

PLHA LOAN AGREEMENT

(Esperanza Commons)

THIS PLHA LOAN AGREEMENT ("Agreement") is made this 16th day of November, 2021, by and between the COUNTY OF FRESNO, a political subdivision of the State of California ("County") whose address is 2220 Tulare Street, 6th Floor, Fresno CA 93721, and Mendota Esperanza Commons, LP, a California limited partnership consisting of Silvercrest, Inc., a California non-profit corporation, as the Managing General Partner, and Mendota Esperanza Commons AGP, LLC, a California limited liability company, as the Administrative General Partner ("Borrower or Partnership"), whose address is 1331 Fulton Street, Fresno, CA 93721. County and Borrower shall be referred to herein each as a "Party" or collectively as the "Parties."

WITNESSETH

WHEREAS, the County was awarded funds from the Permanent Local Housing Allocation Program ("**PLHA**") by the California Department of Housing and Community Development ("**HCD**"), pursuant to Health and Safety Code sections 50470 *et seq.* (Ch. 364, Stat. 2017) ("**SB 2**"), to provide for eligible housing-related projects and programs to assist in addressing the County's, and its Participating Cities', unmet affordable housing needs according to the County's PLHA Plan; and

WHEREAS, pursuant to the County's PLHA Plan and its agreement with HCD, the County intends to utilize those PLHA funds to provide zero-interest, deferred-payment gap loans to developers, to be used for the acquisition, rehabilitation, preservation and/or construction of affordable rental housing; and

WHEREAS, the Borrower has applied to the County for PLHA funds to assist with the development of an affordable multi-family apartment complex, Esperanza Commons ("Project"), which shall be affordable to very-low to low-income households; and

WHEREAS, the Borrower requested a loan of One-Million, Five Hundred Sixty-One Thousand, One Hundred Eighty-One Dollars (\$1,561,181) from the County of Fresno PLHA Program, to assist with the acquisition, rehabilitation, and preservation of the Project, a sixty (60) unit rental housing development, of which fifty-nine (59) units shall be restricted, and affordable to very low and low-income persons, with thirty (35) units of the fifty-nine (59) affordable units funded by, and subject to, the County's

1 State PLHA funds requirements (“PLHA-assisted”)

2 WHEREAS, the County has One Million Five Hundred Sixty-One Thousand, One Hundred Eighty-
3 One Dollars (\$1,561,181) available from its PLHA funding to loan to the Borrower for the Project, subject
4 to the terms and conditions described herein; and

5 WHEREAS, the Project shall increase or preserve the supply of affordable rental housing units in
6 Fresno County for households earning no more than eighty percent (80%) of the Fresno County AMI;
7 and

8 WHEREAS, the total estimated Project cost is Twenty Million, Sixty-Three Thousand, Six Hundred
9 Eleven Dollars (\$20,063,611), and the Borrower has, or shall obtain, other funding commitments, apart
10 from the County PLHA Loan, to complete the financing for the Project; and

11 WHEREAS, the County has determined the Borrower has the capacity to develop the Project,
12 and the Project has been determined to meet PLHA requirements for funding; and

13 WHEREAS, the County shall loan the designated PLHA Program funds to the Borrower, on the
14 condition that the Project be maintained and operated in accordance with Health and Safety Code Section
15 50470, the regulations promulgated thereunder by HCD, and in accordance with additional restrictions
16 concerning affordability, operation, and maintenance of the Project, as specified in the loan documents;
17 and

18 WHEREAS, the Project is consistent with the County’s Consolidated Plan and the City of
19 Mendota’s General Plan.

20 NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions herein
21 contained, the Borrower and the County agree as follows:

22 **A G R E E M E N T**

23 1. **DEFINITIONS.** The following terms have the meaning and content set forth in this
24 Section 1 wherever used in this Agreement, attached exhibits, or attachments that are incorporated into
25 this Agreement by reference.

26 A. **“Acquisition”** means vesting of the Property in fee title to the Borrower.

27 B. **“Affordable”** means a housing unit that satisfies either of the following criteria: 1)
28 if the unit is being rented to Low-Income, Very low-income, or Extremely low-income households, it

1 complies with the Multifamily Housing Program guidelines Section 7312 and the Section 7301 definition
2 of “Affordable Rent”; or 2) if the unit is being rented to Moderate-Income households, it is available at a
3 gross rent, including a utility allowance, that does not exceed 30 percent (30%) of the applicable income
4 eligibility level, and complies with the definition of Moderate-Income in these guidelines.

5 C. “**AMI**” means the Area Median Income for Fresno County, as reported annually by
6 HCD.

7 D. “**Budget**” means the Budget for the development of the Project, attached as Exhibit
8 “C”, and incorporated by this reference.

9 E. “**Eligible Costs**” means the PLHA-eligible property acquisition, rehabilitation,
10 preservation, and/or construction costs for the acquisition, rehabilitation, preservation, and/or
11 construction of multifamily residential rental housing that is affordable to Low-Income households, as
12 identified in the Project Budget, attached as Exhibit “C”, and allowable under the PLHA statutes and
13 Guidelines. Eligible Costs shall include construction and development costs directly related to the PLHA
14 Units, but not unrelated administrative costs.

15 F. “**Guidelines**” or “**PLHA Guidelines**” means the Final PLHA Guidelines
16 promulgated by HCD in October 2019, as they may be amended from time to time.

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

26 H. “**Loan**” means the portion of the County’s PLHA Allocation, in an amount not to
27 exceed the sum of One Million, Five Hundred Sixty-One Thousand, One Hundred Eighty-One Dollars
28 (\$1,561,181), to be loaned at a low-interest, deferred rate to the Borrower, and to be used for the Eligible

1 Costs related to the Project.

2 I. **“Loan Documents”** are collectively this Agreement, and all related documents or
3 instruments as they may be amended, modified, or restated from time to time, along with all exhibits and
4 attachments, relative to the Loan. Such documents may include the Promissory Note, the Deed of Trust,
5 and the Regulatory Agreement.

6 J. **“Low-Income”** shall have the meaning set forth in Health and Safety Code section
7 50079.5, which is a maximum of eighty percent (80%) of AMI, as determined by HCD annually.

8 K. **“HCD”** means the California Department of Housing and Community Development.

9 L. **“Period of Affordability”** means fifty-five (55) years, beginning twelve months
10 from the date the Notice of Completion is recorded with the County.

11 M. **“PLHA”** or **“PLHA Program”** means the Permanent Local Housing Allocation
12 program administered by HCD, pursuant to Health and Safety Code sections 50470 *et seq.*, implementing
13 SB 2 (Ch. 364, Stat. 2017), and the Guidelines promulgated thereunder.

14 N. **“PLHA Funds”** means the total sum of PLHA monies granted to the County for five
15 (5) year periods beginning in 2019.

16 O. **“PLHA Rent”** means Rents that the County of Fresno shall determine to meet the
17 PLHA rent requirements.

18 P. **“PLHA Units”** means those units in the Property which shall be subject to PLHA
19 Program requirements.

20 Q. **“Project”** means the acquisition, rehabilitation, and/or construction of the Property
21 with a sixty (60) unit rental housing development, of which fifty-nine (59) units shall be restricted, and
22 affordable to very low and Low-Income persons, with thirty (35) units of the fifty-nine (59)
23 Affordable units that are PLHA-assisted.

24 R. **“Project Schedule”** means the schedule for commencement and completion of
25 the Project included in Exhibit “D”, attached, and incorporated by this reference.

26 S. **“Property”** means the proposed rental housing development currently titled
27 Esperanza Commons, located in Mendota, California, Fresno County, APN 012-190-39-S, more
28 particularly described in the Legal Description, attached as Exhibit “A”, and incorporated by this

1 reference.

2 T. **“Regulatory Agreement”** means the Regulatory Agreement and Declaration of
3 Restrictive Covenants between the County and the Borrower, to be recorded on the Property pursuant
4 to this Agreement.

5 U. **“SA”** shall mean the Standard Agreement entered into by the County and HCD
6 governing the terms for the initial grant of the PLHA Allocation to the County, and any subgrant or loan
7 of amounts thereof.

8 V. **“Term”** shall have the meaning identified in Section 3 of this Agreement.

9 W. **“Total Project Cost”** means the current estimated total cost of the development of
10 the Property, including but not limited to the PLHA Loan amount, consisting of Twenty Million, Sixty-Three
11 Thousand, Six Hundred Eleven Dollars (\$20,063,611), as identified in Exhibit “C”.

12 X. **“Very Low-Income households”** has the meaning set forth in Health and Safety
13 Code Section 50105, which is a maximum of 50 percent (50%) of AMI. “Very low-income households”
14 includes Extremely low-income households, as defined in Health and Safety Code Section 50106.

15 **2. PROJECT DESCRIPTION, LOCATION, SECURITY, BUILDING REQUIREMENTS, AND**
16 **BUDGET**

17 A. **DESCRIPTION**

18 1. The Project consists of the acquisition and rehabilitation of sixty (60) multi-
19 family rental housing units, of which fifty-nine (59) units shall be restricted, and Affordable to Very Low-
20 Income households, and Low-Income households. The Project shall result in the preservation of a total
21 of sixty (60) multi-family rental housing units, of which thirty-five (35) shall be PLHA Units, and shall
22 satisfy PLHA occupancy requirements for no less that the required PLHA Period of Affordability (“Period
23 of Affordability”). The Period of Affordability shall be fifty-five (55) years, beginning twelve (12) months
24 from the recordation of the Notice of Completion. The Project’s PLHA Units shall include a mix of 1-
25 bedroom, 2-bedroom, 3-bedroom, and 4-bedroom units, as described in Exhibit “B”, attached, and
26 incorporated by this reference.

27 2. The Project shall provide rental housing units that shall be affordable to
28 households earning below eighty percent (80%) of AMI for Fresno County, except one (1) unit that shall

1 be unrestricted, as reported annually by HCD. The thirty-five (35) PLHA-assisted units shall have rents,
2 including any tenant-paid utilities, at or below the PLHA Rent limits for the duration of the Period of
3 Affordability. The Project shall meet the requirements of State PLHA, relating to rent limitations.

4 3. Exhibit "B" to this Agreement provides a detailed breakdown of the Project
5 unit mix for the sixty (60) units; this includes the thirty-five (35) PLHA Units. Affordability for the thirty-five
6 (35) PLHA Units must follow the AMI and the Rents for Fresno County, as reported annually by the State,
7 and as described in Exhibit "B". All thirty-five (35) PLHA Units shall float within the Project as necessary
8 to ensure compliance with the PLHA Rent and occupancy requirements. The thirty-five (35) PLHA Units
9 must, at a minimum, be the approximate square footage designated, or larger.

10 B. LOCATION

11 sent to: The Project site is situated on 8.56 acres located in Mendota, California.
12 The site is comprised of several addresses and multiple buildings, bordered by Smoot Avenue, Gregg
13 Court West, and Sorensen Avenue. The Project shall consist of fifteen (15) 1-story residential structures,
14 and one (1) 1-story community center, which includes a shared laundry facility.

15 C. SECURITY

16 The County shall record the executed PLHA Regulatory Agreement, which shall
17 include deed restrictions against the Property that detail the rent limits and the tenant income limits for
18 the PLHA Units, as determined by the State annually, for the specified Period of Affordability (see Section
19 1(L)). The County or applicable title company shall provide a copy of the recorded PLHA Regulatory
20 Agreement to the Borrower.

21 D. BUILDING REQUIREMENTS

22 1. All aspects of the building construction shall meet or exceed the County's
23 Affordable Housing Programs Construction/Rehabilitation Standards and the International Energy

24 2. Conservation Code, and must comply with all applicable local building
25 codes.

26 3. Rental Property Standards: The Project shall meet the requirements of the
27 State relating to property standards, and all applicable local housing code requirements for the duration
28 of this Agreement, and any modifications or amendments or successor agreements thereto.

1 4. Accessibility Standards: The Project shall meet the requirements of the
2 State relating to handicap accessibility. A minimum of three (3) of the units shall be accessible to those
3 with mobility impairments; two (2) additional units shall be accessible to those with sensory impairments.

4 E. BUDGET

5 1. This Agreement does not provide the Borrower any legal claim to any
6 amount of PLHA loan funds to be used for the specific project or site unless, and until, the Property has
7 received environmental clearance, received authorization from the County and/or State to use grant
8 funds, and has met the other terms of this Agreement.

