocation Committee (TCAC).

BACKGROUND

The Developer submitted a request for HOME CHDO Program funding in 2007, 2009, and 2010. However, due to the limited availability of HOME Program funding, the Developer was asked to postpone its request until a later date. The Developer agreed to delay its request for HOME CHDO Program funding so that other proposed housing projects, utilizing HOME Program funding, would have a better chance of competing for an allocation of LIHTC set aside by TCAC for the Central Valley.

Now that HOME CHDO funds are available and the Bridges at Florence project is ready to proceed, the Developer cancelled its previous request for HOME CHDO loan funds and resubmitted a new funding request in response to the City's March, 2011 NOFA. Staff has determined that the Developer's Bridges at Florence project application, received on April 15, 2011, is financially viable and applicable as a CHDO project. Staff therefore recommends approval of the HOME CHDO Agreement for the Bridges at Florence Project.

In March, 2012, the Developer will apply for approximately $2 million in LIHTC financing at the TCAC's first round of funding, to help finance construction of the 21-unit apartment project. The estimated total cost of the project is $4 million of which a majority of funding is expected to come from an allocation of 9% LIHTC and HOME CHDO funds (Please see Exhibit "C" – Project Sources and Uses).

The Developer intends to contract with a qualified architectural firm to design the project utilizing the guiding principles of the City's proposed form-based code. Construction of the building structures will be situated on the property to front the street, incorporate energy-efficient low-maintenance materials, and utilize the City of Fresno Green building standards and Universal Design features. Development of the 2.38 parcel also includes site preparation and construction of interior streets and sidewalks. The Bridges at Florence Apartments will be located at 649 E. Florence Ave., and will consist of 20 one- and two-bedroom units of affordable housing for seniors 62-years and older, a community building, on-site parking, and one manager's unit. Unit sizes will range from 669 to 775 square feet. There will be approximately 15,004 square feet of living space at a cost of $135.00 per square foot. Eleven of the units will be HOME-assisted units and carry 55-year affordability covenants. The community building will serve as a resource center and include a management office, multi-purpose room, kitchen, laundry room, restroom facilities, and a patio area. Qualifying tenants' income will range from 30% to 60% of area median income. Proposed project rents will range from $317 to $879 per unit depending on bedroom size and location.

If approved as recommended, the attached HOME CHDO Agreement for the development of the project will provide for a commitment of $1.4 million in HOME CHDO Program funds. Disbursement of HOME CHDO funds for eligible project costs will be contingent upon an award of federal LIHTC from the TCAC.

The Developer is a well known non-profit corporation that has over 34 years of experience with development and management of affordable housing. In 1973, the Developer constructed the Martin Luther King Square Apartments, a 92-unit multi-family housing complex, in partnership with the City of Fresno, Fresno Redevelopment Agency, and the U.S. Department of Housing and Urban Development (HUD). In 1983, the Developer completed construction of the Lula Haynes Plaza, a 46-unit senior housing project in southwest Fresno. Both projects were developed utilizing HUD Federal Housing Administration Section 236/202

mortgage assistance program funds. The Housing Authority, the development partner, is proposing to assist the Developer with completion of the proposed Bridges at Florence project. Staff encouraged the partnership to help the City meet HUD's CHDO capacity building requirement under the HOME Program. The Housing Authority is a highly experienced developer, manager, and owner of affordable housing and has served as a lower income housing provider to the community for over 60 years. The Housing Authority has constructed hundreds of housing units for lower income households and recently completed a 215-unit housing project in central Fresno.

Once completed, the Bridges at Florence project will assist the City in meeting its affordable housing goals as identified in the Housing Element of the 2025 General Plan, the 2010-2014 Consolidated Plan, and the HOME Program funding priorities for new housing development. The Bridges at Florence will also make a positive impact to the neighborhood by offering new, quality, durable, affordable housing to seniors.

ENVIRONMENTAL COMPLIANCE

In anticipation of the funding and subsequent construction of the project, the City completed a National Environmental Policy Act assessment on August 22, 2009 (EA No. 014-09061), which resulted in a Finding of No Significant Impact. On October 7, 2009, the City received HUD environmental clearance and authorization to use HOME CHDO funds for the Bridges at Florence project. Additionally, on May 19, 2008, the City completed a California Environmental Quality Act assessment for the project activities (EA No. C-08-077), which resulted in a determination of Categorical Exemption pursuant to CEQA Guidelines, Section 15332/Class 32 which exempts infill development projects if they meet the following criteria: 1) consistent with applicable general plan land use designation and policies, as well as zoning requirements; 2) the property is within City limits on a site of five acres or less; 3) the site has no value as habitat for endangered, rare of threatened species; 4) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and 5) the site can be adequately served by all utilities and public services. In this case, staff has determined that the project meets all these criteria. Furthermore none of the exceptions to Categorical Exemptions set forth in the Guidelines, Section 15300.2, apply to this project. Accordingly staff recommends that Council adopt Categorical Exemption Environmental Assessment No. EA-08-077 dated May 19, 2008, under California Environmental quality Act (CEQA) which is a finding of a Categorical Exemption pursuant to Sections 15332/Class 32 of the CEQA Guidelines.

HOUSING AND COMMUNITY DEVELOPMENT COMMISSION

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

FISCAL IMPACT

HOME CHDO Program funds for the Bridges at Florence project are available in the Development and Resource Management Department's Fiscal Year 2012 Budget. The project's total construction cost is estimated at $4 million of which $2 million is expected to come from LIHTC. Additional financing will come from the City's HOME CHDO funds ($1.4 million), with the balance of funds to come from Housing Relinquished Fund.

APPENDICES

Exhibit A - HOME CHDO Agreement
Exhibit B - Project Location Maps
Exhibit C - Draft Project Sources and Uses of Funds

EXHIBIT "A"
HOME CHDO AGREEMENT

Recorded at the Request of
and When Recorded Return to:

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

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

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

By:_____
Mark Scott
City Manager

Date:_____

CITY OF FRESNO
HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM
COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) AGREEMENT

by and between

CITY OF FRESNO,
a municipal corporation

and

King of Kings Housing Development Corporation, a California non-profit corporation
regarding

Bridges at Florence Apartments
649 East Florence Ave., Fresno, CA 93706 (APN: 478-113-27)
(North of East Florence Ave, East of South Fairview Ave in southwest Fresno)

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HOME INVESTMENT PARTNERSHIPS PROGRAM COMMUNITY HOUSING DEVELOPMENT ORGANIZATION AGREEMENT

This HOME Investment Partnerships Program, Community Housing Development Organization Agreement (hereinafter referred to as the "Agreement") is entered into this _____, 2011, by and between the City of Fresno, a municipal corporation (hereinafter referred to as the "CITY"), and the King of Kings Housing Development Corporation, a California non-profit corporation (hereinafter referred to as "DEVELOPER").

RECITALS

A. The CITY has received a HOME investment Partnerships Program (hereinafter referred to as "HOME Program") grant from the U.S. Department of Housing and Urban Development (hereinafter referred to as "HUD"), under Title II of the Cranston-Gonzalez National Affordable Rental Housing Act of 1990, as amended (hereinafter referred to as the "Act").

B. The HOME Program requires no less than fifteen percent (15%) of the CITY's HOME Program annual entitlement allocation to be used by a Community Housing Development Organization (hereinafter referred to as "CHDO") for the development of Affordable Housing within the CITY as required by 24 CFR 92.300.

C. The DEVELOPER is certified by the CITY as a CHDO in accordance with HUD CHDO certification criteria.

D. To advance the supply of Affordable rental housing within the City of Fresno, the CITY desires, among other things, to encourage investment in the affordable rental housing market.

E. The Project will provide for the construction of a twenty-one (21) unit apartment complex of which eleven (11) units will be HOME-assisted affordable rental housing units, and related improvements at the Property identified in EXHIBIT "A".

F. The DEVELOPER desires to act as the CHDO/developer exercising effective project control, as to the construction of a twenty-one (21) unit apartment complex of which eleven (11) units shall be HOME-assisted units constructed and preserved as Low-Income rental housing, and related on-site and off-site improvements, hereinafter referred to as the "Project", as more particularly described in the Project Description and Schedule attached hereto as EXHIBIT "B".

G. The Project will be constructed upon HOME Program eligible Property owned by the DEVELOPER and located within the boundaries of the City of Fresno, as more particularly described in the attached EXHIBIT "A".

H. To further its goal to increase the supply of Affordable Rental Housing, the CITY desires to assist the DEVELOPER by providing a total of up to One Million Four Hundred Thousand dollars and 00/100 ($1,400,000) in annually allocated and available fiscal year 2011-2012 HOME CHDO Program funds for a residual receipts HOME Program HOME CHDO Loan to the Project (hereinafter referred to as "Loan"), for payment of the HOME Program eligible costs, as further identified in the Project Budget and Cash Flow Statement, EXHIBIT "C", variously secured by the underlying real property and the Affordable Property Rental Housing covenants, upon the terms and conditions in this Agreement. The simple interest will be at three percent (3%) annually. Principal and interest will be payable from annual residual receipts at times prior to the Maturity Date and in full upon the Maturity Date.

I. An August 22, 2009, environmental review of the Affordable Senior Housing Project pursuant to the National Environmental Policy Act ("NEPA") guidelines resulted in a Finding of No Significant Impact (EA No. 014-09061). The CITY received HUD approval for release of HOME CHDO Program funds pursuant to 24 CFR Part 58 on October 7, 2009. Additionally, a May 19, 2008 environmental review of the Affordable Project pursuant to the California Environmental Quality Act ("CEQA") guidelines resulted in a Categorical Exemption (EA No. C-08-077).

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

K. The CITY and DEVELOPER have determined that the Affordable Project's HOME CHDO-assisted Units constitute routine programmatic/grantee lender activities utilizing available and allocated program/grantee funding, outside the reach of California Constitution Article XXXIV and enabling legislation.

L. On _____ __, 2011, the Housing and Community Development Commission of the City of Fresno reviewed this Agreement and recommended approval.

M. On June 28, 2011 the King of Kings Housing Development Corporation Board reviewed this Agreement and recommended approval.

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 as follows:

ARTICLE 1. DEFINITIONS

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

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

1.2 Affirmative Marketing means a good faith effort to attract eligible persons of all racial, ethnic and gender groups, in the housing market area, to rent the proposed Affordable Project units, as hereinafter defined.

1.3 Affordability Period means fifty-five (55) years commencing from the date Project and tenant information is entered into HUD's Integrated Disbursement and Information System.

1.4 Affordable Project means the construction of a twenty (20) unit affordable housing apartment complex, one (1) manager's unit, and related on-site and off-site improvements, all as described in the Project Description attached hereto and incorporated herein as EXHIBIT "B", to be located upon the Affordable Project Property. Eleven (11) of the Units shall be floating HOME CHDO units and be rented to Low Income Seniors in accordance with the HOME Program requirements.

1.5 Affordable Project Property means the Property on which the Affordable Project will be located which is described on EXHIBIT "A".

1.6 Affordable Rental Housing means the rental housing units to be constructed on the Affordable Project Property of which eleven (11) floating units will be required to meet the affordability requirements of 24 CFR 92.252.

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

1.8 Certificate of Completion means that certificate attached as EXHIBIT "E" to be issued to the DEVELOPER by the CITY evidencing completion of the Affordable Project, a release of construction related covenants for the purposes of the Agreement.

1.9 CFR means the Code of Federal Regulations.

1.10 Commencement of Construction means the date that the DEVELOPER or DEVELOPER's construction contractor begins substantial physical work on the Affordable Project Property, including, without limitation, delivery of materials and any work, beyond maintenance of the Affordable Project Property in its status quo condition which shall occur with respect to the Affordable Project Property at the times set forth in the Project Schedule, EXHIBIT "B".

1.11 Completion Date means the date that the CITY issues a recorded Certificate of Completion for the Affordable Project. The Completion Date for the Affordable Project is identified in EXHIBIT "B".

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

1.13 Declaration of Restrictions means the Declaration of Restrictions in the form attached hereto as EXHIBIT "H", which shall be recorded against the Property concurrent with the recordation of this Agreement, setting out the requirements for this Agreement which shall run with the land.

1.14 Deed of Trust means that standard, subordinate no worse than third (3rd) position including assignment of rents and security agreement given by DEVELOPER, as Trustor, to the CITY as beneficiary, issued through an escrow established by the DEVELOPER at its sole cost and expense, with a title company acceptable to the CITY, recorded against the Affordable Project Property, insured in the full amount of the Loan and acceptable to the City Attorney, as well as any amendments to, modifications of and restatements of said Deed of Trust. The terms of any such Deed of Trust shall be substantially the form attached hereto as EXHIBIT "G".

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

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

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

1.18 Federal HOME Investment Partnerships CHDO Funds (also referred to in this Agreement as "HOME CHDO Funds or HOME Program CHDO Funds") means the federal HOME Program monies consisting of the Loan, in an amount not to exceed the sum of One Million Four Hundred Thousand dollars and 00/100 ($1,400,000) to be used for eligible Affordable Project costs.