9 2. The total preliminary Project budget estimate is \$20,063,611. The
10 proposed work to be funded with County PLHA loan funds for the development of the thirty-five (35) multi-
11 family rental housing PLHA Units in the Project is as follows:

12 Expenses to be paid with PLHA loan funds:

13

14 Construction Costs	\$1,561,181
15 TOTAL PLHA loan funds	\$1,561,181

16 Notwithstanding the estimates described in the above preliminary Project budget, disbursements for the
17 thirty-five (35) PLHA Units in the Project from PLHA loan funds shall be based on the actual costs, and
18 shall not exceed the total amount of One Million Five Hundred Sixty-One Thousand, One Hundred Eighty-
19 One Dollars (\$1,561,181). Disbursement of PLHA funds is subject to approval and execution of loan,
20 security, and related documents acceptable to the County, in its sole discretion.

21 F. FUNDING

22 1. Notwithstanding any other provision of the Agreement, the parties hereto
23 agree and acknowledge that this Agreement does not constitute a commitment of loan funds or site
24 approval, and that such "commitment of loan funds" or approval may occur only upon satisfactory
25 completion of the environmental review of the Project. In addition, no commitment of loan funds shall be
26 made until all requirements contained in this Agreement or any other loan, security, or other related
27 documents are met by the Borrower, as determined by the County. The parties further agree that the
28 loan of any funds to the Project is conditioned upon the County's determination to proceed with, modify,

1 or cancel the Project, based on the results of the Project's environmental review, as specified in Section
2(E)(1) of this Agreement. The County shall give written notification to the Borrower when these
3 requirements have been met.

4 2. Exhibit "C" to this Agreement lists the potential sources and proposed
5 funding amounts for the Project. With the exception of County PLHA funds, these sources and/or the
6 amounts are subject to change. Notwithstanding the funding sources and amounts identified in Exhibit
7 "C", disbursements for the Project from PLHA loan funds shall be contingent upon reliable evidence
8 acceptable to the County, in its sole discretion, that the Borrower has obtained all funding necessary to
9 meet the total Project cost. In addition, the Borrower may not award the Project until the County has
10 received authorization from HCD, if necessary, to use the grant funds, as described in Section 4.

11 G. CHANGES TO PROJECT

12 The Borrower shall give written notification to the County Department of Public
13 Works and Planning, Community Development Division, of any event that changes the scope of the
14 Project and/or the funding sources. The Director of the Department of Public Works and Planning ("**PWP**
15 **Director**"), or his designee, at his discretion, is authorized to permit minor changes to the scope of the
16 Project and/or the funding sources, provided the PWP Director, or his designee, determines that such
17 changes do not substantively alter the scope of the Project, the maximum amount of PLHA Loan funds
18 allocated to the Project, or the Project's eligibility under the Department of Housing and Community
19 Development PLHA guidelines.

20 H. LOAN DISBURSEMENT

21 1. Requests Required

22 The Borrower shall submit written requests to the County for Loan
23 disbursements to pay actual costs incurred in the performance of this Agreement. Any such request for
24 disbursement of Loan funds shall be accompanied by a written certification from the Borrower that the
25 request for disbursement is consistent with the amount of work in furtherance of the Project that has been
26 completed, and that to the best of the Borrower's knowledge, the requested amounts are in accordance
27 with this Agreement. All requests for disbursement and supporting documentation shall be

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1 Department of Public Works and Planning
Community Development Division
Program Manager, Affordable Housing Programs
2220 Tulare Street, 6th Floor
3 Fresno, CA 93721

4 3. Documentation

5 Requests for disbursement shall be accompanied by supporting
6 documentation acceptable to the County detailing the items comprising the total sought to be reimbursed,
7 such as invoices or vouchers for services or materials purchased, contractors' costs, or other costs
8 chargeable to the Project.

9 4. Funding

10 Notwithstanding changes in the funding sources and amounts identified in
11 Exhibit "C", disbursements for the Project from PLHA funds shall be contingent upon the County's receipt,
12 review, and approval of reliable evidence acceptable to the County, in its sole discretion, showing that
13 the Borrower has obtained, or shall obtain, all funding to meet the Project development costs. Evidence
14 may include, but shall not be limited to, funding commitments, and/or loan documentation from other
15 lenders. The County shall not be obligated to make any disbursements of the Loan unless the following
16 conditions precedent are satisfied:

17 a) There exists no Event of Default nor any act, failure, omission, or
18 condition that would constitute an Event of Default under this Agreement.

19 b) Borrower has acquired the Property.

20 c) The Borrower has signed, notarized where applicable, and
21 delivered to the County this Agreement, the Promissory Note, the Regulatory Agreement, and the Deed
22 of Trust.

23 d) The Regulatory Agreement and the Deed of Trust have been
24 recorded against the Property in the official records of the County.

25 e) Receipt of a written request from the Borrower setting forth the use
26 of funds, the application of other sources of funds, and the amount of Loan funds requested, and attached
27 copies of all bills or invoices applicable to the costs incurred.

28 f) The County has received evidence reasonably satisfactory to the

1 County that the Borrower exists in good standing at the time of the proposed disbursement.

2 g) The Borrower has delivered to the County a copy of the Borrower's
3 organizational documents and a resolution authorizing the Borrower's execution of this Agreement, the
4 Promissory Note, the Deed of Trust, and the Regulatory Agreement, and the transactions contemplated
5 by the Loan Documents.

6 h) The Borrower has furnished the County with evidence of the
7 insurance coverage meeting the requirements of Section 5(L) below.

8 i) A title insurer reasonably acceptable to the County is
9 unconditionally and irrevocably committed to issuing an ALTA Lender's Insurance Policy insuring the
10 priority of the Deed of Trust in the amount of the Loan, subject only to such exceptions and exclusions
11 as may be reasonably acceptable to the County, and containing such endorsements as the County may
12 reasonably require.

13 j) The Borrower has certified in writing to the County, and the County
14 has approved such certification, and has been provided any documentation reasonably requested by the
15 County supporting such certification, that the undisbursed proceeds of the Loan, together with other funds
16 or firm commitments for funds that the Borrower has obtained in connection with the Project, are not less
17 than the amount that is necessary to pay for the construction costs of the Project, and to satisfy all of the
18 covenants contained in this Agreement and the Regulatory Agreement.

19 k) Borrower has obtained all permits and approvals necessary for the
20 construction of the Project, as required by Section 5(B)(7), and County has received a copy of the building
21 permit required to construct the Project (required for disbursements for construction costs only).

22 l) The County has received and approved all contracts that the
23 Borrower has entered or proposed to enter for construction of the Project, as required pursuant to Section
24 5(B)(4), herein.

25 m) The County has received copies of labor and material (payment)
26 bonds and performance bonds or alternative security, as required pursuant to Section 5(L)(5), herein.

27 n) Notwithstanding any other provisions of this Agreement, the County
28 shall have no further obligation to disburse any portion of the Loan to the Borrower following: (1)

1 termination of this Agreement; or (2) notification by the County to the Borrower of an Event of Default
2 under the terms of this Agreement, until such Event of Default is cured.

3 5. Payments

4 After reasonable review and progress inspections, the County shall
5 promptly make disbursements to the Borrower from County's PLHA funds provided for in this Agreement
6 for all verified Eligible Costs specified herein. The Project's proposed disbursement schedule is provided
7 in Exhibit "E", which is attached and incorporated by this reference. All requests for disbursements shall
8 be processed via Special Run check processing or a wire transfer, as determined by the County, and
9 processed by the County's Auditor-Controller/Treasurer-Tax Collector ("ACTTC").

10 6. Savings

11 In the event that the Project costs less than the current estimated Total
12 Project Cost, the Borrower shall notify the County in writing of such savings. The County may then, at its
13 sole discretion, reduce the County's contribution, in direct proportion to the percentage of savings.

14 **3. OBLIGATIONS OF THE COUNTY**

15 A. FUNDING

16 The County shall reserve One Million, Five Hundred Sixty-One Thousand, One
17 Hundred Eighty-One Dollars (\$1,561,181) from the County's PLHA funds for the Project. All funds shall
18 be paid to the Borrower in accordance with Section 2(H) of this Agreement, subject to all applicable state
19 and local statutory and regulatory requirements. Notwithstanding changes in the funding sources and
20 amounts identified in Exhibit "C", disbursements for the Project from PLHA Program funds shall be
21 contingent upon the County's receipt, review, and approval of highly reliable evidence acceptable to the
22 County, in its sole discretion, showing that the Borrower has obtained, or shall obtain, all funding to meet
23 the Project development costs. Evidence may include, but shall not be limited to, funding commitments
24 and/or loan documentation from other lenders, and/or documents regarding tax credit allocation
25 commitments.

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1 B. LOAN DOCUMENTS

 1. Promissory Note

3 The County shall prepare a Promissory Note ("**Note**") for execution by the
4 Borrower, in a form and content acceptable to the County, in the County's sole discretion. The Note shall
5 set forth the terms and conditions and plan for repayment of the PLHA Loan and other fees or charges,
6 including, but not limited to, liquidated damages, if applicable. In addition to the Note, PLHA Loan funds
7 shall be secured with a Deed of Trust recorded against the Property, and other required security
8 instruments, as described more fully below.

9 2. Deed of Trust

10 County shall prepare and record against the Property a Deed of Trust for
11 the County PLHA Loan, in a form and content acceptable to the County. The Deed of Trust shall be
12 recorded for the purpose of securing repayment of the Loan, and shall name the County of Fresno, a
13 political subdivision of the State of California, as beneficiary. The Deed of Trust shall be in third (3rd) lien
14 position during construction and after construction (unless the County provides written approval for a
15 lesser lien position), until the Note described in this Section 3(B) is fully repaid.

16 3. PLHA Regulatory Agreement and Declaration of Restrictive Covenants

17 The County shall record a PLHA Regulatory Agreement signed by the Borrower, in a form and content
18 acceptable to the County. The Regulatory Agreement shall impose the requirements of the PLHA
19 Program, as set forth in the HCD PLHA Guidelines, the SA, and the County PLHA Plan.

20 C. LABOR COMPLIANCE

21 The County shall verify that the Project general contractor has not been debarred
22 or suspended from participating in Federal, State, and local public works projects. The County shall
23 provide Borrower with written notification that this requirement has been met.

24 The County shall be provided at least ten (10) days' notice of, and shall attend, the
25 pre-construction meeting between the Borrower and any project or construction management company
26 contracting with the Borrower (whether those construction contractors are contracting directly with the
27 Borrower or indirectly through the Borrower's project or construction management company) to discuss
28 labor compliance requirements for the Project. The County may monitor Project records and conduct field

1 reviews to ensure that labor compliance and other conditions of this Agreement have been met.

2 D. RENT REQUIREMENTS AND AFFORDABILITY

3 1. Rental Requirements

4 The County shall provide the Borrower with direction and policy on
5 establishing the County's authorized utility allowances by unit size, and the household income limits,
6 adjusted for family size, for the initial year of Project operations, and annually thereafter for the Period of
7 Affordability as defined in Section 1(B), herein.

8 2. Review and Audit

9 The County shall annually review information provided by the Borrower for
10 the Project, and shall periodically conduct on-site inspections to ensure compliance with PLHA
11 affordability requirements and compliance with the terms of this Agreement, including, but not limited to,
12 tenants' income, rents, property standards, and other PLHA rental requirements during the Project's
13 Period of Affordability. The County shall provide the Borrower with the approved method for determining
14 income-eligibility. The County shall maintain a record of inspections in its Project file, and shall provide
15 copies to Borrower upon request.

16 4. PROJECT SUBJECT TO ENVIRONMENTAL CLEARANCE AND RELEASE OF FUNDS

17 In accordance with state regulations, the Borrower may not incur costs to be paid with
18 PLHA Loan funds for this Project until the County notifies the Borrower that the environmental review has
19 been completed, and is authorized to use funds from HCD. The County shall specify in a letter to the
20 Borrower that such notice of authorization to use funds has been received.

21 Any costs incurred prior to the County's written notification to Borrower that grant funds
22 may be released shall not be reimbursed from the County PLHA Loan funds, and may jeopardize use of
23 County PLHA funds for the Project.

24 5. OBLIGATIONS OF THE BORROWER

25 A. FUNDING

26 1. The Borrower certifies the authenticity and accuracy of the information
27 provided to the County with regards to the fiscal soundness of the Borrower, and Borrower's capacity to
28 undertake the proposed Project. The Borrower further certifies that it has examined the Project

1 neighborhood market conditions and has determined there is adequate need for the Project.

2 2. The Borrower shall provide any and all sums of money in excess of the
3 Loan that may be necessary to complete the Project. Prior to disbursement of County PLHA Loan funds,
4 the Borrower shall secure or obtain firm commitments from other funding sources for any and all sums of
5 money in excess of the Loan amount that may be necessary to complete the Project. The Borrower shall
6 provide evidence of such commitments of funds satisfactory to the County. The failure of Borrower to
7 secure all sums of money in excess of the Loan amount that may be necessary to complete the Project
8 shall be deemed a material breach of this Agreement, as discussed in Sections 4 and 5 of this Agreement.

9 3. The Borrower shall require that all documents with other lenders to the
10 Project include a clause stating that all Notice of Default statements be provided to the County, who shall
11 have thirty (30) days, or such longer applicable cure period, as set forth in the Note, to cure said default.
12 During said cure period, the lenders shall forbear from taking any action to perfect their default remedies.

13 B. DEVELOPMENT AND CONSTRUCTION

14 1. The Borrower shall acquire, rehabilitate, preserve, develop, and construct
15 the Project as rental housing for households earning no more than eighty percent (80%) of the AMI for
16 Fresno County, as defined by HCD, at time of initial occupancy.

17 2. Environmental Clearance Required. The Borrower is prohibited from
18 undertaking or committing any funds to physical or choice-limiting actions, including Property acquisition,
19 demolition, movement, rehabilitation, conversion, repair, or construction prior to the environmental
20 clearance. Violation of this provision shall result in the denial of PLHA Loan funds under this Agreement.

21 3. Appraisal. Prior to executing Loan Documents, the Borrower shall provide
22 the County with a copy of an appraisal establishing the fair market value of the land on which the Project
23 is to be rehabilitated. Such appraisal shall be performed by a State-certified real estate appraiser, or other
24 appraiser acceptable to the County.

25 4. Construction Contract. Prior to award of the construction contract, the
26 Borrower shall provide the County an independent cost-estimate for the Project to determine cost-
27 reasonableness. The Borrower must obtain from the County written approval of the contractor, the award,
28 amount of the contract, and the final Project budget. Prior to the date the work is to begin, the Borrower

1 shall provide both the contractor and the County with a copy of the Notice to Proceed. All construction
2 work and professional services shall be performed by persons or entities licensed or otherwise authorized
3 to perform the applicable construction work or service in the State of California. The County's approval
4 of the construction contract shall in no way be deemed to constitute approval of or concurrence with any
5 term or condition of the construction contract, except as such term or condition may be required by this
6 Agreement.

7 5. To the extent contractors and/or subcontractors are utilized on this Project,
8 the Borrower shall ensure that contractors/subcontractors are licensed in accordance with the regulations
9 of the State License Board, and shall certify that the contractor(s) are not debarred from State or local
10 government projects.

11 6. The Borrower shall conduct a pre-construction meeting with the Contractor,
12 and shall notify the County at least ten (10) working days prior to the meeting, so that a representative of
13 the County may be in attendance to discuss PLHA labor compliance requirements.

14 7. Permits. Prior to the start of construction, the Borrower shall secure all
15 permits required by the City of Mendota. The Borrower shall promptly provide copies of all such permits
16 to the County. All permits and approvals necessary for the construction of the Improvements on the
17 Property must be ready to issue no later than ten (10) months of date of this Agreement, and issued no
18 later than twelve (12) months of the date of this Agreement, or the County, at its option, and with thirty
19 (30) days' prior written notice to the Borrower and opportunity to cure, may declare Borrower in default
20 hereunder.

21 8. Mitigation Measures. The Borrower shall comply with all mitigation
22 measures and conditions identified in the Environmental Review/Assessment, which is incorporated
23 herein by reference.

24 9. Commencement of Construction. Borrower shall cause the
25 commencement of construction of the Project no later than twelve (12) months of the signing of this
26 Agreement.

27 ///

28 ///

1 10. Completion of Construction. Borrower shall diligently prosecute
construction of the Project to completion, and shall cause the completion of the construction of the Project
3 no later than February 2024.

4 11. Construction Pursuant to Plans and Laws. Borrower shall construct the
5 Project in conformance with plans and specifications as previously reviewed by the County, and
6 determined to meet County's and PLHA requirements. Following the Effective Date, Borrower shall notify
7 the County in a timely manner of any changes in the work required to be performed under this Agreement
8 after the Effective Date, including any additions, changes, or deletions to the plans and specifications
9 approved by the County. A written change order to be processed after the Effective Date must be
10 submitted to the County for its records, but not approval, for any of the following changes, additions, or
11 deletions in work for the Project (1) any change in the work the cost of which exceeds Twenty Five
12 Thousand Dollars (\$25,000); or (2) any set of changes in the work the cost of which cumulatively exceeds
13 Fifty Thousand Dollars (\$50,000); or (3) any material change in building materials or equipment,
14 specifications, or the structural or architectural design or appearance of the Project as provided for in the
15 plans and specifications approved by the County.

16 b) Borrower shall cause all work performed in connection with the
17 Project to be performed in compliance with (i) all applicable laws, ordinances, rules, and regulations of
18 federal, state, county, or municipal governments or agencies now in force, or that may be enacted
19 hereafter, and (ii) all directions, rules and regulations of any Fire Marshal, Health Officer, Building
20 Inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction.
21 The work shall proceed only after procurement of each permit, license, or other authorization that may
22 be required by any governmental agency having jurisdiction, and Borrower shall be responsible to the
23 County for the procurement and maintenance thereof, as may be required of Borrower and all entities
24 engaged in work on the Project.

25 c) The Borrower shall defend (with counsel reasonably acceptable to
26 the County) the County, its officers, commissioners, officials, employees, and agents, against any claim
27 for damages, compensation fines, penalties, or other amounts arising out of the failure or alleged failure
28 of any person or entity (including the Borrower, its contractor and subcontractors) to pay prevailing wages

1 as determined pursuant to Labor Code Sections 1720 et seq., to hire apprentices in accordance with
2 Labor Code Sections 1777.5 et seq., or to comply with the other applicable provisions of Labor Code
3 Sections 1720 et seq., 1725.5, 1771, 1771.1, 1771.4, 1776, 1777.5 et seq., 1810-1815 and the
4 implementing regulations of the Department of Industrial Relations or comply with the other applicable
5 provisions of Labor Code, or as determined under the federal Davis Bacon Act and its implementing
6 regulations in connection with the construction, pursuant to this Agreement, of the Project or any other
7 work undertaken or in connection with the Property, and shall indemnify and hold the County harmless
8 against any damages, compensation, fines, penalties or other amounts resulting from the successful
9 prosecution of such claim. This Section 5(B)11(c) shall survive the repayment of the Loan, the
10 reconveyance of the Deed of Trust, and the expiration of the Term.

11 d) All construction work and professional services shall be performed by
12 persons or entities licensed or otherwise authorized to perform the applicable construction work or service
13 in the State of California.

14 12. Equal Opportunity. During the construction of the Project, there shall be no
15 discrimination on the basis of race, color, creed, religion, age, sex, sexual orientation marital status,
16 national origin, ancestry, or disability in the hiring, firing promoting, or demoting of any person engaged
17 in the construction work.

18 13. Construction Responsibilities. It shall be the responsibility of
19 Borrower to coordinate and schedule the work, to be performed so that commencement and completion
20 of construction will take place in accordance with this Agreement.

21 Borrower shall be solely responsible for all aspects of Borrower's conduct in
22 connection with the Project, including (but not limited to) the quality and suitability of the plans and
23 specifications, the supervision of construction work, and the qualifications, financial condition, and
24 performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property
25 managers. Any review or inspection undertaken by the County with reference to the Project is solely for
26 the purpose of determining whether Borrower is properly discharging its obligations to the County and
27 should not be relied upon by Borrower or by any third parties as a warranty or representation by the
28 County as to the quality of the design or of the construction or construction of the Project.

1 14. Mechanics Liens, Stop Notices, and Notices of Completion.

3 a) If any claim of lien is filed against the Project, or a stop notice
4 affecting the Loan is served on the County or any other lender or other third party in connection with the
5 Project, then Borrower shall, within twenty (20) days after such filing or service, either pay and fully
6 discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to the County
7 a surety bond in sufficient form and amount, or provide the County with other assurance satisfactory to
8 the County that the claim of lien or stop notice will be paid or discharged.

9 b) If Borrower fails to discharge any lien, encumbrance, charge, or
10 claim in the manner required in this Section, then in addition to any other right or remedy, the County
11 may (but shall be under no obligation to) discharge such lien, encumbrance, charge, or claim at
12 Borrower's expense. Alternately, the County may require Borrower to immediately deposit with the
13 County the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. The
14 County may use such deposit to satisfy any claim or lien that is adversely determined against Borrower.

15 c) Borrower shall file a valid notice of cessation or notice of completion
16 upon cessation of construction on the Project for a continuous period of thirty (30) days or more, and take
17 all other reasonable steps to forestall the assertion of claims of lien against the Project. Borrower
18 authorizes the County, but without any obligation, to record any notices of completion or cessation of
19 labor, or any other notice that the County deems necessary or desirable to protect its interest in the
20 Project.

21 15. Inspections. Borrower shall permit and facilitate, and shall require its
22 contractors to permit and facilitate, observation and inspection at the Project by the County and by public
23 authorities during reasonable business hours for the purposes of determining compliance with this
24 Agreement.

25 16. Hazardous Materials. The Borrower shall certify that no Hazardous
26 Materials exist on the Property.

27 a) Borrower shall keep and maintain the Project in compliance with,
28 and shall not cause or permit the Project to be in violation of any federal, state, or local laws, ordinances
or regulations relating to industrial hygiene or to the environmental conditions on, under or about the

1 Project including, but not limited to, soil and ground water conditions. Borrower shall not use, generate,
2 manufacture, store or dispose of on, under, or about the Project or transport to or from the Project any
3 flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials,
4 including without limitation, any substances defined as or included in the definition of "hazardous
5 substances," hazardous wastes," "hazardous materials," or "toxic substances" under any applicable
6 federal or state laws or regulations (collectively referred to hereinafter as "Hazardous Materials") except
7 such of the foregoing as may be customarily used in construction of projects like the Project or kept and
8 used in and about residential property of this type.

9 b) Borrower shall immediately advise the County in writing if at any
10 time Borrower receives written notice of (i) any and all enforcement, cleanup, removal or other
11 governmental or regulatory actions instituted, completed or threatened against Borrower or the Project
12 pursuant to any applicable federal, state or local laws, ordinances, or regulations relating to any
13 Hazardous Materials, ("Hazardous Materials Law"); (ii) all claims made or threatened by any third party
14 against Borrower or the Project relating to damage, contribution, cost recovery compensation, loss or
15 injury resulting from any Hazardous Materials (the matters set forth in clauses (i) and (ii) above are
16 hereinafter referred to as "Hazardous Materials Claims"); and (iii) Borrower's discovery of any occurrence
17 or condition on any real property adjoining or in the vicinity of the Project that could cause the Project or
18 any part thereof to be subject to Health and Safety Code, Sections 25220 et seq., or any regulation
19 adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership,
20 occupancy, transferability or use of the Project under any Hazardous Materials Law.

21 c) The County shall have the right to join and participate in, as a party
22 if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials
23 Claims, and to have its reasonable attorneys' fees in connection therewith paid by Borrower. Borrower
24 shall indemnify and hold harmless the County and its officers, employees, agents, successors, and
25 assigns from and against any loss, damage, cost, expense or liability directly or indirectly arising out of
26 or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or
27 presence of Hazardous Materials on, under, or about the Project including without limitation: (i) all
28 foreseeable consequential damages; (ii) the costs of any required or necessary repair, cleanup or

1 detoxification of the Project and the preparation and implementation of any closure, remedial or other
2 required plans; and (iii) all reasonable costs and expenses incurred by the County in connection with
3 clauses (i) and (ii), including but not limited to reasonable attorneys' fees. This obligation to indemnify
4 shall survive termination of this Agreement.