1.19 Funding Sources means: (i) Equity raised from the sale of State or Federal Low Income Housing Tax Credits, (ii) the CITY's HOME CHDO Funds, (iii) the Housing Authority of the City of Fresno's Relinquished Fund Corporation funds, (iv) Developer's fee, and (v) the Federal Home Loan Bank's Affordable Housing Program funds referenced in the Budget as source(s) of funding for the Affordable Project, and any other financing sources described in the Budget.

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

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

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

1.23 Loan means the non-assumable, loan of HOME Funds, in an amount not to exceed the lesser of the sum of One Million Four Hundred Thousand dollars and 00/100 ($1,400,000) and the aggregate HOME Program per unit cap (24 C.F.R. 92.250) for the eleven (11) HOME-assisted floating Units as determined by the CITY made available by the CITY to the Affordable Project pursuant to this Agreement, as more specifically described in the Budget attached hereto as EXHIBIT "C" and in the Note attached hereto as EXHIBIT "F".

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

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

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

1.27 Program Income has the meaning provided in the HOME Program including 24 C.F.R. 92.503.

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

1.29 Property means a portion of that vacant 2.38 acre parcel owned by the DEVELOPER and located at 649 East Florence Avenue, Fresno, California, 93706, east of South Fairview Avenue and north of East Florence Avenue (APN: 478-113-27), Fresno, California, more specifically described in the attached EXHIBIT "A" which shall be used for development of the Affordable Project.

1.30 Rent means the total monthly payments a tenant pays for a Unit including the following: use and occupancy of the Unit and land and associated facilities, including parking (other than parking services acquired by tenants on an optional basis), any separately charged fees or service charges assessed by the DEVELOPER which are required of all tenants (other than security deposits), the cost of an adequate level of service for utilities paid by the tenant (including garbage collection, sewer, water, common area electricity, but not telephone service), any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than the DEVELOPER, and paid by the tenant. Rent does not include payments for any optional services provided by DEVELOPER.

1.31 Residual Receipts means Residual Receipts as defined in EXHIBIT "F".

1.32 Senior means a person age sixty-two (62) years or older or other qualified permanent resident as defined under California Civil Code Section 51.3.

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

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

1.35 Unit means a dwelling unit of the Affordable Project.

ARTICLE 2. TERMS OF THE LOAN

2.1 Loan of HOME CHDO Funds. The CITY agrees to provide a Loan of HOME Funds to the DEVELOPER in an amount not to exceed One Million Four Hundred Thousand dollars and 00/100 ($1,400,000), as needed, under the terms and conditions provided in this Agreement. The HOME Funds shall only be used by the DEVELOPER for Eligible Costs under the HOME Program.

2.2 Loan Documents. The DEVELOPER shall execute and deliver the Note to the CITY and the Deed of Trust to the Title Company for recordation against the Affordable Project Property, as provided for in this Agreement.

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

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

2.5 Incorporation of Documents. The DEVELOPER's HOME Program application dated April 15, 2011, the DEVELOPER's Board Minutes dated June 28, 2011, the City Council approved Minutes of _____, 2011, approving this Agreement, the Loan Documents, the Act and HUD regulations at 24 C.F.R. Part 92, and all exhibits, attachments, documents and instruments referenced herein, as now in effect and as may be amended from time to time, constitute part of this Agreement and are incorporated herein by reference. All such documents have been provided to the parties herewith or have been otherwise provided to/procured by the parties and reviewed by each of them prior to execution hereof.

2.6 Covenants of DEVELOPER. The DEVELOPER for itself and its agents/assigns covenants and agrees to comply with all the terms and conditions of this Agreement and the requirements of 24 C.F.R. Part 92 that are applicable to the Affordable Project.

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

ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF DEVELOPER

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

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

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

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

3.6 Assurance of Governmental Approvals and Licenses. The DEVELOPER represents and warrants, as of the date hereof, that the DEVELOPER has obtained and, to the best of the DEVELOPER's knowledge, is in compliance with all federal, state, and local governmental reviews, consents, authorizations, approvals, and

licenses presently required by law to be obtained by the DEVELOER for the Project as of the date hereof.

ARTICLE 4. HOME PROGRAM REPRESENTATION AND WARRANTIES BY DEVELOPER

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

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

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

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

(i) Provide at least one accessible building entrance on an accessible route.

(ii) Construct accessible and usable public and common use areas.

(iii) Construct all doors to be accessible and usable by persons in wheelchairs.

(iv) Provide an accessible route into and through the covered dwelling unit.

(v) Provide light switches, electrical outlets, thermostats and other environmental controls in accessible locations.

(vi) Construct reinforced bathroom walls for later installation of grab bars around toilets, tubs, shower stalls and shower seats, where such facilities are provided.

(vii) Provide usable kitchens and bathrooms such that an individual who uses a wheelchair can maneuver

about the space.

C. Title III of the ADA as it relates to the required accessibility of public and common use areas of the Affordable Project.

D. The design and construction requirements as required by the CITY's Universal Design Ordinance pursuant to FMC 11-109, including, but not limited to the following requirements:

(i) No step accessible entryway;

(ii) All interior doorways and passageways at least 32 inches wide;

(iii) One downstairs "flex room" and accessible bathroom with reinforcements for grab bars;

(iv) Six square feet of accessible kitchen counter space; and

(v) Hallways at least 42 inches wide.

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

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

4.4 Conflict of Interest. The DEVELOPER warrants, covenants and agrees that it shall comply with the Conflict of Interest requirements of 24 C.F.R. 92.356 including, without limitation, that no officer, employee, agent or consultant of the DEVELOPER (other than an employee or agent of the DEVELOPER) who occupies a Unit as the property manager or maintenance worker) may occupy an Affordable Project Unit. The DEVELOPER understands and acknowledges that no employee, agent,

consultant, officer or elected official or appointed official of the CITY, who exercises or has exercised any functions or responsibilities with respect to the Affordable Project, or who is in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from the Affordable Project, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for anyone with which that person has family or business ties, during his or her tenure or for one year thereafter. To the extent provided at 24 C.F.R. 92.356(f), no owner, developer or sponsor of the Affordable Project, or officer, employee, agent or consultant thereof, may occupy an Affordable Project Unit.

4.5 Construction Standards. The DEVELOPER shall construct the proposed Affordable Project Units assisted under this Agreement in compliance with all applicable local codes, ordinances and zoning requirements in effect at the time of issuance of CITY building permits.

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

A. The DEVELOPER hereby declare its understanding and intent that the covenants and restrictions set forth herein directly benefit the land: (a) by enhancing and increasing the enjoyment of the proposed Affordable Project by certain Low Income Seniors and Persons with Disabilities, and (b) by making possible the obtaining of advantageous financing for construction.

B. The DEVELOPER covenants and agrees that after notice that the Project and tenant information has been entered into the Integrated Disbursement and Information System ("IDIS") for the Affordable Project until the expiration of the fifty-five (55) year Affordability Period, it shall cause the Affordable Project to be used as Affordable housing for Seniors.

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

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

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

4.7 Displacement of Persons. The DEVELOPER covenants and agrees with that pursuant to 24 CFR 92.353, it will take all reasonable steps to minimize the displacement of any persons (families, individuals, businesses, nonprofit organizations and farms). The parties acknowledge and agree that the Property is vacant and unoccupied.

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

4.9 Lead-Based Paint. The DEVELOPER covenants and agrees with the CITY that it shall comply with all applicable requirements of the Lead-Based Paint Poisoning Prevention Act of 42 U.S.C. 4821 et seq., 24 C.F.R. Part 35, including the HUD 1012 Rule, 24 C.F.R. 982.401(j), and any amendments thereto, and EPA Section

402(c)(3) of the Toxic Substances Control Act to address lead-based paint hazards created by renovation, repair, and painting activities that disturb lead-based paint in target housing and child-occupied facilities. Contractors performing renovations in lead-based paint units must be EPA-certified renovators. These requirements apply to all Units and common areas of the Affordable Project. The DEVELOPER shall incorporate or cause incorporation of this provision in all contracts and subcontracts for work performed on the Affordable Project, which involve the application of paint. The DEVELOPER shall be responsible for all disclosure, inspection, testing, evaluation, and control and abatement activities.

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

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

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

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

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

D. The property standards at 24 C.F.R. 92.251.

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

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

G. The DEVELOPER and its contractors, subcontractors and service providers for the Affordable Project, shall comply with all applicable local, state

and federal requirements concerning equal employment opportunity, including compliance with Executive Order (E.O.) 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 C.F.R. part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

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

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

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

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

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

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

N. Executive Order 11063 on Equal Opportunity and Housing.

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

P. The Housing and Community Development Act of 1974.

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

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

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

4.13 Reporting Requirements. The DEVELOPER warrants, covenants and agrees that it shall submit performance reports to the CITY as detailed in Section 7.19. Furthermore, the DEVELOPER agrees to provide, at the sole cost of the DEVELOPER, annual audited Financial Statements for the Affordable Project expenses and ongoing financial transactions which occur as a result of this Agreement as detailed in Section

5.6. The DEVELOPER agrees to account for the expenditure of HOME Funds using generally accepted accounting principles, which financial documentation shall be made available to the CITY and HUD, upon their respective written request(s).

4.14 Housing Affordability. The DEVELOPER covenants and agrees that the Affordable Project will meet be affordable to Low-Income Seniors and other requirements of 24 C.F.R. 92.252 during the Affordability Period. The Units shall, at a minimum, be rented to and occupied by, or, if vacant, available for rental and occupancy by (a) person(s) whose annual household income at the time of initial occupancy is not greater than fifty percent (50%) to sixty percent (60%) of the most recent annual median income calculated and published by HUD for the Fresno Metropolitan Statistical Area applicable to such household's size, and at an affordable rent consistent with HOME Program regulations, for the Affordability Period except upon foreclosure by a lender or other transfer in lieu of foreclosure following default under a Deed of Trust. However, if at any time following a transfer by foreclosure or transfer in lieu of foreclosure, but still during the Affordability Period, the owner of record prior to the foreclosure or transfer in lieu of foreclosure, or any newly formed entity that includes such owner of record or those whom such owner of record has or had family or business ties, obtains an ownership interest in the Affordable Project or the Affordable Project Property, the Affordability Period shall be revived according to its original terms. In the event the DEVELOPER fails to comply with this Section or the Affordability Period is not revived following transfer by foreclosure or transfer in lieu of foreclosure, the DEVELOPER shall return to the CITY all HOME Funds disbursed to the DEVELOPER by the CITY.

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

ARTICLE 5. COVENANTS AND AGREEMENTS OF DEVELOPER

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

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

5.2 Affordable Rental Housing. The DEVELOPER covenants and agrees that the Affordable Project shall constitute Affordable Rental Housing with at least eleven (11) Units preserved as floating Low-Income Rental Housing (as provided at 24 C.F.R. 92.252) during the entire Affordability Period. This covenant shall remain in effect and run with and restrict the land during the entirety of the Affordability Period. In the event that the DEVELOPER fails to comply with the time period in which the Affordable Project must constitute Affordable Housing, the CITY shall without waiver or limitation be entitled to injunctive relief, as the DEVELOPER acknowledges that damages are not an adequate remedy at law for such breach.

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

Additionally, DEVELOPER agrees:

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

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

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

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

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

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

D. To indemnify, defend, and hold the CITY harmless from any and all claims, actions, causes of action, demands, judgments, damages, injuries, administrative orders, consent agreements, orders, liabilities, penalties, costs, expenses (including attorney's fees and expenses), and disputes of any kind whatsoever arising

out of or relating to the DEVELOPER or any other party's use or release of any hazardous or toxic chemicals, materials, substance, or wastes on the Property regardless of cause or origin, including any and all liability arising out of or relating to any investigation, site monitoring, containment, cleanup, removal, restoration, or other remedial work of any kind or nature.

5.4 Compliance With Laws. The DEVELOPER shall be responsible for and promptly and faithfully comply with, conform to and obey all present and future federal, state and local statutes, regulations, rules, ordinances and other legal requirements applicable by reason of this Agreement or otherwise to the Affordable Project including without limitation as to prevailing wage requirements. The DEVELOPER acknowledges that the use of federal funds on the Affordable Senior Project is subject to extensive federal regulation and covenants and agrees that it shall comply with, conform to, and obey (and take such steps as are required of the DEVELOPER to enable the CITY to comply with, conform to and obey) all federal statutes, regulations, rules and policies applicable to the Project. The CITY and the DEVELOPER acknowledge that: (i) pursuant to 24 C.F.R. 92.354, a contract for the construction (rehabilitation or new construction) of housing that includes fewer than 12 units assisted with HOME funds need not contain a provision requiring the payment of the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a- 5), to all laborers and mechanics employed in the development of any part of the housing, or the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332), and (ii) pursuant to Cal. Labor Code 1720, the public participation in the project that would otherwise meet the criteria of a public work for which State prevailing is required under Cal. Lab. Code 1720 et seq. is exempt where the public funding is in the form of below-market interest rate loans for a project in which occupancy of at least 40 percent of the units is restricted for at least 20 years, by deed or regulatory agreement, to individuals or families earning no more than 80 percent of the area median income. Nonetheless the DEVELOPER shall be solely responsible for determining and effectuating compliance. Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall be construed as imposing any independent prevailing wage requirements that are different from those imposed by applicable federal or state law.