5 d) Without the County's prior written consent, which shall not be
6 unreasonably withheld, Borrower shall not take any remedial action in response to the presence of any
7 Hazardous Materials on, under or about the Project, nor enter into any settlement agreement, consent
8 decree, or other compromise in respect to any Hazardous Material Claims, which remedial action,
9 settlement, consent decree or compromise might, in the County's reasonable judgment, impair the value
10 of the County's security hereunder; provided, however, that the County's prior consent shall not be
11 necessary in the event that the presence of Hazardous Materials on, under, or about the Project either
12 poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an
13 immediate remedial response is necessary and it is not reasonably possible to obtain the County's
14 consent before taking such action, provided that in such event Borrower shall notify the County as soon
15 as practicable of any action so taken. The County agrees not to withhold its consent, where such consent
16 is required hereunder, if either (i) a particular remedial action is ordered by a court of competent
17 jurisdiction, (ii) Borrower will or may be subjected to civil or criminal sanctions or penalties if it fails to take
18 a required action; (iii) Borrower establishes to the reasonable satisfaction of the County that there is no
19 reasonable alternative to such remedial action which would result in less impairment of the County's
20 security hereunder; or (iv) the action has been agreed to by the County.

21 e) Borrower hereby acknowledges and agrees that (i) this Section
22 5(B)(16) is intended as the County's written request for information (and Borrower's response) concerning
23 the environmental condition of the Project, as required by Code of Civil Procedure Section 726.5, and (ii)
24 each representation and warranty in this Agreement (together with any indemnity obligation applicable to
25 a breach of any such representation and warranty) with respect to the environmental condition of the
26 Project is intended by the Parties to be an "environmental provision" for purposes of Code of Civil
27 Procedure Section 736.

1 f) In the event that any portion of the Project is determined to be
2 "environmentally impaired" (as that term is defined in Code of Civil Procedure Section 726.5(e)(3)) or to
3 be an "affected parcel" (as that term is defined in Code of Civil Procedure Section 726.5(e)(1), then,
4 without otherwise limiting or in any way affecting the County's or the trustee's rights and remedies under
5 the Deed of Trust, the County may elect to exercise its rights under California Code of Civil Procedure
6 Section 726.5(a) to (1) waive its lien on such environmentally impaired or affected portion of the Project
7 and (2) exercise (a) the rights and remedies of an unsecured creditor, including reduction of its claim
8 against the borrower to judgment, and (b) judgment, and (c) any other rights and remedies permitted by
9 law. For purposes of determining the County's right to proceed as an unsecured creditor under Code of
10 Civil Procedure Section 726.5(a), the Borrower shall be deemed to have willfully permitted or acquiesced
11 in a release or threatened release of hazardous materials, within the meaning of Code of Civil Procedure
12 Section 726.5(d)(1), if the release or threatened release of hazardous materials was knowingly or
13 negligently caused or contributed to by any lessee, occupant, or user of any portion of the Project, and
14 the Borrower knew or should have known of the activity by such lessee, occupant, or user which caused
15 or contributed to the release or threatened release. All costs and expenses, including (but not limited to)
16 attorneys' fees, incurred by the County in connection with any action commenced under this paragraph,
17 including any action required by Code of Civil Procedure Section 726.5(b) to determine the degree to
18 which the Project is environmentally impaired, plus interest thereon at the lesser of ten percent (10%) or
19 the maximum rate permitted by law, until paid, shall be added to the indebtedness secured by the Deed
20 of Trust, and shall be due and payable to the County upon its demand made at any time following the
21 conclusion of such action.

22 g) Records demonstrating compliance with applicable relocation
23 requirements must be retained for at least five (5) years after the date by which eligible persons and/or
24 businesses displaced from the Property have received final payments.

25 h) Borrower shall indemnify, defend (with counsel reasonably chosen
26 by the County), and hold harmless the County against all claims for damages, compensation, fines,
27 penalties, attorneys' fees, relocation payments or other amounts that arise out of relocation obligations
28 to residential tenants, homeowners, or businesses permanently or temporarily displaced by the Project.

1 The provisions of this Section 5(B)(16) shall survive expiration of the Term or other termination of this
2 Agreement, and shall remain in full force and effect.

3 17. Maintenance and Damage.

4 a) During the course of both construction and operation of the Project,
5 Borrower shall maintain the Project in good repair and in a neat, clean, and orderly condition. If there
6 arises a condition in contravention of this requirement, and if Borrower or Borrower's limited partner, if
7 any, as the case may be, has not cured such condition within thirty (30) days after receiving a County
8 notice of such a condition, then in addition to any other rights available to the County, the County shall
9 have the right to perform all acts necessary to cure such condition, and to establish or enforce a lien or
10 other encumbrance against the Project.

11 b) Subject to the availability of insurance proceeds, and the
12 requirements of Senior Lender(s) and Borrower's Investor limited partner, if any, and if economically
13 feasible in the County's reasonable judgment, if any improvement now or in the future on the Property is
14 damaged or destroyed, then Borrower shall, at its cost and expense, diligently undertake to repair or
15 restore such improvement consistent with the plans and specifications approved by the County with such
16 changes as have been approved by the County. Such work or repair shall be commenced no later than
17 the later of one hundred twenty (120) days after the damage or loss occurs, or thirty (30) days following
18 receipt of the insurance proceeds and shall be complete within one (1) year thereafter (or such longer
19 period for the commencement and completion as may be extended by the County in its reasonable
20 discretion). Any insurance proceeds collected for such damage or destruction shall be applied to the
21 cost of such repairs or restoration, provided such insurance proceeds shall be sufficient for such purpose.

22 18. Fees and Taxes. Borrower shall be solely responsible for payment of all
23 fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with
24 respect to the Property or the Project, to the extent owned by Borrower, and shall pay such charges prior
25 to delinquency. However, Borrower shall not be required to pay and discharge any such charge so long
26 as (a) the legality thereof is being contested diligently and in good faith and by appropriate proceedings,
27 and (b) if requested by the County, Borrower deposits with the County any funds or other forms of
28

1 assurance that the County in good faith from time to time determines appropriate to protect the County
2 from the consequences of the contest being unsuccessful.

3 19. Notice of Litigation.The Borrower shall promptly notify the County in writing
4 of any litigation materially affecting the Borrower or the Property and the Project, and of any claims or
5 disputes that involve a material risk of such litigation.

6 C. USE OF LOAN FUNDS

7 1. The Borrower shall use the Loan funds to pay for construction costs of the
8 Project, consistent with the Approved Project Budget.

9 2. The Borrower shall not use the Loan funds for any other purpose without
10 the prior written consent of the County.

11 D. DISBURSEMENT

12 1. The Borrower may not request disbursement of Loan funds under this
13 Agreement until all conditions stated under Section 2(H)(3) of this Agreement have been satisfied. PLHA
14 Loan funds shall be distributed to the Borrower on a reimbursement basis for actual eligible costs.

15 E. LOAN DOCUMENTS

16 1. Prior to execution of the County's Loan Documents, the Borrower shall
17 submit to the County all Loan term sheets, any and all other requested Loan documents, and any
18 amendments thereto, including any required deed restrictions from other funding sources.

19 2. The Borrower shall select and use a title company acceptable to the County
20 for title work.

21 3. The Borrower shall record a Notice of Completion, and shall provide the
22 County a copy of the Notice of Completion after recordation.

23 4. The Borrower shall inform the County in writing of the names and
24 addresses of all co-owners, all limited partners, and all lenders of the Project. The Partnership shall inform
25 the County in writing of any addition, change, removal, or replacement of any co-owner, any limited
26 partner, or any lender of the Project for County review.

27 5. The Partnership shall not remove or replace the original Managing General
28 Partner, or any proposed partner approved by the County, from the Partnership without the County's prior

1 written approval, which shall not be unreasonably withheld. Furthermore, in the event the Managing
2 General Partner withdraws from the Partnership, the Partnership shall replace the Managing General
3 Partner with another Managing General Partner approved by the County, and the new Managing General
4 Partner must be a current member of the Partnership, unless otherwise agreed by County.

5 F. PAYMENT FOR MONITORING/ATTORNEY FEES

6 1. Annual PLHA Monitoring Fee

7 The Partnership shall pay to the County an annual fee to cover the County's
8 actual costs of monitoring the Project during the Period of Affordability. The Annual PLHA Monitoring Fee
9 shall be in an amount reflecting the County's actual costs of monitoring, oversight, and physical inspection
10 of the Project. Monitoring fees shall be paid in an amount not to exceed \$5,000 per annum, beginning on
11 the date the Project receives certificates of occupancy, and may increase each year thereafter by up to
12 three percent (3%).

13 2. Attorney Fees

14 The Partnership hereby agrees to reimburse and pay to County the
15 County's actual costs incurred in having legal counsel review all Loan documents, security documents,
16 and other documents related to the financing of the Project, up to a maximum of Ten Thousand Dollars
17 (\$10,000).

18 G. COMPLIANCE

19 1. Prior to distribution of County PLHA Loan funds, the Borrower, or its
20 property management firm, shall prepare and provide to the County its Affirmative Marketing Procedures.

21 2. Relocation

22 Borrower shall comply with all requirements of applicable California
23 relocation law (Gov. Code § 7260 *et seq.* and the regulations promulgated thereunder at Cal. Code Regs.,
24 tit. 25, § 6000 *et seq.*). Any relocation plan for the Project shall be subject to the review and approval of
25 the County and HCD. Borrower is solely responsible for payment of any relocation benefits to any
26 displaced persons and any other obligations associated with complying with such relocation laws.

27 3. Federal, State and Local Laws, Rules, Guidelines and Regulations.

28 Borrower shall comply with all Federal, state, and local laws, rules and regulations that pertain to

1 construction, health and safety, labor, prevailing wage, fair employment practices, equal opportunity,
2 and all other matters applicable to the Loan, the PLHA Program, any subrecipients, and any other activity
3 using PLHA funds. Whenever the Borrower uses the services of a contractor or property management
4 company, whether directly or indirectly, the Borrower shall require that the contractor or property
5 management company comply with all Federal, State and local laws, ordinances, regulations, this
6 Agreement, and Fresno County Charter provisions applicable in the performance of their work.

7 4. Housing First

8 The Borrower shall comply with the housing first practices described in
9 California Code of Regulations, title 25, section 8409(b)(1)–(6).

10 5. Qualified to Do Business

11 The Borrower certifies that it is authorized to do business in California as a
12 private corporation or it is a local public housing authority, duly formed and existing under Health and
13 Safety Code section 34200 et seq., and empowered by statute to acquire, rehabilitate, and/or construct
14 rental housing for persons of Low Income.

15 6. The Borrower shall comply with the requirements of HCD, including, but
16 not limited to, the requirements to annually permit on-site inspections, and provide the County with
17 information on rents and occupancy of PLHA-assisted units to demonstrate compliance with the
18 affordability requirements. The thirty-five (35) PLHA-assisted units are designated "floating units".

19 7. The Borrower shall provide the County with copies of all leases to be
20 executed for the PLHA Units for County's review and approval. In the event that any of the basic terms
21 of such leases are changed during the Period of Affordability, the Borrower shall re-submit such lease(s)
22 to the County for review and approval of the changes. The Borrower agrees to comply with the
23 requirements regarding tenant leases, including giving tenants a minimum 30-day notice of rent
24 increases.

25 8. The Borrower shall not be required to lower rents below the PLHA Rent
26 limits in effect at the time of this Agreement for the thirty-five (35) PLHA Units, but must submit requests
27 for rent increases to the County, and receive County's approval of same before implementing higher
28 rents. PLHA Rent Limits are listed in Exhibit "B" to this Agreement. The Borrower agrees to conduct

1 income determinations utilizing the County's definition of annual income, to certify tenant income eligibility
before renting units to tenant applicants, and to recertify tenant household income annually.

3 9. The Borrower agrees to comply with the requirements of the County, shall
4 maintain the correct number of 60% AMI and 80% AMI PLHA-assisted units, and adjust rents accordingly
5 for tenants whose incomes rise above eighty percent (80%) of the AMI.

6 H. FUNDING

7 1. Notwithstanding any other provision of the Agreement, the Parties hereto
8 agree and acknowledge that this Agreement does not constitute a commitment of PLHA Loan funds, and
9 that such "commitment of loan funds" or approval may occur only upon satisfactory completion of all
10 requirements contained in this Agreement or any other loan, security, or other related documents are met
11 by the Borrower, as determined by the County.

12 2. Exhibit "C" lists the potential sources and proposed funding amounts for
13 the Project. With the exception of County PLHA funds, these sources and/or the amounts are subject to
14 change. Notwithstanding the funding sources and amounts identified in Exhibit "C", disbursements for
15 the Project from PLHA Loan funds shall be contingent upon reliable evidence acceptable to the County,
16 in its sole discretion, that the Borrower has obtained all funding necessary to meet the Total Project Cost.

17 3. Payment of Other Indebtedness; Notice of Defaults. Borrower shall
18 promptly pay the principal and interest when due on any other indebtedness related to the Project.
19 Borrower shall promptly notify the County in writing of any defaults declared under any other financing
20 for the Project by the lender of such financing.

21 I. PERFORMANCE STANDARDS

22 1. The Borrower agrees to meet the following performance standards for this
23 Project throughout the project's Period of Affordability.

24 2. The Property shall be adequately maintained to meet the required property
25 standards; and

26 3. Occupancy reports for rental housing projects must be received by the
27 County at least on an annual basis, or additionally, as requested.

28 J. MONITORING, RECORDS, AND RETENTION

1 1. Records and Retention

3 The Borrower shall establish accounting and bookkeeping procedures in
4 accordance with Generally Accepted Accounting Principles (“GAAP”) and standard bookkeeping
5 practices, including, but not limited to, employee timecards, payrolls, and other records of all transactions
6 to be paid with Loan funds, in accordance with the requirements of this Agreement. All records and
7 accounts shall be available for inspection by the County, the State of California, or any of their duly
8 authorized representatives, at all reasonable times, upon at least three (3) days’ notice for a period of at
9 least five (5) years following the term of this Agreement, or the closure of all other related pending matters,
10 whichever is later. The Borrower shall certify accounts when required or requested by the County.

11 2. Financial Statements; Audits

12 The Borrower shall keep and maintain on the Property, or at its principal
13 place of business, or elsewhere with the County's written consent, full, complete, and appropriate books,
14 records, and accounts relating to the Project, including all such books, records, and accounts necessary
15 or prudent to evidence and substantiate in full detail the Borrower's calculation of Residual Receipts.
16 Within nine (9) months after the end of the County’s Fiscal Year in which the Project is completed, and
17 for each subsequent Fiscal Year until the end of the Loan term specified in the Note, Borrower shall
18 provide County with audited Statement of Cash Flows, Distribution of Net Cash Flow, Balance Sheet,
19 and Profit and Loss Statements prepared by an independent, certified public accountant. These
20 statements shall be prepared in accordance with GAAP. The Borrower agrees and acknowledges that
21 HCD shall have the right to audit Borrower’s records related to the Project, and interview Borrower’s
22 employees and contractors during reasonable business hours to determine compliance with PLHA and
23 HCD requirements.

24 Whenever the Borrower receives Loan funds from the County for the
25 Project, a copy of any audit performed by the Borrower shall be forwarded to the County Affordable
26 Housing Programs Manager within nine (9) months of the end of any fiscal year in which loan funds
27 were distributed, borrowed, and/or outstanding for the Project. Failure to perform the requisite audit
28 functions as required by this Section 5(J)(2) may result in the County performing any necessary audit
task or, at the County’s option, contracting with a public accountant to perform the audit. All audit costs

1 related to the Borrower's failure to perform the requisite audit are the sole responsibility of the Borrower,
2 and such audit work costs incurred by the County shall be billed to the Borrower, as determined by the
3 County's ACTTC. The Borrower agrees to take prompt and appropriate corrective action on any instance
4 of material non-compliance with applicable laws and regulations.

5 3. Outside Agreements

6 The County shall not be bound by any agreement between the Borrower
7 and any of its partners, agents, employees, or subcontractors. The County shall be bound only by the
8 terms of this Agreement.

9 4. Annual Reports

10 The Borrower shall provide the County information about the status of the
11 Project and the Eligible Costs for the previous year annually no later than April 30th, for so long as the
12 County is required to submit Annual Reports to HCD. Such information shall include 1) the Eligible Costs
13 and activities to which PLHA funds were committed; 2) the income levels of the households assisted; and
14 3) the annual rents and utility allowances and the affordability levels of households assisted.

15 5. Monitoring

16 The Borrower shall, upon at least three (3) days' notice, provide County
17 and/or HCD, or their officers, agents, and employees, reasonable access to the Property, and
18 Borrower's records and documents related to the Property, in order to ensure compliance with PLHA
19 requirements.

20 K. SUBORDINATION.

21 The Deed of Trust and/or Regulatory Agreement may be subordinated to the
22 Construction Loan converting to the Permanent Loan, Deferred Impact Fees Loan, the HOME Loans
23 and the Permanent Loan (in each case, a "Senior Loan"), but only on condition that all of the following
24 conditions are satisfied or on such other conditions approved in writing by the County:

25 1. All of the proceeds of the proposed Senior Loan, less any transaction costs,
26 must be used to provide acquisition, construction and/or permanent financing for the Project.

27 2. The proposed lender (each, a "Senior Lender") must be a state or federally
28 chartered financial institution, a nonprofit corporation, or a public entity that is not affiliated with Borrower

1 or any of Borrower's affiliates, other than as a depositor or a lender, unless approved in writing by the
2 County.

3 3. Borrower must demonstrate to the County's reasonable satisfaction that
4 subordination of the Deed of Trust and/or Regulatory Agreement is necessary to secure adequate
5 acquisition, construction, and/or permanent financing to ensure the viability of the Project, including the
6 operation of the Project as affordable housing, as required by the Loan Documents. To satisfy this
7 requirement, Borrower must provide to the County, in addition to any other information reasonably
8 required by the County, evidence demonstrating that the proposed amount of the Senior Loan is
9 necessary to provide adequate acquisition, construction and/or permanent financing to ensure the
10 viability of the Project, and adequate financing for the Project would not be available without the proposed
11 subordination.

12 4. The subordination agreement(s) must be structured to minimize the risk
13 that the Deed of Trust and/or Regulatory Agreement would be extinguished as a result of a foreclosure
14 by the Senior Lender or other holder of the Senior Loan. To satisfy this requirement, the subordination
15 agreement must provide the County with adequate rights to cure any defaults by Borrower, including: (i)
16 providing the County or its successor with copies of any notices of default at the same time and in the
17 same manner as provided to Borrower; and (ii) providing the County with a cure period of at least sixty
18 (60) days to cure any default.

19 5. The subordination(s) described in this Section 5(K) may be effective only
20 during the original term of the Senior Loan and any extension of its term approved in writing by the
21 County.

22 6. No subordination may limit the effect of the Deed of Trust and/or Regulatory
23 Agreement before a foreclosure, nor require consent of the holder of the Senior Loan to exercise of any
24 remedies by the County under the Loan Documents, except as otherwise agreed by County in a written
25 subordination agreement.

26 7. Upon a determination by the County that the conditions in this Section 5(K)
27 have been satisfied, the PWP Director, or his/her designee will be authorized to execute the approved
28 subordination agreement, without the necessity of any further action or approval.

1 8. In the event there is a foreclosure of the Property, the Regulatory
2 Agreement shall be revived according to its original terms if, during the original Regulatory Agreement
3 term, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes
4 the former owner or those with whom the former owner has or had family or business ties, obtains an
5 ownership interest in the Project or Property.

6 L. INSURANCE

7 Without limiting the County's right to obtain indemnification from the Borrower or
8 any third parties, the Borrower, at its sole expense, shall maintain in full force and effect the following
9 insurance policies throughout the term of this Agreement:

10 1. Property Insurance

11 A policy of Property Insurance to the extent of not less than one hundred
12 percent (100%) of the actual full replacement cost (without depreciation) of all buildings and
13 improvements located on the Property, insuring against loss or damage by fire, extended coverage perils
14 and such other hazards, casualties or other contingencies (other than damage from earthquakes), as
15 from time to time may be reasonably required by the County of Fresno. The Borrower shall obtain
16 endorsements to the Property Insurance naming the County of Fresno, its officers, agents, and
17 employees, individually and collectively, as additional insured, but only insofar as the operations under
18 this Agreement are concerned. Such coverage for additional insured shall apply as primary insurance
19 and any other insurance, or self-insurance, maintained by the County, its officers, agents and employees
20 shall be excess only and not contributing with insurance provided under the Borrower's policies herein.
21 This insurance shall not be cancelled or changed without a minimum of thirty (30) days advance written
22 notice given to the County.

23 2. Commercial General Liability Insurance

24 Commercial General Liability Insurance with limits of not less than One
25 Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$2,000,000)
26 is required. This policy shall be issued on a per occurrence basis. The County may require specific
27 coverage including completed operations, product liability, contractual liability, Explosion-Collapse-
28 Underground, fire, extended coverage, legal liability or any other liability insurance deemed necessary

1 because of the nature of this Agreement.

2 The Borrower shall obtain endorsements to the Commercial General
3 Liability Insurance, fire, and extended coverage, naming the County of Fresno, its officers, agents, and
4 employees, individually and collectively, as additional insured, but only insofar as the operations under
5 this Agreement are concerned. Such coverage for additional insured shall apply as primary insurance
6 and any other insurance, or self-insurance, maintained by the County, its officers, agents and employees
7 shall be excess only and not contributing with insurance provided under the Borrower's policies herein.
8 This insurance shall not be cancelled or changed without a minimum of thirty (30) days advance written
9 notice given to the County.

10 3. Automobile Liability Insurance

11 Comprehensive Automobile Liability Insurance with limits for bodily injury
12 of not less than Two Hundred Fifty Thousand Dollars (\$250,000) per person, Five Hundred Thousand
13 Dollars (\$500,000) per accident and for property damages of not less than Fifty Thousand Dollars
14 (\$50,000) or such coverage with a combined single limit of Five Hundred Thousand Dollars (\$500,000)
15 is required. Coverage should include owned and non-owned vehicles used in connection with this
16 Agreement.

17 4. Worker's Compensation Insurance

18 A policy of Worker's Compensation Insurance as may be required by the
19 California Labor Code. Borrower hereby waives its right to recover from County, its officers, agents, and
20 employees any amounts paid by the policy of worker's compensation insurance required by this
21 Agreement. Borrower is solely responsible to obtain any endorsement to such policy that may be
22 necessary to accomplish such waiver of subrogation, but Borrower's waiver of subrogation under this
23 paragraph is effective whether or not Borrower obtains such an endorsement.

24 Within thirty (30) days of the date the Borrower signs this Agreement, the
25 Borrower shall provide certificates of insurance and endorsement as stated above for all of the listed
26 policies, as required herein, to the County of Fresno, Community Development Division, Program
27 Manager, Affordable Housing Programs, 2220 Tulare Street, 6th Floor, Fresno, CA 93721, stating that
28 such insurance coverages have been obtained and are in full force; that the County of Fresno, its officers,

1 agents and employees shall not be responsible for any premiums on the policies; that for such worker's
2 compensation insurance the Borrower has waived its right to recover from the County, its officers, agents,
3 and employees any amounts paid under the insurance policy and that waiver does not invalidate the
4 insurance policy; that such Commercial General Liability Insurance names the County of Fresno, its
5 officers, agents and employees, individually and collectively, as additionally insured, but only insofar as
6 the operations under this Agreement are concerned; that such coverage for additional insured shall apply
7 as primary insurance and any other insurance, or self-insurance, maintained by the County, its officers,
8 agents and employees, shall be excess only and not contributing with insurance provided under the
9 Borrower's policies herein; and that this insurance shall not be cancelled or changed without a minimum
10 of thirty (30) days advance, written notice given to the County. In the event the Borrower fails to keep in
11 effect at all times insurance coverage as herein provided, the County may, in addition to other remedies
12 it may have, suspend or terminate this Agreement upon the occurrence of such event. All policies shall
13 be with admitted insurers licensed to do business in the State of California. Insurance purchased shall
14 be purchased from companies possessing a current A.M. Best, Inc. rating of A FSC VII or better.

15 5. Bond Insurance

16 Borrower acknowledges as a condition of receiving the Loan, that the
17 Borrower shall obtain a performance bond and a labor and materials (payment) bond, in the amount of
18 one hundred percent (100%) of the construction contract sum, prior to the execution of all PLHA Loan
19 and related documents. These bonds shall comply with the requirements of Civil Code Section 3248, and
20 be acceptable to the County. The bonds shall be in recordable form and shall name such parties as
21 indicated by Borrower as co-obligees or assignees. Borrower understands and acknowledges that the
22 aforementioned requirements for both bonds are a condition precedent to Borrower's receipt of any
23 County PLHA Funds, and Borrower's failure to procure such bonds shall be considered a material breach
24 of this Agreement.