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

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

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

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

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

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

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

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

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

5.9 No Other Liens. The DEVELOPER shall not create or incur, or suffer to be created or incurred, or to exist, any additional mortgage, pledge, encumbrance, lien, charge, or other security interest of any kind on the eligible Property, other than those related to construction or pre-development loans in relation to the Affordable Project consistent with the Budget without the prior written consent of the CITY.

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

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

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

ARTICLE 6. DISBURSEMENT OF HOME FUNDS

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

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

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

6.3 Use of HOME Funds. The DEVELOPER warrants, covenants and agrees that it shall request HOME Funds only for reimbursement of eligible costs as identified in the attached Budget, attached hereto as EXHIBIT "C", including costs allowable under 24 C.F.R. 92.206, aggregating not more than One Million Four Hundred Thousand dollars and 00/100 ($1,400,000). The CITY's obligations shall in no event exceed the HOME Funds amount specified in this Agreement.

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

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

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

6.4 Conditions Precedent to Disbursement. The CITY shall not be obligated to make or authorize any disbursements of HOME Funds unless all the following conditions are satisfied:

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

B. The DEVELOPER has submitted evidence that the combined monies from the Funding Sources and the HOME Funds are not less than Three Million Nine Hundred Sixty Two Thousand Seven Hundred Eighteen dollars and 00/100 ($3,962,718) as stated in the Project Budget attached hereto as EXHIBIT "C", the amount necessary to complete the Project;

C. The CITY has approved the requested reimbursement of eligible Affordable Project costs.

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

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

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

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

6.5 Request for and Disbursement of HOME Funds. The DEVELOPER shall request disbursement of HOME Funds using the CITY's Request for Disbursement of Funds form. The DEVELOPER shall only request a maximum of One Million Four Hundred Thousand dollars and 00/100 ($1,400,000) in HOME Program assistance for the Affordable Project. All requests must provide in detail such Eligible Costs applicable to the request. All requests for HOME Funds disbursement shall be accompanied with the Certification required by Section 6.6 of this Agreement.

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

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

B. The DEVELOPER has carried out all of its obligations and is in compliance with all the material obligations or covenants specified in this Agreement, to the extent that such obligations or covenants are required to have been carried out or are applicable at the time of the request for the Disbursement;

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

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

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

ARTICLE 7. DEVELOPMENT AND CONSTRUCTION

Without waiver of limitation, the parties agree as follows:

7.1 Groundbreaking Ceremony. Prior to breaking ground, the DEVELOPER, at its sole cost and expense, shall schedule a groundbreaking ceremony open to local dignitaries, applicable CITY staff, and selected members of the community, as well as

send a press release about the Affordable Project and ceremony to local media to cover the event.

7.2 Pre-construction Meeting Regarding Program Processes and Procedures. The CITY will schedule, and the DEVELOPER shall attend a meeting prior to construction with the CITY for the purpose of outlining Affordable Project processes and procedures.

7.3 Commencement and Completion of Affordable Project. The DEVELOPER shall commence the construction, and file a Notice of Completion upon completion of construction of the Affordable Project in accordance with the Project Schedule as identified in EXHIBIT "B".

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

7.5 Damage to Property. To the extent consistent with the requirements of any permitted encumbrance, or as otherwise approved by the CITY, and subject to Article 9 of this Agreement, if any building or improvement constructed on the Affordable Project Property is damaged or destroyed by an insurable cause, the DEVELOPER shall, at its cost and expense, diligently undertake to repair or restore said buildings and improvements consistent with the original Plans and Specifications of the Affordable Project. Such work or repair shall commence within ninety (90) days after the insurance proceeds are made available to the DEVELOPER and shall be complete within one (1) years thereafter. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, the DEVELOPER shall make up the deficiency.

7.6 Fees, Taxes and Other Levies. The DEVELOPER shall be responsible for payment of all fees, assessments, taxes, charges and levies imposed by any public authority or utility company with respect to the Affordable Project Property or the Affordable Project, and shall pay such charges prior to delinquency. However, the DEVELOPER shall not be required to pay and discharge any such charge so long as:

(a) the legality thereof is being contested diligently and in good faith and by appropriate proceedings, and (b) if requested by the CITY, the DEVELOPER deposits with the CITY any funds or other forms of assurances that the CITY, in good faith, may determine from time to time are appropriate to protect the CITY from the consequences of the contest being unsuccessful.

7.7 Financing. The DEVELOPER shall promptly inform the CITY of any new financing or funding not included in the Budget for the Affordable Project, and the DEVELOPER shall provide the CITY copies of all agreements with any and all Funding Sources for the Affordable Project. The DEVELOPER shall require each agreement with any and all Funding Sources not included in the Budget to contain a provision whereby the party(ies) to the agreement other than the DEVELOPER, if permitted by the parties' applicable rules and regulations, agree to notify the CITY immediately of any event of default by the DEVELOPER thereunder. Should the DEVELOPER not comply with all obligations of this section, the loan shall become immediately due and payable as provided for in this Agreement. This section shall survive expiration or termination of this Agreement.

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

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

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

7.11 Insurance. The DEVELOPER shall submit for the CITY's approval, certificates, and/or applicable insurance endorsements for the Affordable Project as required by this Agreement in accordance with Article 9.

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

or provide the CITY with other assurance satisfactory to the CITY that the claim of lien or stop notice will be paid or discharged.

A. If the DEVELOPER fails to discharge, bond or otherwise satisfy the with respect to any lien, encumbrance, charge or claim referred to in this Section 8.7, then, in addition to any other right or remedy, the CITY may, but shall not be obligated to, discharge such lien, encumbrance, charge, or claim at the DEVELOPER's expense. Alternatively, the CITY may require the DEVELOPER to immediately deposit with the CITY, the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. The CITY may use such deposit to satisfy any claim or lien that is adversely determined against the DEVELOPER. The DEVELOPER hereby agrees to indemnify and hold the CITY harmless from liability for such liens, encumbrances, charges or claims together with all related costs and expenses.

7.13 Permits and Licenses. Upon CITY's reasonable request, the DEVELOPER shall submit, for CITY approval, all the necessary permits and licenses required for Commencement of Construction of the Affordable Project. As the CITY may reasonably request, the DEVELOPER, at its sole cost and expense, shall provide to the CITY copies of any and all permit approvals and authorizations including plot plan, plat, zoning variances, sewer, building, and other permits required by governmental authorities other than the CITY in pursuit of the Affordable Project, and for its stated purposes in accordance with all applicable building, environmental, ecological, landmark, subdivision, zoning codes, laws, and regulations.

7.14 Plans and Specifications.

A. The DEVELOPER has submitted preliminary plans and specifications for the Affordable Housing Project under Conditional Use Permit file number C-08-077 ("Affordable Preliminary Plans"). The DEVELOPER shall submit to the CITY such plans, materials and drawings describing the development of the Affordable Housing Project consistent with the Affordable Preliminary Plans which may be required by the CITY with respect to any permits and entitlements which are required to be obtained to develop the Affordable Housing Project ("Affordable Final Plans").

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

7.15 Project Responsibilities/Public Work-Prevailing Wage Requirements. The DEVELOPER shall be solely responsible for all aspects of the DEVELOPER's conduct in connection with the Project, including but not limited to, compliance with all local, state and federal laws including, without limitation, as to prevailing wage and public bidding requirements. This Project is a "public work" project for federal purposes including Davis Bacon and Related Acts wage requirements absent written direction/determination otherwise by HUD or a court of competent jurisdiction. This project is a "public work" project for state purposes including California Labor Code Section 1720 et seq. wage requirements, to which Section 1771 applies, absent written

direction/determination otherwise by the California Department of Industrial Relations or a court of competent jurisdiction. Based thereon the DEVELOPER shall cause the Project work to be performed as a "public work." The Council of the City of Fresno has adopted Resolution No. 82-297 ascertaining the general prevailing rate of per diem wages and per diem wages for holidays and overtime in the Fresno area for each craft, classification, or type of workman needed in the execution of contracts for the CITY. A copy of the resolution is on file at the Office of the City Clerk. Actual wage schedules are available upon request at CITY's Construction Management Office. Without limiting the foregoing, the DEVELOPER shall be solely responsible for the quality and suitability of the work completed and the supervision of all contracted work, qualifications and financial conditions of and performance of all contractors, subcontractors, consultants and suppliers. Any review or inspection undertaken by the CITY with reference to the Project and/or payroll monitoring/auditing is solely for the purpose of determining whether the DEVELOPER is properly discharging its obligation to the CITY, and shall not be relied upon by the DEVELOPER or by any third parties as a warranty or representation by the CITY as to governmental compliance and/or the quality of the work completed for the Project.

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

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

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

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

A. From the date of the execution of the Agreement, until issuance of the recorded Certificate of Completion, the DEVELOPER shall submit a Quarterly Report, in a form provided by the CITY, which will include the progress of construction of the Affordable Project and affirmative marketing efforts (as applicable). The Quarterly Reports are due within fifteen (15) days after each March 31st, June 30th, September 30th, and December 31st, during said period.

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

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

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

A. The time for performance of provisions of the Agreement by either party shall be extended for a period equal to the period of any delay directly affecting the Affordable Project or this Agreement which is caused by: war, insurrection, strike or other labor disputes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of a public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, suits filed by third parties concerning or arising out of this Agreement, or unseasonable weather conditions. An extension of time for any of the above specified causes shall be granted only if written notice by the party claiming such extension is sent to the other party within thirty (30) calendar days from the date the affected party learns of the commencement of the cause and the resulting delay and such extension of time is accepted by the other party in writing. In any event, the Affordable Project must be completed no later than one hundred eighty (180) calendar days after the scheduled completion date specified in this Agreement, notwithstanding any delay caused by that included in this section.

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

7.21 Certificate(s) of Completion. Upon completion of the construction of the Affordable Project, the DEVELOPER shall: 1) certify in writing to the CITY that the Affordable Project has been constructed in accordance with the Affordable Final Plans; 2) submit to the CITY a cost-certifying final budget for the Affordable Project where the DEVELOPER shall identify the actual costs of construction of the Affordable Project; 3) submit to the CITY a Certificate of Occupancy for the Affordable Project; 4) submit to the CITY a recorded Notice of Completion for the Affordable Project; and 5) submit to the CITY an Architect's certification in a form reasonably acceptable by the CITY. Upon a determination by the CITY that the DEVELOPER is in compliance with all of the DEVELOPER's construction obligations, as specified in this Agreement, the CITY shall furnish, within thirty (30) calendar days of a written request by the DEVELOPER, a recorded Certificate of Completion for the Affordable Project in the form attached hereto as EXHIBIT "E". The CITY will not unreasonably withhold or delay furnishing the recorded Certificate of Completion. If the CITY fails to provide the recorded Certificate of Completion within the specified time, it shall provide the DEVELOPER with a written statement indicating in what respects the DEVELOPER has failed to complete the Affordable Project in conformance with this Agreement or has otherwise failed to comply with the terms of this Agreement, and what measures the DEVELOPER will need to take or what standards it will need to meet in order to obtain the recorded Certificate of Completion. Upon the DEVELOPER taking the specified measures and meeting the specified standards, the DEVELOPER will certify to the CITY in writing of such compliance and the CITY shall deliver the recorded Certificate of Completion to the DEVELOPER in accordance with the provisions of this section.

7.22 Grand Opening. Upon completion of the Affordable Project, the DEVELOPER shall schedule and arrange for a Grand Opening ceremony on the premises open to local dignitaries, applicable CITY staff, and selected members of the community, as well as send a press release about the Grand Opening ceremony to local media to cover the event, at its sole cost and expense.

ARTICLE 8. AFFORDABLE PROJECT OPERATIONS

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

8.2 Occupancy Requirements. The HOME CHDO-assisted eleven (11) floating Affordable Project Units shall be rented and occupied by, or if vacant, available for rental occupancy by: (a) Seniors whose annual household income at the time of initial occupancy is not greater than fifty percent (50%) to sixty percent (60%) of the most recent annual median income, calculated and published by HUD for the Fresno Metropolitan Statistical Area, applicable to such household's size, and at an affordable rent consistent with HOME Program regulations (as provided at 24 CFR 92.252) for the term of this Agreement. The DEVELOPER shall comply with the income targeting

requirements of 24 C.F.R. 92.216. One (1) of the twenty-one (21) Affordable Project Units shall be reserved as on-site manager unit.

8.3 Leasing the HOME Units. Before leasing any Units, the DEVELOPER shall submit its proposed form of Affordable Project lease agreement for the CITY's review and approval. The DEVELOPER covenants and agrees to utilize only leases that have been approved in advance by the CITY. The CITY shall respond to the DEVELOPER's submission of a sample lease agreement within thirty (30) days. Should the CITY not respond within thirty (30) days of the lease agreement submittal, the DEVELOPER shall be authorized to use the submitted sample lease agreement. Additionally, DEVELOPER agrees not to terminate the tenancy or to refuse to renew or lease with a tenant of the Affordable Rental Housing assisted with HOME Funds except for serious or repeated violation of the terms and conditions of the lease agreement, for violation of applicable federal, state, or local law, or for other good cause. Any such termination or refusal to renew must be preceded by not less than thirty (30) days' written notice served by the DEVELOPER or its authorized management entity upon the tenant specifying the grounds for such action. The DEVELOPER agrees it shall annually report to the CITY the number of leases that were not renewed or terminated and the reason for such non-renewal or termination.

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

A. The DEVELOPER shall include in it leases agreement for all Units, provisions which authorize the DEVELOPER to immediately terminate the tenancy of any Household whose one or more members misrepresented any fact material to the Household's qualification as a Household for Low-Income Seniors. Each such lease agreement shall also provide that the Household is subject to annual certification, and that, if the Household's annual income increases above the applicable limits for Low-Income Seniors such Household's rent may be subject to increase to the lesser of: 1) the amount payable by tenant under state or local law; or 2) thirty percent (30%) of the Household's actual adjusted monthly income, except that, consonant with the Act, tenants of HOME Funds-assisted units that have been allocated low income housing tax credits by a housing credit agency pursuant to section 42 of the internal Revenue Code of 1986 (26 U.S.C. 42) must pay rent governed by section 42.

B. In addition, the leases for Units shall provide that if the Affordable Project is subject to state or federal rules governing Low Income Housing Tax Credits, the provision of those rules regarding continued occupancy by, and increases in Rent for, Households whose incomes exceed the eligible income limitation shall apply in place of the provisions set forth in subsection (A) above.

8.5 Final Management Plan. Before leasing the Affordable Rental Housing and at least sixty (60) calendar days prior to the Completion Date, the DEVELOPER shall submit to the CITY, for review and approval, a plan for marketing and managing the proposed Affordable Project ("Final Management Plan"). The Final Management Plan shall address in detail how the DEVELOPER or its designated management entity

plans to market the availability of Units to prospective tenants and how the DEVELOPER plans to certify the eligibility of potential tenants. The Final Management Plan shall also address how the DEVELOPER and/or the management entity plan to manage and maintain the Affordable Rental Housing in accordance with HOME Program regulations at Section 92.251 Property Standards, and shall include appropriate financial information and documentation. The Final Management Plan shall contain detailed descriptions of policies and procedures with respect to tenant selections and evictions. Topics to be covered in these procedures shall include at a minimum the following:

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

The Final Management Plan shall contain copies of all standardized forms associated with the above listed topics. The Final Management Plan shall include a form lease agreement that the DEVELOPER proposes to enter into with the Affordable Project tenants. The DEVELOPER shall abide by the terms of this Final Management Plan, approved by the CITY, in marketing, managing and maintaining the Affordable Rental Housing.

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

8.6 Property Management. The DEVELOPER shall comply with the following:

A. Management Responsibilities. The DEVELOPER directly and/or through its designated management entity, is specifically responsible for all management functions with respect to the Affordable Project including, without limitation, the selection of tenants, certification and re-certification of Household size and income, evictions, collection of Rents and deposits, construction management, affirmative marketing, maintenance, landscaping, routine and extraordinary repairs,

replacement of capital items and security. The CITY shall have no responsibility for such management of the Affordable Project.

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

8.8 Nondiscrimination. All of the HOME Units shall be available for occupancy on a continuous basis to Seniors who are income eligible. The DEVELOPER shall not illegally discriminate or segregate in the development, construction, use, enjoyment, occupancy or conveyance of any part of the Affordable Project or Property on the basis of race, color, ancestry, national origin, religion, sex, marital status, family status, source of income/rental assistance subsidy, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), sexual orientation, or any other arbitrary basis. The DEVELOPER shall otherwise comply with all applicable local, state and federal laws concerning nondiscrimination in housing and shall cause any and all contractors and subcontractors to comply with any and all federal, state, and local laws with regard to illegal discrimination. Neither the DEVELOPER nor any person claiming under or through the DEVELOPER, shall establish or permit any such practice or practices of illegal discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants or vendees of any Unit or in connection with employment of persons for the construction of any Unit. All deeds or contracts made or entered into by the DEVELOPER as to the Units or the housing project or portion thereof, shall contain covenants concerning nondiscrimination consistent with this section. The DEVELOPER shall include a statement in all advertisements, notices and signs for availability of Units for rent to the effect that the DEVELOPER is an Equal Housing Opportunity Provider.

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

8.9 Rent Schedule and Utility Allowances. The DEVELOPER covenants and agrees not to charge rent to tenants for HOME Units in an amount which exceeds those rents prescribed to the Affordable Project as they associate with particular income and rent limitations levels as established annually by the California Tax Credit Allocation Committee and contained in a recorded Regulatory Agreement with said State agency, consistent with HOME Program requirements applicable to the Affordable Rental Housing in the Fresno, California area, as established by HUD, and further covenants not to impose a monthly allowance for utility services to tenants of such Units in excess of an amount approved by HUD in accordance with 24 C.F.R. 92.252. The

DEVELOPER agrees to furnish the CITY with a certificate setting forth the maximum monthly rents for HOME Units and the monthly allowances for utilities and services to be charged during any annual period until the expiration of the Affordability Period. The DEVELOPER shall re-examine the income of each tenant Household living in the Units at least annually.

ARTICLE 9. INSURANCE AND INDEMNITY

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

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

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

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

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

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

B. Following issuance of Certificate(s) of Completion, Fire and Extended Coverage Insurance against loss or damage to the Affordable Project by fire and lightning, with extended coverage for vandalism and malicious mischief and sprinkler system leakage. Such extended coverage insurance will, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle, smoke and such other hazards as are normally covered by such insurance. Such insurance shall be in an amount equal to the replacement cost (without deduction for depreciation) of the Affordable Project with no coinsurance penalty provisions.

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

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

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

9.3 Property Insurance. The DEVELOPER shall pay for and maintain, in full force and effect, until expiration of this Agreement, a policy(ies) of property insurance acceptable to the CITY, covering the Affordable Project, with limits reflective of the value of the Affordable Project upon issuance of a recorded Certificate of Completion, or substantial completion of the Affordable Project referenced in this Agreement, including fire and Extended Comprehensive Exposure (ECE) coverage in an amount, form, substance, and quality as acceptable to the CITY's Risk Manager.

9.4 Bonds. DEVELOPER shall pay for and maintain good and sufficient surety bonds from a corporate surety, admitted by the California Insurance

Commissioner to do business in the State of California and Treasury-listed, in a form satisfactory to the CITY and naming the CITY as Co-Obligee.

A. The "Faithful Performance Bond" shall be at least equal to one hundred percent (100%) of the DEVELOPER's estimated construction costs, as reflected in the DEVELOPER's pro forma budget, attached hereto as EXHIBIT "C", to guarantee faithful performance of the Affordable Project, within the time prescribed, in a manner satisfactory to the CITY, consistent with this Agreement, and that all materials and workmanship will be free from original or developed defects.

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

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

ARTICLE 10. DEFAULT AND REMEDIES

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

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

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

C. Except as otherwise provided in this Agreement, the failure of the DEVELOPER to punctually and properly perform any other covenant or agreement contained in this Agreement including without limitation the following: 1) the DEVELOPER's substantial deviation in the construction of the Affordable Project from the Affordable Final Plans, without the CITY's prior written consent; 2) the DEVELOPER's use of defective or unauthorized materials or defective workmanship in pursuit of the Affordable Project; 3) the DEVELOPER's failure to commence or

complete the Affordable Project, unless delay is permitted under this Agreement; 4) the cessation of work on the Affordable Project for a period of more than fifteen (15) consecutive days (other than as provided in this Agreement) prior to submitting to the CITY, certification that the Affordable Project is complete; 5) any material adverse change in the financial condition of the DEVELOPER or the Affordable Project that gives the CITY reasonable cause to believe that the Affordable Project cannot be completed by the Completion Date according to the terms of this Agreement; 6) the DEVELOPER's failure to remedy any deficiencies in record keeping or failure to provide records to the CITY upon the CITY's request; 7) the DEVELOPER's failure to substantially comply with any federal, state or local laws or applicable CITY restrictions governing the Affordable Project, including but not limited to provisions of this Agreement pertaining to equal employment opportunity, nondiscrimination and lead-based paint;

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

E. The DEVELOPER shall file, or have filed against it, a petition of bankruptcy, insolvency, or similar law, state or federal, or shall file any petition or answer seeking, consenting to, or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief, and such petition shall not have been vacated within ninety (90) days; or shall be adjudicated bankrupt or insolvent, under any present or future statute, law, regulation, under state or federal law, and such judgment or decree is not vacated or set aside within ninety (90) days;

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

G. The DEVELOPER's failure to cause completion of project pursuant to the Project Schedule in EXHIBIT "B".

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

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

J. Any substantial or continuous breach by the DEVELOPER of any material obligation owed by the DEVELOPER imposed by any other agreement with respect to the financing, of the Affordable Project, whether or not the CITY is a party to such agreement after expiration of all notice and cure periods contained within such document.

10.2 Notice of Default and Opportunity to Cure. The CITY shall give written notice to the DEVELOPER of any Event of Default by specifying: 1) the nature of the event or deficiency giving rise to the default; 2) the action required to cure the deficiency, if any action to cure is possible, and (3) a date, which shall not be less than the lesser of any time period provided in this Agreement, or thirty (30) calendar days from the date of the notice, by which such deficiency must be cured, provided that if the specified deficiency or default cannot reasonably be cured within the specified time, the DEVELOPER shall have an additional reasonable period to cure so long as it commences cure within the specified time and thereafter diligently pursues the cure in good faith. The CITY acknowledges and agrees that the DEVELOPER shall have the right to cure any defaults hereunder and that notice and cure rights hereunder shall extend to any and all partners of the DEVELOPER that are prior identified in a writing delivered to the CITY in the manner provided in this Agreement.

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

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

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

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

ARTICLE 11. GENERAL PROVISIONS

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

11.1 Amendments. No modification or amendment of any provision of this Agreement shall be effective unless made in writing and signed by the parties hereto.

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

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

11.4 Counterparts. This Agreement may be executed in counterparts, each of which when executed and delivered will be deemed an original, and all of which together will constitute one instrument. The execution of this Agreement by any party hereto will not become effective until counterparts hereof have been executed by all parties hereto.

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

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

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

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

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

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

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

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

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

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

11.15 No Third-Party Beneficiary. No contractor, subcontractor, mechanic, materialman, laborer, vendor, or other person hired or retained by the DEVELOPER shall be, nor shall any of them be deemed to be, third-party beneficiaries of this Agreement, but each such person shall be deemed to have agreed: 1) that they shall look to the DEVELOPER as their sole source of recovery if not paid, and 2) except as otherwise agreed to by the CITY and any such person in writing, they may not enter any claim or bring any such action against the CITY under any circumstances. Except as provided by law, or as otherwise agreed to in writing between the CITY and such person, each such person shall be deemed to have waived in writing all right to seek redress from the CITY under any circumstances whatsoever.

11.16 No Waiver. Neither failure nor delay on the part of the CITY in exercising any right under this Agreement shall operate as a waiver of such right, nor shall any single or partial exercise of any such right preclude any further exercise thereof or the exercise of any other right. No waiver of any provision of this Agreement or consent to any departure by the DEVELOPER therefrom shall be effective unless the same shall be in writing, signed on behalf of the CITY by a duly authorized officer thereof, and the same shall be effective only in the specific instance for which it is given. No notice to or demand on the DEVELOPER in any case shall entitle the DEVELOPER to any other or further notices or demands in similar or other circumstances, or constitute a waiver of

any of the CITY's right to take other or further action in any circumstances without notice or demand.

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

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

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

If to DEVELOPER: King of Kings Housing Development Corp.
Attn.: Charles Figg, Agent
P.O. Box 9929
Fresno, CA 93794-0929

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

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

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

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

///
///
///

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

CITY OF FRESNO, a Municipal Corporation

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

Date: _____

ATTEST:
REBECCA E. KLISCH
City Clerk

By:_____
Deputy

Date:_____

APPROVED AS TO FORM:
JAMES SANCHEZ
City Attorney

By:_____
Robert R. Coyle
Senior Deputy City Attorney

Date:_____

KING OF KINGS HOUSING DEVELOPMENT CORPORATION
a California non-profit corporation

By:_____
Nadar Ali, Chairman
(Attach notary certificate of acknowledgment)

Date: 8/16/11

Attachments:

EXHIBIT A:	PROPERTY DESCRIPTION
EXHIBIT B:	PROJECT DESCRIPTION AND SCHEDULE
EXHIBIT C:	BUDGET
EXHIBIT D:	55-YEAR CASH FLOW STATEMENT
EXHIBIT E:	CERTIFICATE OF COMPLETION
EXHIBIT F:	PROMISSORY NOTE
EXHIBIT G:	DEED OF TRUST AND ASSIGNMENT OF RENTS
EXHIBIT H:	DECLARATION OF RESTRICTIONS

ALL PURPOSE ACKNOWLEDGMENT

State of California

County of Fresno

On August 16, 2011 before me, Irma Garcia, Notary Public, personally appeared Nadar Ali, 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.