25 6. Professional Liability Insurance

26 If the Borrower employs licensed professional staff (e.g., Ph.D., R.N.,
27 L.C.S.W., M.F.C.C., Engineer, Architect) in providing services, Professional Liability Insurance with limits
28 of not less than One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) annual

1 aggregate is required.

2 M. INDEMNIFICATION

3 The Borrower shall indemnify, save, hold harmless, and at the County's request,
4 defend the County, its partners, officers, agents, and employees from and against any and all costs and
5 expenses (including attorney's fees and costs), damages, liabilities, claims and losses whatsoever
6 occurring or resulting to the County in connection with the performance, or failure to perform, by the
7 Borrower, its partners, officers, agents, employees, or any persons, firms, or corporations furnishing or
8 supplying work, services, materials, or supplies in connection with the performance of this Agreement,
9 and from any and all costs and expenses (including attorney's fees and costs), claims and losses
10 occurring or resulting to any person, firm, or corporation who may be injured or damaged, including
11 damage, injury, or death arising out of or connected with the performance, or failure to perform, of the
12 Borrower, its partners, officers, agents or employees under this Agreement.

13 The provisions of this Section 5(M) shall survive termination of this Agreement.

14 **6. TERM; TIME OF PERFORMANCE**

15 A. Term

16 The term of this Agreement shall commence on the date upon which this
17 Agreement is executed by the County, and shall expire when the Period of Affordability ends, or when
18 the Loan and such other amounts, including but not limited to liquidated damages, if applicable, as set
19 forth in the Note, have been repaid, and the Deed of Trust has been reconveyed, whichever is later
20 ("**Term**").

21 B. Time for Performance

22 The Project shall commence on the day the Agreement is executed by the County,
23 and construction shall be completed within 24 months of the construction start date, as identified in the
24 Project Schedule in Exhibit "D".

25 C. Delays

26 The Borrower shall give immediate written notification to the PWP Director, or his
27 designee, of any events that occur, which may affect the Project Schedule and completion date noted
28 above, or any event which may have significant impact upon the Project or affect the attainment of the

1 Project's objectives. The PWP Director, or his or her designee, is authorized to adjust the Project
2 schedule if, in the PWP Director's or his or her designee's judgment, the delays are beyond the control
3 of the parties involved.

4 **7. DEFAULT AND REMEDIES**

5 A. Each of the following shall constitute an "Event of Default" by Borrower under this
6 Agreement:

7 1. Failure to Construct. Failure of Borrower to commence and complete
8 construction of the Project within the times set forth in Section 5(B)(9), herein;

9 2. Failure to Make Payment. Failure to repay the principal and any interest on
10 the Loan that is due and payable to the County pursuant to the Loan Documents (subject to any notice
11 and cure periods set forth in the other Loan Documents).

12 3. Breach of Covenants. Failure by Borrower to materially perform, comply
13 with, or observe any of the conditions, terms, or covenants of any of the Loan Documents, and such
14 failure having continued uncured for thirty (30) days after receipt of written notice thereof by Borrower
15 from County or, if the breach cannot be cured within thirty (30) days, Borrower shall not be in breach so
16 long as Borrower is diligently undertaking to cure such breach, and such breach is cured within ninety
17 (90) days; provided, however, that if a different period or notice requirement is specified under any other
18 subsection of this Section 7, the specific provisions shall control.

19 4. Default Under Other Loans. Failure to make any payment or perform any
20 of Borrower's covenants, agreements, or obligations under the documents evidencing and securing any
21 loan or financing secured by the Project following expiration of all applicable notice and cure periods.

22 5. Insolvency. A court having jurisdiction shall have made or entered any
23 decree or order (i) adjudging Borrower to be bankrupt or insolvent, (ii) approving as properly filed a
24 petition seeking reorganization of Borrower or seeking any arrangement for Borrower or under the
25 bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or
26 other jurisdiction, (iii) appointing a receiver, trustee, liquidator, or assignee of Borrower in bankruptcy or
27 insolvency or for any of their properties, or (iv) directing the winding up or liquidation of Borrower, if any
28 such decree or order described in clauses (i) to (iv), inclusive, shall have continued unstayed or

1 undischarged for a period of ninety (90) days; or Borrower shall have admitted in writing its inability to
2 pay its debts as they fall due or shall have voluntarily submitted to or filed a petition seeking any decree
3 or order of the nature described in clauses (i) to (iv), inclusive. The occurrence of any of the Events of
4 Default in this paragraph shall act to accelerate automatically, without the need for any action by the
5 County, the indebtedness evidenced by the Note.

6 6. Assignment; Attachment. Borrower shall have assigned its assets for the
7 benefit of its creditors or suffered a sequestration or attachment of or execution on any substantial part
8 of its property, unless the property so assigned, sequestered, attached or executed upon shall have been
9 returned or released within ninety (90) days after such event or, if sooner, prior to sale pursuant to such
10 sequestration, attachment, or execution. The occurrence of any of the Events of Default in this paragraph
11 shall act to accelerate automatically, without the need for any action by the County, the indebtedness
12 evidenced by the Note.

13 7. Suspension; Termination. Borrower shall have voluntarily suspended its
14 business for more than sixty (60) consecutive days, or Borrower has dissolved or terminated. The
15 occurrence of any of the Events of Default in this paragraph shall act to accelerate automatically, without
16 the need for any action by the County, the indebtedness evidenced by the Note.

17 8. Liens on Property and the Project. There shall be filed any claim of lien
18 (other than liens approved in writing by the County) against the Project or any part thereof, or any interest
19 or right made appurtenant thereto, or the service of any notice to withhold proceeds of the Loan and the
20 continued maintenance of said claim of lien or notice to withhold for a period of twenty (20) days without
21 discharge or satisfaction thereof or provision therefor (including, without limitation, the posting of bonds)
22 satisfactory to the County.

23 9. Condemnation. The condemnation, seizure, or appropriation of all or the
24 substantial part of the Property and the Project, except that condemnation by the County shall cause the
25 Loan to accelerate but shall not be an Event of Default.

26 10. Unauthorized Transfer. Any Transfer other than as permitted by Section 9

27 11. Representation or Warranty Incorrect. Any Borrower representation or
28 warranty contained in this Agreement, or in any application, financial statement, certificate, or report

1 submitted to the County in connection with any of the Loan Documents, proving to have been incorrect
in any material and adverse respect when made.

3 12. In the event the Borrower fails to comply with any of the terms of this
4 Agreement, the County may, at its option, deem the Borrower's failure to be a material breach of this
5 Agreement, and utilize any of the remedies set forth, or that it deems appropriate. Should the County
6 deem a breach of this Agreement to be a material breach, the County shall immediately be relieved of its
7 obligations to make further loan disbursements as provided herein. Termination of this Agreement due
8 to breach shall not, in any way whatsoever, limit the rights of the County in seeking any other legal relief
9 in a court of law or equity, including the recovery of damages.

10 B. Remedies. The occurrence of any Event of Default hereunder following the expiration of
11 all applicable notice and cure periods (including notice to the Borrower's Investor limited
12 partner, if any, and the Investor limited partner having an opportunity to cure (but not the
13 obligation) in the same manner as Borrower) shall, either at the option of the County or
14 automatically where so specified, relieve the County of any obligation to make or continue
15 the Loan, and shall give the County the right to proceed with any and all remedies set forth
16 in this Agreement and the Loan Documents, including but not limited to the following:

17 1. Acceleration of Note. The County shall have the right to cause all
18 indebtedness of the Borrower to the County under this Agreement and the Note, together with any
19 accrued interest thereon, to become immediately due and payable. The Borrower waives all right to
20 presentment, demand, protest or notice of protest or dishonor. The County may proceed to enforce
21 payment of the indebtedness and to exercise any or all rights afforded to the County as a creditor and
22 secured party under the law, including the Uniform Commercial Code, including foreclosure under the
23 Deed of Trust. The Borrower shall be liable to pay the County on demand all reasonable expenses, costs,
24 and fees (including, without limitation, reasonable attorney's fees and expenses) paid or incurred by the
25 County in connection with the collection of the Loan and the preservation, maintenance, protection, sale,
26 or other disposition of the security given for the Loan.

27 2. Specific Performance. The County shall have the right to mandamus or
28 other suit, action or proceeding at law or in equity to require Borrower to perform its obligations and

1 covenants under the Loan Documents or to enjoin acts on things which may be unlawful or in violation of
2 the provisions of the Loan Documents.

3 3. Right to Cure at Borrower's Expense. The County shall have the right (but
4 not the obligation) to cure any monetary default by Borrower under a loan other than the Loan. The
5 Borrower agrees to reimburse the County for any funds advanced by the County to cure a monetary
6 default by Borrower upon demand therefor, together with interest thereon at the lesser of the maximum
7 rate permitted by law or ten percent (10%) per annum from the date of expenditure until the date of
8 reimbursement.

9 4. Right of Contest. Borrower shall have the right to contest in good faith any
10 claim, demand, levy, or assessment the assertion of which would constitute an Event of Default
11 hereunder. Any such contest shall be prosecuted diligently, and in a manner unprejudicial to the County
12 or the rights of the County hereunder.

13 5. Right to Terminate. As described in Section 8, herein.

14 6. Remedies Cumulative. No right, power, or remedy given to the County by
15 the terms of this Agreement or the Loan Documents is intended to be exclusive of any other right, power,
16 or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every
17 other right, power, or remedy given to the County by the terms of any such instrument, or by any statute
18 or otherwise against Borrower and any other person. Neither the failure nor any delay on the part of the
19 County to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single
20 or partial exercise by the County of any such right or remedy preclude any other or further exercise of
21 such right or remedy, or any other right or remedy.

22 **8. TERMINATION**

23 A. Non-Allocation of Funds

24 The terms of this Agreement, and the funds provided thereunder, are contingent
25 on the award and/or commitment of PLHA funds by HCD to the County, and to the award and/or
26 commitment of funds to the Project by the Sources of Funds identified in Exhibit "C" of this Agreement.
27 Should HCD fail to award funds to County, or should the County determine, in its sole discretion, that
28 sufficient funds have not been allocated by the other sources of funds to complete the development of

1 the Project, the County may terminate this Agreement at any time by giving the Borrower thirty (30) days
2 advance written notice, and the Borrower shall promptly repay to the County any unexpended PLHA loan
3 funds previously paid, pursuant to all applicable laws and regulations.

4 B. Breach; Cure

5 The County may immediately suspend or terminate this Agreement in whole or in
6 part, where in the determination of the County there is:

- 7 1) An Event of Default, as described in Section 7, herein.
- 8 2) An illegal or improper use of funds;
- 9 3) A failure to comply with any term of this Agreement;
- 10 4) A substantial failure to secure adequate funding to complete the Project; or
- 11 5) A substantially incorrect or incomplete report submitted to the County.

12 Borrower shall have fifteen (15) days to submit additional information to clarify or cure
13 the breach or event of default. In no event shall any payment by the County constitute a waiver by the County
14 of any breach of this Agreement or any default which may then exist on the part of the Borrower. Neither
15 shall such payment impair or prejudice any remedy available to the County with respect to the breach or
16 default. The County shall have the right to demand of the Borrower the repayment to the County of any
17 unspent funds disbursed to the Borrower under this Agreement, which in the judgment of the County were
18 not expended in accordance with the terms of this Agreement. The Borrower shall promptly refund any such
19 unspent funds upon demand.

20 C. Termination for Convenience

21 This Agreement may also be terminated for convenience by the County upon thirty
22 (30) days' advance written notice to the Borrower. In the event the County terminates this Agreement
23 solely for convenience, the Borrower shall repay to the County any unspent PLHA Loan funds, pursuant
24 to all applicable laws and regulations. However, in the event of termination, the County, at its sole
25 discretion, may negotiate with the Borrower alternate terms of repayment of PLHA Loan funds.

26 **9. ASSIGNMENT AND TRANSFERS**

27 A. Definitions. As used in this Section 9, the term "Transfer" means:

- 28 1. Any total or partial sale, lease, assignment, or other conveyance, or any

1 trust or power, or any transfer in any other mode or form, of or with respect to this Agreement or of any
part of or interest in the Project, or any agreement to do any of the foregoing; or

3 2. Any total or partial sale, assignment, or other conveyance, or any trust or
4 power, or any transfer in any other mode or form, of, or with respect to, the general or limited partner
5 ownership interests of the Borrower, or any agreement to do any of the foregoing.