Irma Garcia (Seal)

Notary's Signature

ES11 IRMA GARCIA
COMM. #1810596
Notary Public-California
FRESNO COUNTY
My Comm. Exp. AUG 24, 2012 ES11

Revised 1/1/2008

EXHIBIT "B"

PROJECT DESCRIPTION AND SCHEDULE

The Project will consist of related on-site and off-site improvements, construction of one (1) manager unit and twenty (20) affordable residential units for seniors, of which eleven (11) will be HOME-assisted floating units and preserved as Low-Income Housing in accordance with the following chart:

HOME-ASSISTED UNITS		
Percent of Median Income	One Bedroom Units	Two Bedroom Units
50% to 60% or below	8	3
Total	8	3

The eleven (11) HOME-assisted units will be reserved as Low-Income Housing for a period of fifty-five (55) years, as required by the HOME Program.

HOME Funds will be made available by the CITY for payment of HOME eligible costs not to exceed the lesser of One Million Four Hundred Thousand dollars and 00/100 ($1,400,000), the aggregate HOME Program per unit cap (24 C.F.R. 92.250) for the eleven (11) HOME-assisted Units as determined by the CITY, as needed, for HOME eligible project development costs.

PROJECT SCHEDULE	
Finance Plan	October 1, 2011
Start Construction	October 1, 2012
Complete Construction	October 1, 2013
Complete Lease Up	December 1, 2013

EXHIBIT "C"

PROJECT BUDGET

Bridges at Florence Project

Financing Sources:

Low Income Housing Tax Credits	$1,957,403
City of Fresno HOME Program	$1,400,000
Fresno Housing Authority	500,000
Deferred Developer Fee	$ 105,315
Total	**$3,962,718**

Development Costs:

Land Acquisition	$ 200,000
Hard Construction	$2,332,358
Financing	$ 205,127
Predevelopment/Soft Costs	$1,176,608
Reserve	$ 48,625
Total	**$3,962,718**

EXHIBIT "D"

55-YEAR CASH FLOW STATEMENT

CASH FLOW ANALYSIS

Bridges at Florence 9%

INCOME FROM HOUSING UNITS	Inflation	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13
Restricted Unit Rents	2.5%	108,348	111,057	113,833	116,679	119,596	122,586	125,650	128,792	132,012	135,312	138,695	142,162	145,716
Unrestricted Units (if any)	2.5%	0	0	0	0	0	0	0	0	0	0	0	0	0
Operating Subsidies														
Program: 0	2.5%	0	0	0	0	0	0	0	0	0	0	0	0	0
Program:	2.5%	0	0	0	0	0	0	0	0	0	0	0	0	0
Other Income: (Laundry, Late Fees, etc.)	2.5%	3,150	3,229	3,309	3,392	3,477	3,564	3,653	3,744	3,838	3,934	4,032	4,133	4,236
GROSS POTENTIAL INCOME - HOUSING		**111,498**	**114,285**	**117,143**	**120,071**	**123,073**	**126,150**	**129,303**	**132,536**	**135,849**	**139,246**	**142,727**	**146,295**	**149,952**
OTHER INCOME														
Other Income	2.5%	0	0	0	0	0	0	0	0	0	0	0	0	0
Commercial Income	2.5%	0	0	0	0	0	0	0	0	0	0	0	0	0
GROSS POTENTIAL INCOME - OTHER		**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**
GROSS POTENTIAL INCOME - TOTAL		**111,498**	**114,285**	**117,143**	**120,071**	**123,073**	**126,150**	**129,303**	**132,536**	**135,849**	**139,246**	**142,727**	**146,295**	**149,952**
VACANCY ASSUMPTIONS														
Restricted Units	7.0%	7,584	7,774	7,968	8,168	8,372	8,581	8,796	9,015	9,241	9,472	9,709	9,951	10,200
Unrestricted Units	7.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Operating Subsidies	7.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Other Income: (Laundry, Late Fees,	7.0%	221	226	232	237	243	249	256	262	269	275	282	289	297
Commercial Income	25.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL VACANCY LOSS		**7,805**	**8,000**	**8,200**	**8,405**	**8,615**	**8,830**	**9,051**	**9,278**	**9,509**	**9,747**	**9,991**	**10,241**	**10,497**
EFFECTIVE GROSS INCOME		**103,693**	**106,285**	**108,943**	**111,666**	**114,458**	**117,319**	**120,252**	**123,259**	**126,340**	**129,499**	**132,736**	**136,054**	**139,456**
OPERATING EXPENSES & RESERVE DEPOSITS														
Operating Expenses	3.5%	73,500	76,073	78,735	81,491	84,343	87,295	90,350	93,513	96,785	100,173	103,679	107,308	111,064
Real Estate Taxes	2.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Replacement Reserve	0.0%	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300
Ground Lease	3.5%	0	0	0	0	0	0	0	0	0	0	0	0	0
Commercial Expenses	3.5%	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL EXPENSES & RESERVES		**79,800**	**82,373**	**85,035**	**87,791**	**90,643**	**93,595**	**96,650**	**99,813**	**103,085**	**106,473**	**109,979**	**113,608**	**117,364**
NET OPERATING INCOME		**23,893**	**23,913**	**23,908**	**23,875**	**23,815**	**23,724**	**23,602**	**23,446**	**23,255**	**23,026**	**22,757**	**22,447**	**22,092**
DEBT SERVICE (Required)														
	0	0	0	0	0	0	0	0	0	0	0	0	0	0
CASH FLOW after all debt service		**23,893**	**23,913**	**23,908**	**23,875**	**23,815**	**23,724**	**23,602**	**23,446**	**23,255**	**23,026**	**22,757**	**22,447**	**22,092**
DEBT SERVICE COVERAGE RATIO		**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**

Use of Cash Flow After Debt Service - Residual Reciepts

Deferred Developer Fee	0%													
Investor Asset Mgmt Fee	0%	3,000	3,090	3,183	3,278	3,377	3,478	3,582	3,689	3,799	3,913	4,031	4,152	4,276
MGP Asset Mgmt Fee	0%	7,500	7,725	7,957	8,196	8,441	8,695	8,956	9,225	9,501	9,786	10,079	10,382	10,693
Residual Loan - City of Fresno	50%	10,197	9,973	9,742	9,502	9,253	8,996	8,727	8,447	8,155	7,848	7,525	7,185	6,825
Residual Loan - Fresno HA	50%	10,197	9,973	9,742	9,502	9,253	8,996	8,727	8,447	8,155	7,848	7,525	7,185	6,825
Residual Loan	0%													
Residual Loan	0%													
Total Residual Payment	100%	23,893	23,913	23,908	23,875	23,815	23,724	23,602	23,446	23,255	23,026	22,757	22,447	22,092

CASH FLOW ANALYSIS

Bridges at Florence 9%

INCOME FROM HOUSING UNITS	Inflation	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	Year 21	Year 22	Year 23	Year 24	Year 25
Restricted Unit Rents	2.5%	149,359	153,093	156,920	160,843	164,864	168,986	173,211	177,541	181,979	186,529	191,192	195,972
Unrestricted Units (if any)	2.5%	0	0	0	0	0	0	0	0	0	0	0	0
Operating Subsidies													
Program: 0	2.5%	0	0	0	0	0	0	0	0	0	0	0	0
Program:	2.5%	0	0	0	0	0	0	0	0	0	0	0	0
Other Income: (Laundry, Late Fees, etc.)	2.5%	4,342	4,451	4,562	4,676	4,793	4,913	5,036	5,162	5,291	5,423	5,559	5,697
GROSS POTENTIAL INCOME - HOUSING		153,701	157,544	161,482	165,519	169,657	173,899	178,246	182,702	187,270	191,952	196,751	201,669
OTHER INCOME													
Other Income	2.5%	0	0	0	0	0	0	0	0	0	0	0	0
Commercial Income	2.5%	0	0	0	0	0	0	0	0	0	0	0	0
GROSS POTENTIAL INCOME - OTHER		0	0	0	0	0	0	0	0	0	0	0	0
GROSS POTENTIAL INCOME - TOTAL		153,701	157,544	161,482	165,519	169,657	173,899	178,246	182,702	187,270	191,952	196,751	201,669
VACANCY ASSUMPTIONS													
Restricted Units	7.0%	10,455	10,717	10,984	11,259	11,541	11,829	12,125	12,428	12,739	13,057	13,383	13,718
Unrestricted Units	7.0%	0	0	0	0	0	0	0	0	0	0	0	0
Operating Subsidies	7.0%	0	0	0	0	0	0	0	0	0	0	0	0
Other Income: (Laundry, Late Fees,	7.0%	304	312	319	327	336	344	353	361	370	380	389	399
Commercial Income	25.0%	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL VACANCY LOSS		10,759	11,028	11,304	11,586	11,876	12,173	12,477	12,789	13,109	13,437	13,773	14,117
EFFECTIVE GROSS INCOME		142,942	146,516	150,179	153,933	157,781	161,726	165,769	169,913	174,161	178,515	182,978	187,552
OPERATING EXPENSES & RESERVE DEPOSITS													
Operating Expenses	3.5%	114,951	118,974	122,543	126,220	130,006	133,906	137,924	142,061	146,323	150,713	155,234	159,891
Real Estate Taxes	2.0%	0	0	0	0	0	0	0	0	0	0	0	0
Replacement Reserve	0.0%	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300
Ground Lease	3.5%	0	0	0	0	0	0	0	0	0	0	0	0
Commercial Expenses	3.5%	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL EXPENSES & RESERVES		121,251	125,274	128,843	132,520	136,306	140,206	144,224	148,361	152,623	157,013	161,534	166,191
NET OPERATING INCOME		21,691	21,242	21,335	21,413	21,475	21,520	21,546	21,552	21,538	21,502	21,444	21,361
DEBT SERVICE (Required)													
	0	0	0	0	0	0	0	0	0	0	0	0	0
CASH FLOW after all debt service		21,691	21,242	21,335	21,413	21,475	21,520	21,546	21,552	21,538	21,502	21,444	21,361
DEBT SERVICE COVERAGE RATIO		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Use of Cash Flow After Debt Service - Residual Recie

Deferred Developer Fee	0%													
Investor Asset Mgmt Fee	0%	11,748	0	0	0	0	0	0	0	0	0	0	0	0
MGP Asset Mgmt Fee	0%	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
Residual Loan - City of Fresno	34%	72	3,242	3,335	3,707	3,768	3,768	3,773	3,776	3,768	3,751	3,722	3,681	
Residual Loan - Fresno HA	38%	72	3,242	3,335	3,707	3,768	3,768	3,773	3,776	3,768	3,751	3,722	3,681	
Residual Loan	0%													
Residual Loan	0%													
Total Residual Payment	100%	21,891	21,242	21,335	21,413	21,475	21,520	21,546	21,552	21,538	21,502	21,444	21,361	

CASH FLOW ANALYSIS

Bridges at Florence 9%

INCOME FROM HOUSING UNITS	Inflation	Year 26	Year 27	Year 28	Year 29	Year 30	Year 31	Year 32	Year 33	Year 34	Year 35	Year 36	Year 37
Restricted Unit Rents	2.5%	200,871	205,893	211,040	216,316	221,724	227,267	232,949	238,773	244,742	250,861	257,132	263,560
Unrestricted Units (if any)	2.5%	0	0	0	0	0	0	0	0	0	0	0	0
Operating Subsidies													
Program: 0	2.5%	0	0	0	0	0	0	0	0	0	0	0	0
Program:	2.5%	0	0	0	0	0	0	0	0	0	0	0	0
Other Income: (Laundry, Late Fees, etc.)	2.5%	5,840	5,986	6,136	6,289	6,446	6,607	6,773	6,942	7,115	7,293	7,476	7,662
GROSS POTENTIAL INCOME - HOUSING		**206,711**	**211,879**	**217,176**	**222,605**	**228,170**	**233,875**	**239,721**	**245,714**	**251,857**	**258,154**	**264,608**	**271,223**
OTHER INCOME													
Other Income	2.5%	0	0	0	0	0	0	0	0	0	0	0	0
Commercial Income	2.5%	0	0	0	0	0	0	0	0	0	0	0	0
GROSS POTENTIAL INCOME - OTHER		**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**
GROSS POTENTIAL INCOME - TOTAL		**206,711**	**211,879**	**217,176**	**222,605**	**228,170**	**233,875**	**239,721**	**245,714**	**251,857**	**258,154**	**264,608**	**271,223**
VACANCY ASSUMPTIONS													
Restricted Units	7.0%	14,061	14,413	14,773	15,142	15,521	15,909	16,306	16,714	17,132	17,560	17,999	18,449
Unrestricted Units	7.0%	0	0	0	0	0	0	0	0	0	0	0	0
Operating Subsidies	7.0%	0	0	0	0	0	0	0	0	0	0	0	0
Other Income: (Laundry, Late Fees,	7.0%	409	419	429	440	451	463	474	486	498	511	523	536
Commercial Income	25.0%	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL VACANCY LOSS		**14,470**	**14,832**	**15,202**	**15,582**	**15,972**	**16,371**	**16,781**	**17,200**	**17,630**	**18,071**	**18,523**	**18,986**
EFFECTIVE GROSS INCOME		**192,241**	**197,047**	**201,973**	**207,023**	**212,198**	**217,503**	**222,941**	**228,514**	**234,227**	**240,083**	**246,085**	**252,237**
OPERATING EXPENSES & RESERVE DEPOSITS													
Operating Expenses	3.5%	164,688	169,629	174,717	179,959	185,358	190,918	196,646	202,545	208,622	214,880	221,327	227,967
Real Estate Taxes	2.0%	0	0	0	0	0	0	0	0	0	0	0	0
Replacement Reserve	0.0%	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300
Ground Lease	3.5%	0	0	0	0	0	0	0	0	0	0	0	0
Commercial Expenses	3.5%	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL EXPENSES & RESERVES		**170,988**	**175,929**	**181,017**	**186,259**	**191,658**	**197,218**	**202,946**	**208,845**	**214,922**	**221,180**	**227,627**	**234,267**
NET OPERATING INCOME		**21,253**	**21,119**	**20,956**	**20,764**	**20,541**	**20,285**	**19,995**	**19,669**	**19,306**	**18,903**	**18,458**	**17,971**
DEBT SERVICE (Required)													
	0	0	0	0	0	0	0	0	0	0	0	0	0
CASH FLOW after all debt service		**21,253**	**21,119**	**20,956**	**20,764**	**20,541**	**20,285**	**19,995**	**19,669**	**19,306**	**18,903**	**18,458**	**17,971**
DEBT SERVICE COVERAGE RATIO		**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**

Use of Cash Flow After Debt Service - Residual Recie

Deferred Developer Fee	0%												
Investor Asset Mgmt Fee	0%	0	0	0	0	0	0	0	0	0	0	0	0
MGP Asset Mgmt Fee	10%	10,000	10,100	10,201	10,303	10,406	10,510	10,615	10,721	10,828	10,936	10,045	10,055
Residual Loan - City of Fresno	30%	3,602	3,639	3,676	3,713	3,750	3,788	3,826	3,864	3,903	3,942	3,981	4,021
Residual Loan - Fresno HA	60%	7,651	7,480	7,079	6,051	6,791	6,497	6,169	5,805	5,403	4,961	4,477	3,950
Residual Loan	0%												
Residual Loan	0%												
Total Residual Payment	100%	21,253	21,119	20,956	20,764	20,541	20,285	19,995	19,669	19,306	18,903	18,458	17,971

CASH FLOW ANALYSIS

Bridges at Florence 9%

INCOME FROM HOUSING UNITS	Inflation	Year 38	Year 39	Year 40	Year 41	Year 42	Year 43	Year 44	Year 45	Year 46	Year 47	Year 48	Year 49
Restricted Unit Rents	2.5%	270,149	276,903	283,826	290,921	298,194	305,649	313,290	321,123	329,151	337,380	345,814	354,459
Unrestricted Units (if any)	2.5%	0	0	0	0	0	0	0	0	0	0	0	0
Operating Subsidies													
Program: 0	2.5%	0	0	0	0	0	0	0	0	0	0	0	0
Program:	2.5%	0	0	0	0	0	0	0	0	0	0	0	0
Other Income: (Laundry, Late Fees, etc.)	2.5%	7,854	8,050	8,252	8,458	8,669	8,886	9,108	9,336	9,569	9,809	10,054	10,305
GROSS POTENTIAL INCOME - HOUSING		**278,003**	**284,953**	**292,077**	**299,379**	**306,864**	**314,535**	**322,399**	**330,459**	**338,720**	**347,188**	**355,868**	**364,765**
OTHER INCOME													
Other Income	2.5%	0	0	0	0	0	0	0	0	0	0	0	0
Commercial Income	2.5%	0	0	0	0	0	0	0	0	0	0	0	0
GROSS POTENTIAL INCOME - OTHER		**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**
GROSS POTENTIAL INCOME - TOTAL		**278,003**	**284,953**	**292,077**	**299,379**	**306,864**	**314,535**	**322,399**	**330,459**	**338,720**	**347,188**	**355,868**	**364,765**
VACANCY ASSUMPTIONS													
Restricted Units	7.0%	18,910	19,383	19,868	20,364	20,874	21,395	21,930	22,479	23,041	23,617	24,207	24,812
Unrestricted Units	7.0%	0	0	0	0	0	0	0	0	0	0	0	0
Operating Subsidies	7.0%	0	0	0	0	0	0	0	0	0	0	0	0
Other Income: (Laundry, Late Fees,	7.0%	550	564	578	592	607	622	638	654	670	687	704	721
Commercial Income	25.0%	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL VACANCY LOSS		**19,460**	**19,947**	**20,445**	**20,957**	**21,480**	**22,017**	**22,568**	**23,132**	**23,710**	**24,303**	**24,911**	**25,534**
EFFECTIVE GROSS INCOME		**258,543**	**265,007**	**271,632**	**278,423**	**285,383**	**292,518**	**299,831**	**307,327**	**315,010**	**322,885**	**330,957**	**339,231**
OPERATING EXPENSES & RESERVE DEPOSITS													
Operating Expenses	3.5%	234,806	241,850	249,105	256,578	264,276	272,204	280,370	288,781	297,445	306,368	315,559	325,026
Real Estate Taxes	2.0%	0	0	0	0	0	0	0	0	0	0	0	0
Replacement Reserve	0.0%	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300	6,300
Ground Lease	3.5%	0	0	0	0	0	0	0	0	0	0	0	0
Commercial Expenses	3.5%	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL EXPENSES & RESERVES		**241,106**	**248,150**	**255,405**	**262,878**	**270,576**	**278,504**	**286,670**	**295,081**	**303,745**	**312,668**	**321,859**	**331,326**
NET OPERATING INCOME		**17,438**	**16,857**	**16,227**	**15,544**	**14,808**	**14,014**	**13,161**	**12,245**	**11,265**	**10,217**	**9,098**	**7,905**
DEBT SERVICE (Required)													
	0	0	0	0	0	0	0	0	0	0	0	0	0
CASH FLOW after all debt service		**17,438**	**16,857**	**16,227**	**15,544**	**14,808**	**14,014**	**13,161**	**12,245**	**11,265**	**10,217**	**9,098**	**7,905**
DEBT SERVICE COVERAGE RATIO		**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**

Use of Cash Flow After Debt Service - Residual Recie

Deferred Developer Fee	0%												
Investor Asset Mgmt Fee	0%	0	0	0	0	0	0	0	0	0	0	0	0
MGP Asset Mgmt Fee	58%	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
Residual Loan - City of Fresno	15%	2,719	2,429	2,143	1,858	1,574	1,291	1,008	725	443	162	0	0
Residual Loan - Fresno HA	27%	4,719	4,429	4,143	3,858	3,574	3,291	3,008	2,725	2,443	2,162	0	0
Residual Loan	0%												
Residual Loan	0%												
Total Residual Payment	100%	17,438	16,857	16,287	15,544	14,808	14,014	13,016	12,245	11,265	10,217	10,000	10,000

CASH FLOW ANALYSIS

INCOME FROM HOUSING UNITS	Inflation	Year 50	Year 51	Year 52	Year 53	Year 54	Year 55
Restricted Unit Rents	2.5%	363,321	372,404	381,714	391,257	401,038	411,064
Unrestricted Units (if any)	2.5%	0	0	0	0	0	0
Operating Subsidies							
Program: 0	2.5%	0	0	0	0	0	0
Program:	2.5%	0	0	0	0	0	0
Other Income: (Laundry, Late Fees, etc.)	2.5%	10,563	10,827	11,098	11,375	11,659	11,951
GROSS POTENTIAL INCOME - HOUSING		**373,884**	**383,231**	**392,812**	**402,632**	**412,698**	**423,015**
OTHER INCOME							
Other Income	2.5%	0	0	0	0	0	0
Commercial Income	2.5%	0	0	0	0	0	0
GROSS POTENTIAL INCOME - OTHER		**0**	**0**	**0**	**0**	**0**	**0**
GROSS POTENTIAL INCOME - TOTAL		**373,884**	**383,231**	**392,812**	**402,632**	**412,698**	**423,015**
VACANCY ASSUMPTIONS							
Restricted Units	7.0%	25,432	26,068	26,720	27,388	28,073	28,774
Unrestricted Units	7.0%	0	0	0	0	0	0
Operating Subsidies	7.0%	0	0	0	0	0	0
Other Income: (Laundry, Late Fees,	7.0%	739	758	777	796	816	837
Commercial Income	25.0%	0	0	0	0	0	0
TOTAL VACANCY LOSS		**26,172**	**26,826**	**27,497**	**28,184**	**28,889**	**29,611**
EFFECTIVE GROSS INCOME		**347,712**	**356,405**	**365,315**	**374,448**	**383,809**	**393,404**
OPERATING EXPENSES & RESERVE DEPOSITS							
Operating Expenses	3.5%	334,777	344,820	355,165	365,819	376,794	386,214
Real Estate Taxes	2.0%	0	0	0	0	0	0
Replacement Reserve	0.0%	6,300	6,300	6,300	6,300	6,300	6,300
Ground Lease	3.5%	0	0	0	0	0	0
Commercial Expenses	3.5%	0	0	0	0	0	0
TOTAL EXPENSES & RESERVES		**341,077**	**351,120**	**361,465**	**372,119**	**383,094**	**392,514**
NET OPERATING INCOME		**6,635**	**5,285**	**3,850**	**2,328**	**715**	**890**
DEBT SERVICE (Required)							
	0	0	0	0	0	0	0
CASH FLOW after all debt service		**6,635**	**5,285**	**3,850**	**2,328**	**715**	**890**
DEBT SERVICE COVERAGE RATIO		**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**

Use of Cash Flow After Debt Service - Residual Recie

Deferred Developer Fee	8%						
Investor Asset Mgmt Fee	0%	0	0	0	0	0	0
MGP Asset Mgmt Fee	0%	10,000	10,000	10,000	10,000	10,000	10,000
Residual Loan - City of Fresno	50%	0	0	0	0	0	0
Residual Loan - Fresno HA	50%	0	0	0	0	0	0
Residual Loan	0%						
Residual Loan	0%						
Total Residual Payment	100%	10,000	10,000	10,000	10,000	10,000	10,000

EXHIBIT "E"

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

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

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

CERTIFICATE OF COMPLETION

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

APN: 478-113-27

City of Fresno

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

Date:_____

AFFORDABLE HOUSING PROJECT

APN: 478-113-27

Recitals:

A. By a City of Fresno ("CITY") HOME Investment Partnerships ("HOME") Program, Community Housing Development Organization ("CHDO") Agreement dated _____, 2011, ("CHDO) Agreement"), the King of Kings Housing Development Corporation a California non-profit corporation ("DEVELOPER"), agreed to develop a twenty-one (21) unit affordable rental housing project for seniors, of which eleven (11) units would be reserved for rental by Low-Income households ("Project"), upon the premises legally described in EXHIBIT "A" attached to the HOME Agreement as amended from time to time, made a part hereof by this reference, (the "Property") for the purposes of affordable rental housing, with the assistance of HOME CHDO funds while meeting the affordable housing, income targeting and other requirements of 24 CFR 92 according to the terms and conditions of the HOME CHDO Agreement and the Loan Documents and other document and instruments referenced therein.

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

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

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

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

NOW THEREFORE:

1. The CITY certifies that the DEVELOPER commenced the Project on _____ and completed the Project on _____ and has done so in full compliance with the CHDO Agreement.

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

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

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

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

CITY OF FRESNO

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

ATTEST:
CITY CLERK

By:_____
Deputy

Date: _____

APPROVED AS TO FORM:
JAMES SANCHEZ, CITY ATTORNEY

By:_____
Assistant/Deputy

Date: _____

KING OF KINGS HOUSING DEVELOPMENT CORPORATION
a California non-profit corporation

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

Date: 8/16/11

ALL PURPOSE ACKNOWLEDGMENT

State of California

County of Fresno

On August 16, 2011 before me, Irma Garcia, Notary Public, personally appeared Nadar Ali, 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.