6 B. Purpose of Restrictions on Transfer.

7 1. This Agreement is entered into solely for the purpose of providing
8 assistance for the Borrower's development of the Property in accordance with the terms of this Agreement
9 and the Regulatory Agreement. The qualifications and identity of the Borrower are of particular concern
10 to the County, in view of:

11 2. The importance of the Project to the general welfare of the community;

12 3. The public aid that has been made available by law and by the government
13 for the purpose of making such Project possible;

14 4. The reliance by the County upon the unique qualifications and ability of the
15 Borrower to serve as the catalyst for development of the Property and upon the continuing interest which
16 the Borrower will have in the Project to assure the quality of the use, operation, and maintenance deemed
17 critical by the County in the development of the Property;

18 5. The fact that a change in ownership or control of the Borrower of the
19 Project, or of a substantial part thereof, or any other act or transaction involving or resulting in a significant
20 change in ownership or with respect to the identity of the parties in control of the Borrower or the degree
21 thereof, is for practical purposes, a transfer or disposition of the Project; and

22 6. The importance to the County of the standards of use, operation, and
23 maintenance of the Project. It is because of the qualifications and identity of the Borrower that the County
24 is entering into this Agreement, and that Transfers are permitted only as provided in this Agreement.

25 C. Prohibited Transfers.

26 1. The limitations on Transfers set forth in this Section 9 shall apply
27 throughout the term of the Regulatory Agreement. Except as expressly permitted in this Agreement, the
28 Borrower represents that, except for certain purchase options and a right of first refusal entered into in

1 connection with the syndication of limited partnership interests in the Borrower, it has not made or
2 created, and agrees that it will not make or create or suffer to be made or created, any Transfer, either
3 voluntarily or by operation of law, without the prior written approval of the County.

4 2. Any Transfer made in contravention of this Section 9 shall at the County's
5 discretion be void, and shall be deemed to be an Event of Default under this Agreement, whether or not
6 the Borrower knew of or participated in such Transfer.

7 D. Permitted Transfers Without Prior County Approval. County consent is not required
8 for the following:

9 1. Rental of a Unit by the Borrower in the ordinary course of business and in
10 compliance with the Regulatory Agreement.

11 2. The granting of temporary or permanent easements or permits to facilitate
12 construction of the Improvements.

13 3. Any Transfer for the purpose of obtaining and securing financing, approved
14 by the County in the Approved Project Budget, which is necessary to construct the Project, including the
15 grant of a deed of trust, assignment of rents and security agreement, to secure the necessary funding.

16 E. Permitted Transfers with Prior Approval.

17 1. Except as permitted under Section 9(D), any Transfer shall be permitted
18 during the Term of this Agreement only after (a) the County has delivered to the Borrower its prior written
19 approval of such Transfer, and (b) the transferee has assumed the Borrower's future obligations under
20 this Agreement by signing this Agreement or such other reasonable documentation as the County may
21 require. Following completion of construction of the Improvements, the County shall not unreasonably
22 withhold its consent to a proposed Transfer, provided that the County reasonably determines that the
23 proposed transferee is qualified to operate the Project in compliance with the Regulatory Agreement,
24 including meeting the following requirements:

25 i. The proposed transferee has at least five (5) years' experience operating
26 multifamily rental housing developments comparable to the Project;

27 ii. The proposed transferee has no record of loan defaults, maintenance
28 problems, housing or building code violations, or substantiated fair housing complaints at properties it

1 has owned or operated; and

iii. The proposed transferee has satisfactory credit.

3 **10. REPRESENTATIONS AND WARRANTIES OF BORROWER**

4 A. Borrower hereby represents and warrants to the County as follows:

5 1. Organization. Borrower is a duly organized, validly existing California
6 limited partnership, is in good standing under the laws of the State of California, and has the power and
7 authority to own its property and carry on its business as is now being conducted.

8 2. Authority of Borrower. Borrower has full power and authority to execute and
9 deliver this Agreement and to make and accept the borrowings contemplated hereunder, to execute and
10 deliver the Loan Documents and all other documents or instruments executed and delivered, or to be
11 executed and delivered, pursuant to this Agreement, and to perform and observe the terms and
12 provisions of all of the above.

13 3. Authority of Persons Executing Documents. This Agreement and the Loan
14 Documents and all other documents or instruments executed and delivered, or to be executed and
15 delivered by the Borrower, pursuant to this Agreement have been executed and delivered by persons
16 who are duly authorized to execute and deliver the same for and on behalf of Borrower, and all actions
17 required under Borrower's organizational documents and applicable governing law for the authorization,
18 execution, delivery, and performance of this Agreement and the Loan Documents, and all other
19 documents or instruments executed and delivered, or to be executed and delivered, pursuant to this
20 Agreement, have been duly taken (to the extent such actions are required as of the date of execution
21 and delivery of the above-named documents).

22 4. Valid and Binding Agreements. This Agreement and the Loan Documents
23 and all other documents or instruments which have been executed and delivered by the Borrower
24 pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when
25 so executed and delivered, constitute, legal, valid, and binding obligations of Borrower, enforceable by
26 and against it in accordance with their respective terms, subject to bankruptcy, insolvency,
27 reorganization, moratorium, and other similar laws affecting the rights of creditors generally and general
28 principles of equity.

1 5. No Breach of Law or Agreement. Neither the execution nor delivery of this
2 Agreement and the Loan Documents by the Borrower or of any other documents or instruments executed
3 and delivered, or to be executed or delivered by the Borrower, pursuant to this Agreement, nor the
4 performance by the Borrower of any provision, condition, covenant or other term hereof or thereof, will
5 conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of
6 any court, board, commission, or County whatsoever binding on Borrower, or any provision of the
7 organizational documents of Borrower, or will conflict with or constitute a breach of or a default under any
8 agreement to which Borrower is a party, or will result in the creation or imposition of any lien upon any
9 assets or property of Borrower, other than liens established pursuant hereto.

10 6. Compliance with Laws; Consents and Approvals. The construction of the
11 Project will comply with all applicable laws, ordinances, rules and regulations of federal, state, and local
12 governments and agencies and with all applicable directions, rules, and regulations of the fire marshal,
13 health officer, building inspector and other officers of any such government or County.

14 7. Pending Proceedings. Borrower is not in default under any law or regulation
15 or under any order of any court, board, commission or County whatsoever, and there are no claims,
16 actions, suits or proceedings pending or, to the knowledge of Borrower, threatened against or affecting
17 Borrower, or the Project, at law or in equity, before or by any court, board, commission or County
18 whatsoever which might, if determined adversely to Borrower, materially and adversely affect Borrower's
19 ability to repay the Loan or impair the security to be given to the County pursuant hereto.

20 8. Title to Project. At the time of recordation of the Deed of Trust, Borrower
21 will have good and marketable fee title to the Project, and there will exist thereon or with respect thereto
22 no mortgage, lien, pledge, or other encumbrance of any character whatsoever, other than those liens
23 approved in writing by the County, liens securing any of the Approved Financing, or liens for current real
24 property taxes and assessments not yet due and payable.

25 9. Financial Statements. The financial statements of Borrower and other
26 financial data and information furnished by Borrower to the County fairly present the information
27 contained therein. As of the Effective Date, there has not been any adverse, material change in the
28 financial condition of Borrower from that shown by such financial statements and other data and

1 information.

2 10. Sufficient Funds. Borrower holds sufficient funds and/or binding
3 commitments for sufficient funds to complete the acquisition of the Project and the construction of Project
4 in accordance with the plans and specifications approved by the County.

5 **11. GENERAL PROVISIONS**

6 A. NO THIRD-PARTY BENEFICIARIES

7 The County shall not be bound by any agreement between the Borrower and any
8 of its partners, agents, employees, or subcontractors. The County shall be bound only by the terms of
9 this Agreement. It is understood and agreed by the Parties hereto that no third-party beneficiary status
10 or rights are created by or under this Agreement, and that no other person, firm, corporation, or entity
11 shall be deemed a third-party beneficiary of this Agreement.

12 B. VENUE; GOVERNING LAW

13 Venue for any action arising out of or relating to this Agreement shall only be in
14 Fresno County, California. The rights and obligations of the parties and all interpretation and performance
15 of this Agreement shall be governed in all respects by the laws of the State of California.

16 C. INDEPENDENT CONTRACTOR

17 In performance of the work, duties, and obligations assumed by the Borrower
18 under this Agreement, it is mutually understood and agreed that the Borrower, including any and all of
19 the partners, officers, agents, and employees, shall at all times be acting and performing as an
20 independent contractor, and shall act in an independent capacity and not as an officer, agent, servant,
21 employee, joint venture, partner, or associate of the County. Furthermore, the County shall have no right
22 to control, supervise or direct the manner or method by which the Borrower shall perform its work and
23 function. However, the County shall retain the right to administer this Agreement so as to verify that the
24 Borrower is performing its obligations in accordance with the terms and conditions thereof.

25 The Borrower and the County shall comply with all applicable provisions of law and the rules and
26 regulations, if any, of governmental authorities having jurisdiction over matters of the subject thereof.

27 Because of its status as an independent contractor, the Borrower shall have
28 absolutely no right to employment rights and benefits available to County employees. The Borrower shall

1 be solely liable and responsible for providing to, or on behalf of, its employees all legally required
2 employee benefits. In addition, the Borrower shall be solely responsible and hold the County harmless
3 from all matters relating to payment of the Borrower's employees, including compliance with Social
4 Security withholding, and all other laws and regulations governing such matters. It is acknowledged that
5 during the term of this Agreement, the Borrower may be providing services to others unrelated to the
6 County or to this Agreement.

7 D. NO CLAIMS. Nothing contained in this Agreement shall create or justify any claim
8 against the County by any person that Borrower may have employed or with whom Borrower may
9 have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the
10 performance of any work or services with respect to the purchase, construction, or operation of the
11 Project, and Borrower shall include similar requirements in any contracts entered into for the
12 purchase, construction, or operation of the Project.

13 E. DISCRETION RETAINED BY COUNTY. The County's execution of this Agreement
14 in no way limits the discretion of the County in the permit and land use approval process in connection
15 with construction of the Project.

16 F. MODIFICATION
17 Any matters of this Agreement may be modified from time to time by the written
18 consent of all Parties without, in any way, affecting the remainder.

19 G. NON-ASSIGNMENT
20 Neither party shall assign, transfer or sub-contract this Agreement nor their rights
21 or duties under this Agreement without the written consent of the other party. Any transfer or assignment
22 without the County's prior consent shall be voidable and, at the County's sole discretion, shall constitute
23 a material breach of this Agreement. No consent to any assignment shall constitute a further waiver of
24 the provisions of this Section 11(G).

25 H. SEVERABILITY
26 The provisions of this Agreement are severable. The invalidity or unenforceability
27 of any one provision in the Agreement shall not affect the other provisions.

28 I. AUTHORIZATION AND NOTICES

1 purpose of borrowing the funds to develop the Project.

3 3. Notices. The persons and their addresses having authority to give and
3 receive notices under this Agreement include the following:

4 County:

5 County of Fresno
6 Department of Public Works and Planning
7 Community Development Division
8 Attention: Manager, Affordable Housing Programs
9 2220 Tulare Street, 6th Floor
7 Fresno, CA 93721

8 Borrower:

9 Mendota Esperanza Commons, LP
10 1331 Fulton Street
11 Fresno, CA 93721
12 Attention: CEO/Executive Director

11 All notices between the County and the Borrower provided for or permitted under this Agreement must
12 be in writing and delivered either by personal service, by first-class United States mail, by an overnight
13 commercial courier service, or by telephonic facsimile transmission. A notice delivered by personal
14 service is effective upon service to the recipient. A notice delivered by first-class United States mail is
15 effective three County business days after deposit in the United States mail, postage prepaid, addressed
16 to the recipient. A notice delivered by an overnight commercial courier service is effective one County
17 business day after deposit with the overnight commercial courier service, delivery fees prepaid, with
18 delivery instructions given for next day delivery, addressed to the recipient. A notice delivered by
19 telephonic facsimile is effective when transmission to the recipient is completed (but, if such transmission
20 is completed outside of County business hours, then such delivery shall be deemed to be effective at the
21 next beginning of a County business day), provided that the sender maintains a machine record of the
22 completed transmission. For all claims arising out of or related to this Agreement, nothing in this section
23 establishes, waives, or modifies any claims presentation requirements or procedures provided by law,
24 including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code,
25 beginning with section 810).

26 J. ENTIRE AGREEMENT

27 This Agreement constitutes the entire Agreement between the Borrower and the
28 County with respect to the subject matter hereof, and supersedes all previous discussions, negotiations,

1 proposals, commitments, writings, advertisements, publications, and understandings of any nature
2 whatsoever unless expressly included in this Agreement.

3 K. EFFECTIVE DATE

4 The effective date of this Agreement shall be the date upon which it is executed
5 by the County. The County shall place the day and month upon which it signs this Agreement on Page
6 1, in the space provided.

7 L. DISCLOSURE OF SELF-DEALING TRANSACTIONS

8 This provision is only applicable if the Borrower is operating as a corporation (a
9 for-profit or non-profit corporation) or if, during the term of this Agreement, the Borrower changes its
10 status to operate as a corporation.

11 Members of the Borrower's Board of Directors shall disclose any self-dealing
12 transactions that they are a party to while the Borrower is providing goods or performing services under
13 this Agreement. A self-dealing transaction shall mean a transaction to which the Borrower is a party and
14 in which one or more of its directors has a material financial interest. Members of the Board of Directors
15 shall disclose any self-dealing transactions that they are a party to by completing and signing a *Self-*
16 *Dealing Transaction Disclosure Form* (Exhibit F) and submitting it to the County prior to commencing with
17 the self-dealing transaction or immediately thereafter.

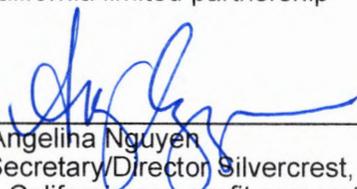
18 M. COUNTERPARTS

19 This Agreement may be executed in any number of counterparts, each of which
20 shall constitute one original, and all of which shall be one and the same instrument.

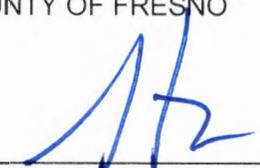
1 IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of the County's
2 signature.

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Mendota Esperanza Commons, LP
a California limited partnership

By: 
Angelina Nguyen
Secretary/Director Silvercrest, Inc.,
a California non-profit corporation,
Its Managing General Partner

COUNTY OF FRESNO


Steve Brandau, Chairman of the Board
of Supervisors of the County of Fresno

Date: 10/28/2021

Date: 11/14/2021

ATTEST:

Clerk of the Board of Supervisors
County of Fresno, State of California

By 
Deputy

FUND NO: 0001
SUBCLASS NO: 10000
ORG NO: 5512-2017
ACCOUNT NO: 7295

REMIT TO:
Mendota Esperanza Commons, LP
Attention: CEO/Executive Director
Fulton Street
Fresno, CA 93721
Telephone: (559) 443-840

EXHIBIT "A"

Legal Description

Esperanza Commons

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

The point of commencement of the following description is the Southeast corner of Section 36, Township 13 South, Range 14 East, Mount Diablo Base and Meridian, according to the Official Plat thereof; thence North 1383 feet along the East line of said Section to a point; thence South 58° 32' West 664.37 feet to a point on the West line of the East half of the East half of said Section 36 to the true point of beginning; thence North 0° 00' 40" East along the before mentioned line 2295.62 feet, a little more or less, to the Southeast corner of the North half of the Northwest quarter of the Southeast quarter of the Northeast quarter of said Section 36; thence South 88° 58' 30" West 664.60 feet to the Southwest corner of the North half of the Northwest quarter of the Southeast quarter of the Northeast quarter of Section 36; thence South 0° 01' 20" West 2595.62 feet along the West line of the East half of the East half of said Section to a point; thence South 49° 45' East 340 feet; thence North 46° 05' East 316 feet; thence North 37° 30' East 250 feet and thence North 27° 31' 52" East 135.18 feet to a point on the West line of the East half of the East half of the East half of said Section 36; thence South 88° 32' West 30 feet to the point of beginning.

Excepting Therefrom that portion lying Northerly of the Southerly line of the following described real property:

Commencing at the Southeast corner of the North half of the Northwest quarter of the Southeast quarter of the Northeast quarter of said Section 36; thence South 0° 00' 40" West 700.00 feet along the West line of the East half of the East half of the East half of said Section to the true point of beginning of this description; thence continuing South 0° 00' 40" West 340.00 feet; thence South 88° 36' 50" West 664.81 feet, a little more or less, to a point on the West line of the East half of the East half of Section 36; thence North 0° 01' 20" East along the West line of the East half of the East half of said Section 340.00 feet; thence North 88° 36' 50" East 664.74 feet, a little more or less to the true point of beginning of this description.

Also excepting therefrom that portion which lies within the East half of the East half of the Southeast quarter of said Section 36.

Also excepting therefrom the portion thereof described as follows:

Commencing at a point on the East line of the West half of the East half of the East half of said Section which bears South 0° 00' 47" West a distance of 1484.30 feet from the Southeast corner of the North half of the Northwest quarter of the Southeast quarter of the Northeast quarter of Section 36; thence continuing along said line South 0° 00' 47" West 380.26 feet; thence North 88° 53' 00" East 30.00 feet; thence South 0° 00' 47" West 432.00 feet; thence South 27° 31' 32" West 135.18 feet; thence South 37° 30' 00" West 250.00 feet; thence South 46° 05' 00" West 316.00 feet; thence North 49° 45' 00" West 274.14 feet; thence North 46° 05' 00" East 330.00 feet; thence North 37° 42' 08" East 243.16 feet; thence North 67° 45' 00" West 120.00 feet; thence North 18° 45' 00" East 262.00 feet; thence North 67° 45' 00" West 50.00 feet; thence North 11° 31' 28" East 4422.83 feet; and thence North 88° 53' 00" East 220.00 feet to the point of commencement.

Also excepting therefrom that portion described as follows:

Beginning at the Southeast corner of the North half of the Northwest quarter of the Southeast quarter of the Northeast quarter of said Section 36; thence South 0° 00' 40" West 1040.00 feet along the West line of the East

half of the East half of the East half of said Section 36 to the true point of beginning of this description; thence South 88° 37' 06" West 664.54 feet, more or less, to a point on the West line of the East half of the East half of said Section 36; thence South 0° 03' 12" West 440.95 feet along the West line of the East half of the East half of said Section 36; thence North 88° 53' 47" East 6654.78 feet, more or less, to a point on the West line of the East half of the East half of the East half of said Section 36; thence North 0° 00' 47" East 444.17 feet to the true point of beginning.

And also excepting therefrom an undivided one-half of all oil, gas, hydrocarbons and minerals within or underlying or that may be produced from the above described real property, together with the exclusive right to drill wells in and through the subsurface of said land or, in the event there are structures on said land, to drill slanted wells at a distance of no less than 100 feet from said structures in and through the subsurface of said land for the purpose of recovering oil, gas, hydrocarbons and minerals from said land. Provided however, that the surface to a depth of 500 feet under the surface thereof shall never be used for the exploration, development, extracting or removal of said reserved substances, as reserved in the deed from Jaresa Farms, Inc., a corporation, and Clarence W. Jones and Cornelia V. Jones, husband and wife, to Westside Land Co., a corporation, dated October 23, 1961, recorded February 13, 1962, in Book 4676 Page 291 of Official Records, Document No. 12120.

APN: 012-190-39ST

EXHIBIT "B"

Unit Mix and Rent Schedule

**ESPERANZA COMMONS
TOTAL UNITS (60)**

Unit Type	Rent Level	Number of Units	Unit Sq.Ft.	Max Rent
1 Bedroom	30%	3	635	\$392
2 Bedroom	30%	5	830	\$471
3 Bedroom	30%	6	1021	\$543
4 Bedroom	30%	2	1281	\$606
1 Bedroom	40%	3	635	\$523
2 Bedroom	40%	3	830	\$628
3 Bedroom	40%	4	1021	\$725
4 Bedroom	40%	2	1281	\$809
2 Bedroom	50%	3	830	\$785
3 Bedroom	50%	2	1021	\$906
4 Bedroom	50%	1	1281	\$1,011
1 Bedroom	60%	1	635	\$784
2 Bedroom	60%	8	830	\$942
3 Bedroom	60%	3	1021	\$1,087
4 Bedroom	60%	2	1281	\$1,213
1 Bedroom	70%	1	635	\$915
2 Bedroom	70%	1	830	\$1,099
3 Bedroom	70%	2	1021	\$1,268
2 Bedroom	80%	2	830	\$1,256
3 Bedroom	80%	4	1021	\$1,450
4 Bedroom	80%	1	1281	\$1,618
3 Bedroom	Manager	1	1055	N/A
Total		60		

EXHIBIT "B" continued

Maximum PLHA Allowable Rent and Unit Mix

**ESPERANZA
COMMONS
PLHA UNITS (35)**

Unit Type	Rent Level	Number of Units	Unit Sq.Ft.	Max Rent
1 Bedroom	30%	1	635	\$392
2 Bedroom	30%	3	830	\$471
3 Bedroom	30%	4	1021	\$543
4 Bedroom	30%	1	1281	\$606
1 Bedroom	40%	1	635	\$523
2 Bedroom	40%	1	830	\$628
3 Bedroom	40%	2	1021	\$725
4 Bedroom	40%	1	1281	\$809
2 Bedroom	50%	1	830	\$785
3 Bedroom	50%	1	1021	\$906
2 Bedroom	60%	6	830	\$942
3 Bedroom	60%	1	1021	\$1,087
4 Bedroom	60%	1	1281	\$1,213
1 Bedroom	70%	1	635	\$915
2 Bedroom	70%	1	830	\$1,099
3 Bedroom	70%	2	1021	\$1,268
2 Bedroom	80%	2	830	\$1,256
3 Bedroom	80%	4	1021	\$1,450
4 Bedroom	80%	1	1281	\$1,618
Total		35		

EXHIBIT “C”

Budget

Sources and Uses of Funds for Esperanza Commons are anticipated as follows:

Sources of Funds

1.	Construction Loan	\$9,794,679
2.	USDA Loan	\$530,865
3.	County of Fresno PLHA Loan Funds	\$1,561,181
4.	Land Donation	\$4,269,135
5.	Deferred Fee and Interest Costs	\$2,714,072
6.	Tax Credit Equity	\$1,193,679
	Total Sources	\$20,063,611

Uses of Funds:

1.	Acquisition Costs	\$5,715,000
2.	Construction Costs	\$9,078,732
3.	Financing Costs	\$738,718
4.	Required Reserves	\$1,686,943
5.	Soft Costs and Development Fees	\$2,844,218
	Total Project Cost	\$20,063,611

EXHIBIT "D"

Esperanza Commons

PROJECT TIMELINE

TCAC Application	Mar-21
TCAC Award	Jun-21
Building Permits	Jan-22
Loan Documents	Dec-21
Construction Start	Feb-22
Market Units	Sept-23
Construction Complete	Feb-24
Lease Up Complete	Jul-24
Permanent Loan Closing	Jul-25

EXHIBIT "E"

Project Disbursement Schedule

Esperanza Commons

Draw No.	Percentage of Funds	Dollar Amount Requested	10% Retention	Amount Disbursed
1	Deposit at escrow	\$0	\$0	\$0
2	25% of Total Loan Amount (First construction draw)	\$390,296	\$39,030	\$351,266
3	25% of Total Loan Amount	\$390,296	\$39,030	\$351,266
4	25% of Total Loan Amount	\$390,296	\$39,030	\$351,266
5	25% of Total Loan Amount	\$390,293	\$39,029	\$351,264
	Total Amounts	\$1,561,181	\$156,118	\$1,405,063
	Retention Amount (pay 35 days after the recordation of the Notice of Completion)			\$156,118

EXHIBIT "F"

SELF-DEALING TRANSACTION DISCLOSURE FORM

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest"

The definition above will be utilized for purposes of completing this disclosure form.

INSTRUCTIONS

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the corporation has the transaction; and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.
- ⁽⁵⁾ Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

(1) Company Board Member Information:			
Name:		Date :	
Job Title:			
(2) Company/Agency Name and Address:			
(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):			
(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):			
(5) Authorized Signature			
Signature:		Date:	