Irma Garcia (Seal)

Notary's Signature

ESI1 IRMA GARCIA
COMM. #1810596
Notary Public-California
FRESNO COUNTY
My Comm. Exp. AUG 24, 2012 ESI1

Revised 1/1/2008

EXHIBIT "F"

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

PROMISSORY NOTE

Loan Amount: $1,400,000 Date: _____, 2011
Fresno, California

For value received, the undersigned, King of Kings Housing Development Corporation, a California non-profit corporation ("Borrower"), promises to pay to the order of the City of Fresno, a California municipal corporation, ("Lender"), the sum of One Million Four Hundred Thousand dollars and 00/100 ($1,400,000), to the extent that such funds are loaned to Borrower, with interest on the unpaid principal balance running from the date of disbursement with simple interest at the rate of 3% annually in accordance with the HOME Investment Partnerships Agreement dated _____, 2011, entered into between the BORROWER, as assigned to Borrower, ("Agreement"), with all 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, and (ii) fifty-five (55) years from the date of this Note, ("Maturity Date"), on which date the unpaid balance of principal with unpaid interest thereon shall be due and payable, along with attorney's fees and costs of collection, and without relief from valuation and appraisement laws.

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 phase under the 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 Project financing to its permanent phase, fifty percent (50%) of the sum of: (i) all cash received by the Affordable Project from rents, lease payments, and all sources generally considered in the apartment industry to be "other income" (which does not include payments for optional services provided by Borrower), payments from HUD under a Housing Assistance Program Section 8 Contract to the Project, if any, and excluding (a) tenant security or other deposits required by law to be segregated, and interest on reserves not available for distribution, and (ii) the net proceeds of any insurance (including rental interruption insurance), other than fire and extended coverage and title insurance, to the extent not reinvested, less the sum of: (i) all cash expenditures, and all expenses unpaid but properly accrued, which are Operating Expenses incurred in the operation of the Affordable Project's

business, excluding expenditures paid from any reserve account (whether or not such expenditure is deducted, amortized or capitalized for tax purposes); (ii) the Affordable Project related annual fee payable to the investment limited partner and the annual fees payable to the nonprofit managing general partner; (iii) all payments on account of any loans (including unpaid principal and accrued reasonable interest) made for the benefit of the Affordable Project by the Borrowers pursuant to the terms of any equity investor limited partnership agreement, and; (iv) payments towards the deferred developer fee (including repayment of loans or capital contributions made by a general partner to a 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 for the operation of the Project not to exceed the amount required by the Affordable Project's permanent lender, annually adjusted in proportion to the average increase of the following indices (a) the United States Bureau of Labor Statistics for Hourly Wage Rates of all workers in manufacturing, and (b) of all Commodity Wholesale Prices, said indices shall be re-defined to the mutual satisfaction of the parties in the event of change in form and basis of indices, all increases shall use the indices for calendar year 2010 as their base; (vi) the payment of principal and interest, and any associated fees, expenses, and costs, with respect to the Financing; (vii) payments made to the investors which are required to reimburses the investors 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 any equity investor or partnership agreement.

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 date the permanent loan converts.

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 3rd position lien on the Property.

Time is of the essence. It will be a default under this Note if Borrower defaults under the Agreement, or any other Loan Document with the Lender, 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 Agreement, if the Trustor/Grantor shall sell, convey or alienate said property, or any part thereof, or any interest therein, or shall be divested of his title or any interest therein in any manner or way, whether voluntarily or involuntarily, without the written consent of the Beneficiary being first had and obtained, Beneficiary shall have the right, at its option, except as prohibited by law, to declare any indebtedness or obligations secured hereby, irrespective of the maturity date specified in any Note evidencing the same, immediately due and payable.

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.

///

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///

IN WITNESS WHEREOF, Borrower has caused this Promissory Note to be executed as of the date and year first above written.

KING OF KINGS HOUSING DEVELOPMENT CORPORATION
a California non-profit corporation

By: _____
Nadar Ali, Board of Directors Chairman
(Attach notary certificate of acknowledgment)

Date: 8/16/11

ALL PURPOSE ACKNOWLEDGMENT

State of California

County of Fresno

On August 16, 2011 before me, Irma Garcia, Notary Public, personally appeared Nadar Ali, 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.

Irma Garcia (Seal)

Notary's Signature

ES11 IRMA GARCIA
COMM. #1810596
Notary Public-California
FRESNO COUNTY
My Comm. Exp. AUG 24, 2012 ES11

Revised 1/1/2008

EXHIBIT "G"

RECORDING REQUESTED BY
Chicago Title Company

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

(Space Above This Line for Recorder's Use Only)

File No.: _____
A.P.N.: **478-113-27**

DEED OF TRUST AND ASSIGNMENT OF RENTS

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

TRUSTOR: **King of Kings Housing Development Corporation, a California non-profit corporation**

whose address is **P. O. Box 9929, Fresno, California 93794-0929**

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

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

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

See Exhibit "A" attached hereto.

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

FOR THE PURPOSE OF SECURING:

1. Performance of each agreement of Trustor, incorporated by reference or contained herein, including without limitation the HOME Agreement entered between King of Kings Housing Development Corporation and Beneficiary dated _____, 2011.

2. Payment of the indebtedness evidenced by a Promissory Note of even date herewith, and any extension or renewal thereof, in the principal sum of $1,400,000.00 to City of Fresno executed by Trustor in favor of Beneficiary or order.

3. Payment of such further sums as the then record Owner of said property hereafter may borrow from Beneficiary, when evidenced by another Note (or Notes) reciting it is so secured.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:
(1) To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon, and to pay when due all claims for labor performed and materials furnished therefore; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the

character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

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

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

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

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

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

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

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

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

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

(10) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured

hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act pursuant to such notice.

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

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

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

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

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

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

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

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

(16) The withdrawal, removal and/or replacement of (where applicable) general partner of Trustor pursuant to the terms of a partnership agreement due to a violation by a general partner of the terms of a partnership agreement, or a voluntary withdrawal from a 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, (where applicable) Trustor's limited partners shall have an additional period of not less than thirty (30) days to cure such alleged default. Notwithstanding the foregoing, in the case of a default that cannot with reasonable diligence be remedied or cured within thirty (30) days, Trustor's limited partners shall have such additional time as reasonably necessary to remedy or cure such default, but in no event more than ninety (90) days from the expiration of the initial thirty (30) day period above, and if the Trustor's limited partners reasonably believe that in order to cure such default, Trustor's limited partners must remove one or both of Trustor's general partners in order to cure such default, Trustor's limited partners shall have and additional thirty (30) days following the effective date of such removal to cure such default.

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

_____
_____
_____
_____

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

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

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

Signature of Trustor(s):

By:_____

_____

Its:_____

ALL SIGNATURES MUST BE NOTARIZED

EXHIBIT "A"
TO DEED OF TRUST ASSIGNMENT OF RENTS

PROPERTY DESCRIPTION

APN: 478-113-27

Legal Description:

All of that certain real property and improvements thereon situated in the City of Fresno, State of California, described as follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

Lot 39, the South 65 feet of Lot 38, the West half of Lot 14 and the South 65 fee of the West half of Lot 15 in Fresno, Homestead Tract, according to the map thereof recorded in Book 2 Page 16 of Plats, Fresno County Records, together with that portion of vacated South Maud Avenue appurtenant to the above described real property, that would accrue by operation of law.

EXHIBIT "H"

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
Development and Resource Management 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____ of _____, 2011 by King of Kings Housing Development Corporation, a California corporation ("Declarant") in favor of the City of Fresno, acting by and through its Development and Resource Management Department, Housing and Community Development Division, ("CITY").

WHEREAS, Declarant is the owner of the real estate in the county of Fresno, state of California, consisting of APN: 478-113-27, which is more particularly described in Exhibit "A", attached hereto and made a part hereof (the "Property"); and

WHEREAS, Pursuant to a certain HOME Investment Partnerships ("HOME") Program, Community Development Housing Organization ("CHDO") Agreement dated _____, 2011 incorporated herein, ("HOME CHDO Agreement") and instruments referenced therein, Declarant agrees to utilize and CITY agrees to provide certain HOME Program Funds from the United States Department of Housing and Urban Development (HUD), to Declarant and Declarant agrees to provide no less than eleven (11) of the proposed twenty-one (21) Units preserved as Low-Income Affordable Rental Housing for Seniors earning 50% to 60%, or below, of the area median income for the Fresno MSA ("Affordable Housing Project"). The eleven (11) Low Income Units shall be one- and two-bedroom floating Units subject to the terms and conditions set forth in the HOME Agreement; and

WHEREAS, the HOME CHDO 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 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 from the date the Project and tenant information is entered into HUD's Integrated Disbursement and Information System and continue for fifty-five (55) years thereafter.

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 CHDO 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 CHDO 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 the 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 the Project and tenant information is entered into HUD Integrated Disbursement and Information System, until the expiration of the Affordability Period, it shall cause the Project Units to be used as Affordable Rental Housing. Declarant further agrees to file a recordable document setting forth the Project Completion Date(s) and the Affordability Period when determined by the CITY. Unless otherwise provided in the HOME CHDO Agreement, the term Affordable Rental Housing shall include, without limitation, compliance with the following requirements:

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

(ii) Principal Residence. Each of the Units constituting the Project upon the Property shall be leased only to Seniors age 62 and older (collectively, "household"), 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 HUD qualified entities that acquire the Property or portion thereof, with the consent of the CITY.

(iii) Income Requirements. A total of eleven (11) floating Units may be leased only to Seniors whose annual household income at the time of initial occupancy is not greater than 50% to 60% of the most recent annual median income calculated and published by HUD for the Fresno Metropolitan Statistical Area applicable to such household's size, and at an affordable rent consistent 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 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 the 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, the 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 the 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 Agreement.

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

construction of any provision.

15. Neither Declarant nor its general partner 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.

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

DECLARANT:
King of Kings Housing Development Corporation
a California non-profit corporation

By: _____
Nadar Ali, Chairman
(Attach notary certificate of acknowledgment)

Date: 5/16/11

ALL PURPOSE ACKNOWLEDGMENT

State of California

County of Fresno

On August 16, 2011 before me, Irma Garcia, Notary Public, personally appeared Nadar Ali, 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.

Irma Garcia (Seal)

Notary's Signature

ESI1 IRMA GARCIA
COMM. #1810596
Notary Public-California
FRESNO COUNTY
My Comm. Exp. AUG 24, 2012 ESI1

Revised 1/1/2008

EXHIBIT "A"
TO DECLARATION OF RESTRICTIONS

PROPERTY DESCRIPTION

APN: 478-113-27

Legal Description:

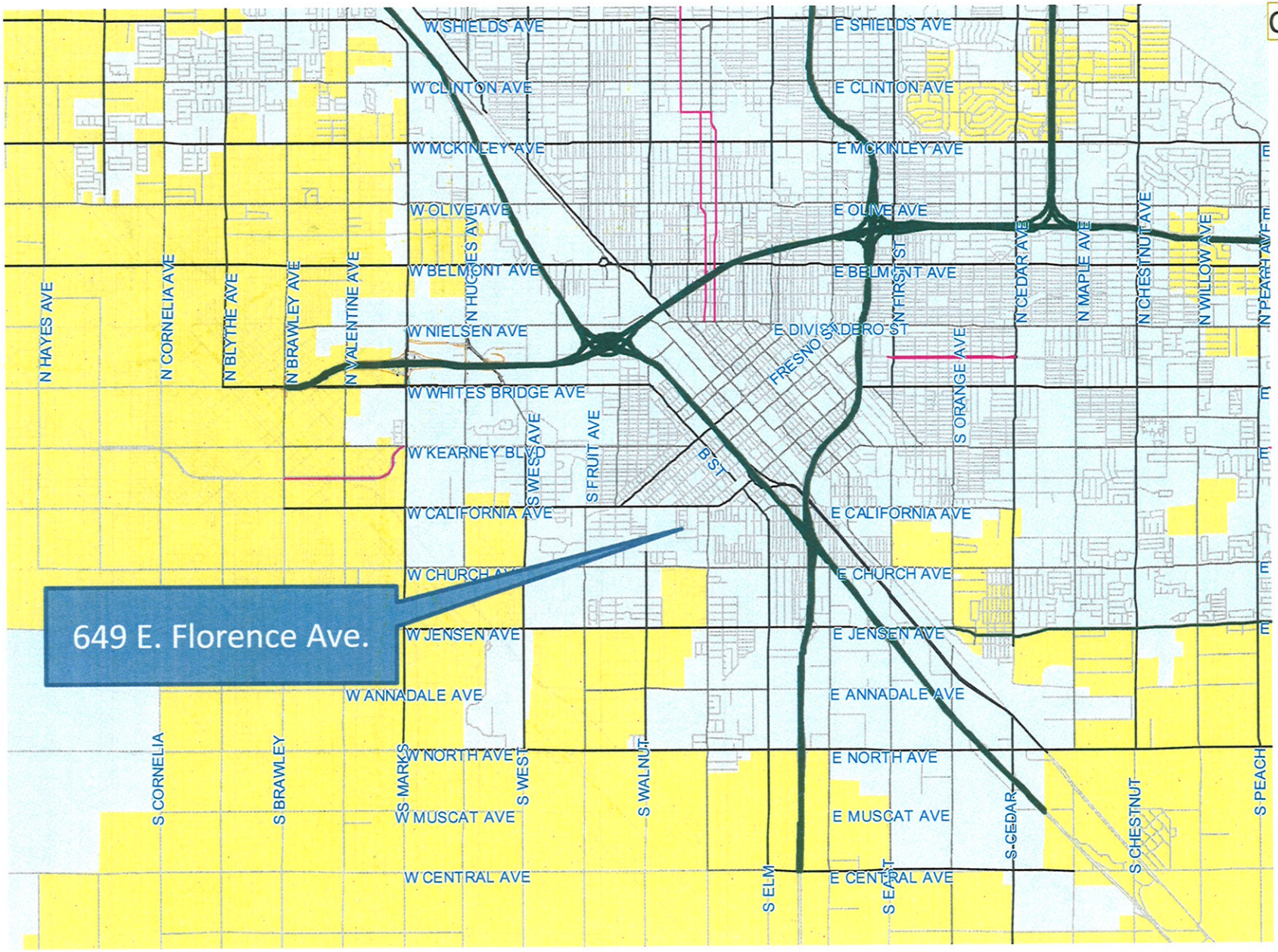
All of that certain real property and improvements thereon situated in the City of Fresno, State of California, described as follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

Lot 39, the South 65 feet of Lot 38, the West half of Lot 14 and the South 65 fee of the West half of Lot 15 in Fresno, Homestead Tract, according to the map thereof recorded in Book 2 Page 16 of Plats, Fresno County Records, together with that portion of vacated South Maud Avenue appurtenant to the above described real property, that would accrue by operation of law.

EXHIBIT "B"
PROJECT LOCATION MAPS

C1


649 E. Florence Ave.
W SHIELDS AVE
E SHIELDS AVE
W CLINTON AVE
E CLINTON AVE
W MCKINLEY AVE
E MCKINLEY AVE
W OLIVE AVE
E OLIVE AVE
W BELMONT AVE
E BELMONT AVE
W NIELSEN AVE
E DIVISADERO ST
W WHITES BRIDGE AVE
W KEARNEY BLVD
W CALIFORNIA AVE
E CALIFORNIA AVE
W CHURCH AVE
E CHURCH AVE
W JENSEN AVE
E JENSEN AVE
W ANNADALE AVE
E ANNADALE AVE
W NORTH AVE
E NORTH AVE
W MUSCAT AVE
E MUSCAT AVE
W CENTRAL AVE
E CENTRAL AVE
N HAYES AVE
N CORNELIA AVE
N BLYTHE AVE
N BRAWLEY AVE
N VALENTINE AVE
N HUGHES AVE
S WEST AVE
S FRUIT AVE
B ST
FRESNO
N FIRST ST
S ORANGE AVE
N CEDAR AVE
N MAPLE AVE
N CHESTNUT AVE
N WILLOW AVE
N PEACH AVE
S CORNELIA
S BRAWLEY
S MARKS
S WEST
S WALNUT
S ELM
S EAST
S CEDAR
S CHESTNUT
S PEACH

STATE HIGHWAY 99
E CALIFORNIA AVE
E CALIFORNIA AVE
E CALIFORNIA AVE
W CALIFORNIA AVE
S ELM AVE
E CHURCH AVE
E CHURCH AVE
E CHURCH AVE
W CHURCH AVE
S MARTIN LUTHER KING JR BLVD
S WALNUT AVE
MARIPOSA ST
S THORNE AVE
S FRUIT AVE
S FRUIT AVE

EXHIBIT "C"
DRAFT SOURCES AND USES OF FUNDS

Draft Sources and Uses of Funds

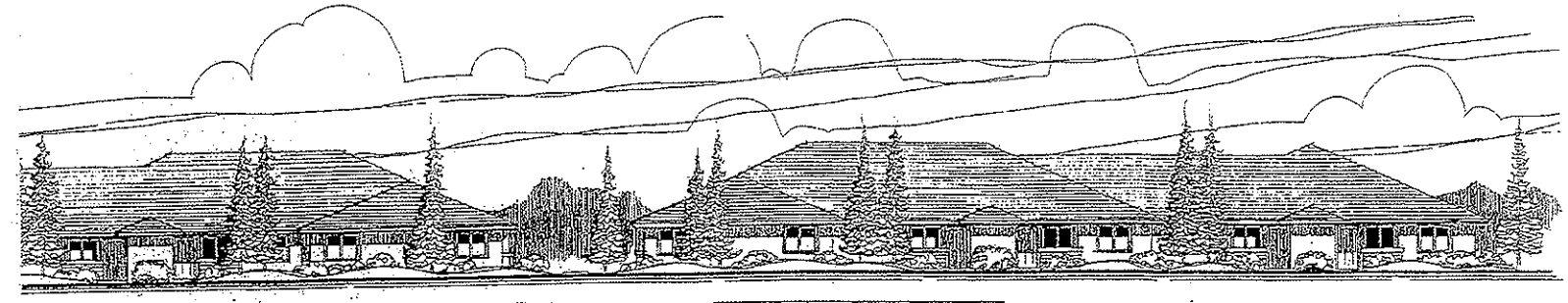
Financing Sources:

Low Income Housing Tax Credits	$1,957,403
City of Fresno HOME Program	$1,400,000
Fresno Housing Authority	500,000
Deferred Developer Fee	$ 105,315
Total	**$3,962,718**

Development Costs:

Land Acquisition	$ 200,000
Hard Construction	$2,332,358
Financing	$ 205,127
Predevelopment/Soft Costs	$1,176,608
Reserve	$ 48,625
Total	**$3,962,718**

EXHIBIT "D"
PLANS AND ELEVATIONS



TYPICAL STREET ELEVATION

COMMUNITY BLDG. ELEVATION

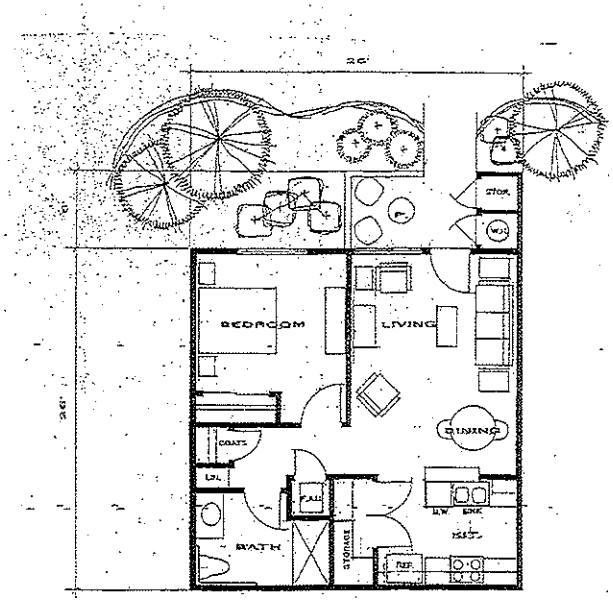
EXTERIOR ELEVATIONS 1/8" = 1'-0"

The BRIDGES at FLORENCE

by
King of Kings Housing Development Corporation

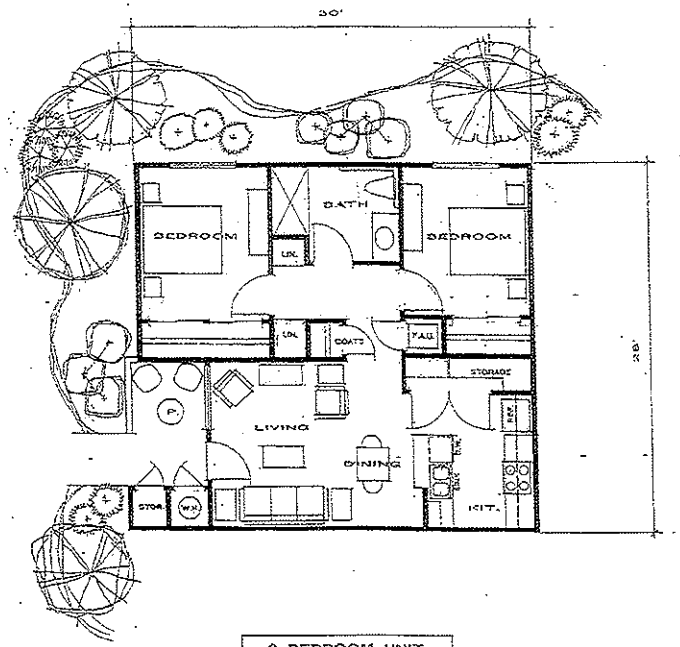
CONTRACTOR:
Ashwood Construction Inc.
5755 E. Kings Canyon Rd., Suite 110
Fresno, California

PRELIMINARY



1 BEDROOM UNIT

660 SQ. FT.



2 BEDROOM UNIT

775 SQ. FT.

TYPICAL UNIT PLANS 1/4" = 1'-0"

The BRIDGES at FLORENCE

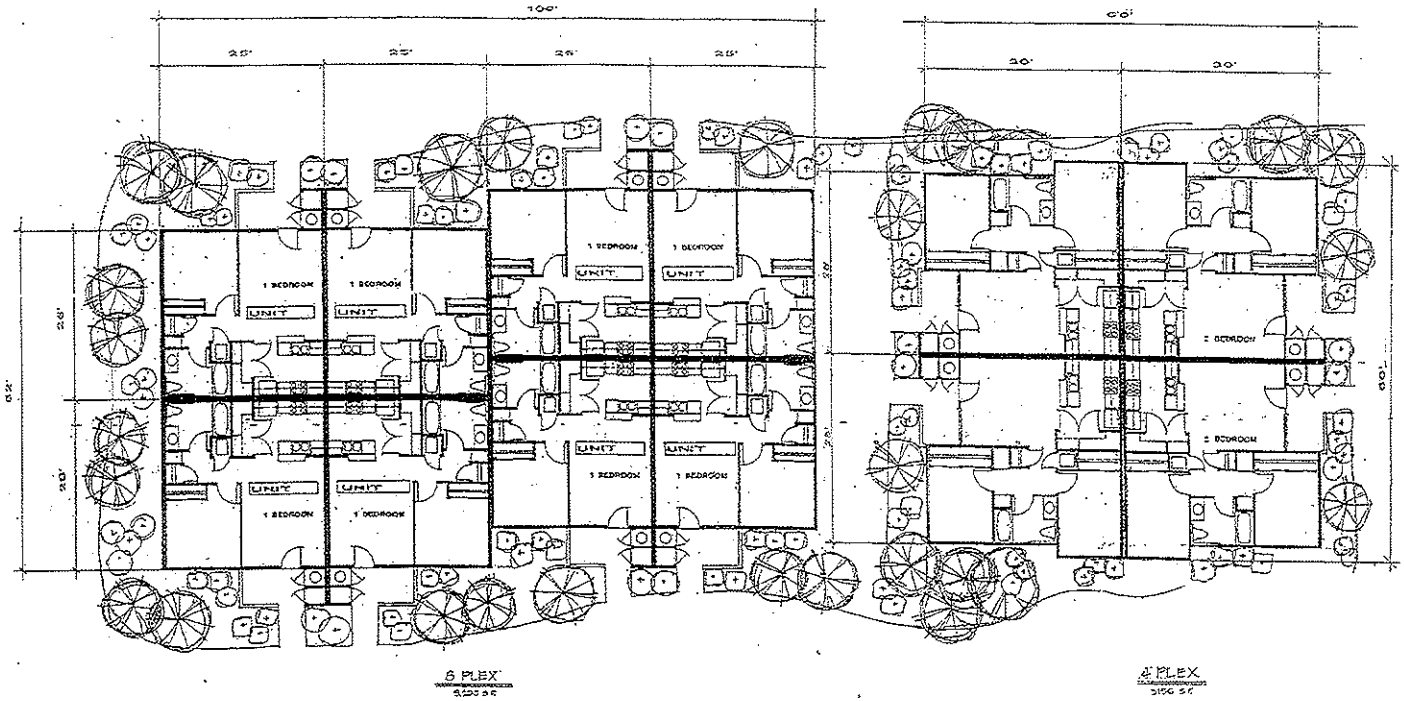
by
King of Kings Housing Development Corporation

CONTRACTOR:

Ashwood Construction Inc.
5755 E. Kings Canyon Rd., Suite 110
Fresno, California

PRELIMINARY

2-1-07



TYPICAL BUILDING PLAN 1/8" = 1'-0"

The BRIDGES at FLORENCE

by

King of Kings Housing Development Corporation

CONTRACTOR:

Ashwood Construction Inc.
5755 E. Kings Canyon Rd., Suite 110
Fresno, California

PRELIMINARY