

## HOME AGREEMENT

THIS HOME AGREEMENT ("Agreement") is made this 22nd day of October, 2019, by and between the COUNTY OF FRESNO, a political subdivision of the State of California ("County") whose address is 2220 Tulare Street, 6<sup>th</sup> Floor, Fresno CA 93721, and WP Gateway Villas Apartments, LP, a California limited partnership consisting of Central Valley Coalition for Affordable Housing, a California nonprofit corporation, as the Managing General Partner, and WP Gateway Villas, LLC, a California limited liability company, as the Administrative General Partner ("Borrower" or "Partnership"), whose address is 310 N. Westlake Blvd., Suite 210, Westlake Village, CA 91362.

## WITNESSETH

WHEREAS, the County has been designated as a participating jurisdiction to administer and implement the Federal HOME Investment Partnerships ("HOME") Program activities of the County, in accordance with the Federal HOME regulations, and the laws of the State of California;

WHEREAS, the general purpose of the HOME Program is to strengthen public-private partnerships, and to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income households;

WHEREAS, the Borrower has applied to the County for HOME funds to assist with the development of an affordable multi-family apartment complex, Gateway Villas Apartments ("Project") that will be affordable to very-low to low-income households;

WHEREAS, the Borrower requested a loan of Nine Hundred Eighty Thousand Dollars (\$980,000) from the County of Fresno HOME Program to assist with the construction of the Project, a sixty-one unit (61) rental housing development, of which sixty (60) will be restricted and affordable to very low and low-income person, and of which eleven (11) units will be funded by and subject to the County's Federal HOME funds ("HOME-assisted");

WHEREAS, the County has Nine Hundred Eighty Thousand Dollars (\$980,000) available from its Federal HOME grant funds to loan to the Borrower for the Project;

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

1 WHEREAS, the Project will increase the supply of affordable rental housing units in Fresno  
2 County for households earning no more than sixty percent (60%) of the Area Median Income (AMI), as  
3 reported annually by the U.S. Department of Housing and Urban Development (HUD);

4 WHEREAS, the total estimated Project cost is Seventeen Million, Four Hundred Eighty Thousand,  
5 Eight Hundred and Three Dollars (\$17,480,803), and the Borrower has or will obtain other funding  
6 commitments apart from the County HOME loan to complete the financing for the Project; and

7 WHEREAS, the Project is consistent with the County's Consolidated Plan and the City of Kerman  
8 General Plan.

9 NOW, THEREFORE, in consideration of their promises as hereinafter set forth, the Borrower and  
10 the County agree as follows:

11 I. PROJECT DESCRIPTION, LOCATION, SECURITY, BUILDING REQUIREMENTS AND  
12 BUDGET

13 A. DESCRIPTION:

14 1. The Project consists of the acquisition and construction of sixty-one (61) new multi-  
15 family rental housing units. The Project will result in the construction of a total of sixty-one (61) new multi-  
16 family rental housing units, of which eleven (11) units shall be HOME-assisted, and shall satisfy HOME  
17 occupancy requirements for no less than the required HOME period of affordability ("Period of  
18 Affordability"). The Period of Affordability will be twenty (20) years, beginning on the date the Project is  
19 completed and closed in HUD's Integrated Disbursement & Information System (IDIS). The Project's  
20 HOME-assisted units include a mix of five (5) 2-bedroom units, and six (6) 3-bedroom units.

21 2. The Project will provide new rental housing units that will be affordable to  
22 households earning no more than sixty percent (60%) of AMI for Fresno County, as reported annually by  
23 HUD. These units will have rents, including any tenant-paid utilities, at or below the HOME Rent limits for  
24 the duration of the Period of Affordability. The Project shall meet the requirements of 24 CFR § 92.252  
25 relating to rent limitations.

26 3. Attachment A to this Agreement, which is incorporated by this reference, provides  
27 a detailed breakdown of the Project unit mix for the sixty-one (61) units, including the five (5) 2-bedroom  
28 units and six (6) 3-bedroom units that will be HOME-assisted units, for a total of eleven (11) HOME-

1 assisted units. Affordability for the eleven (11) HOME-assisted units must follow the AMI and the Rents  
2 for Fresno County, as reported annually by HUD, and as described in Attachment A. All eleven (11) units  
3 shall float within the Project as necessary to ensure compliance with the HOME Rent and occupancy  
4 requirements. The eleven (11) HOME-assisted units must at a minimum be the approximate square  
5 footage designated, or larger.

6 B. LOCATION:

7 The Project will be developed on an approximately 4.38 acre site located at the corner  
8 of Gateway Boulevard and Siskiyou Avenue south of Highway 180/ Whitesbridge Avenue (the  
9 "Property"), and will consist of five (5) 2-story residential structures, and one (1) 2-story community center.

10 C. SECURITY:

11 The County shall record the HOME Regulatory Agreement and Declaration of  
12 Restrictive Covenants ("Regulatory Agreement"), which will include deed restrictions against the Property  
13 that detail the rent limits and the tenant income limits for the HOME-assisted units, as determined by  
14 HUD annually, for the specified Period of Affordability (see Section I, Paragraph A-1). The County or  
15 applicable title company will provide a copy of said recorded Regulatory Agreement to the Borrower.

16 D. BUILDING REQUIREMENTS:

17 1. All aspects of the building construction will meet or exceed the County's Affordable  
18 Housing Programs Construction/Rehabilitation Standards and the International Energy Conservation  
19 Code, and must comply with all applicable local building codes.

20 2. Rental Property Standards: The Project shall meet the requirements of 24 CFR §  
21 92.251 relating to property standards and all applicable local housing code requirements for the duration  
22 of this Agreement and any modifications or amendments or successor agreements thereto.

23 3. Accessibility Standards: The Project shall meet the requirements of 24 CFR § 8.22  
24 relating to handicap accessibility. A minimum of four (4) of the units will be accessible to those with  
25 mobility impairments; two (2) additional units will be accessible to those with sensory impairments.

26 E. BUDGET:

27 1. This Agreement does not provide the Borrower any legal claim to any amount of  
28 HOME loan funds to be used for the specific project or site unless, and until, the site has received

environmental clearance, received authorization from HUD to use grant funds, and has met the other terms of this Agreement.

2. The total preliminary Project budget estimate is \$17,480,803. The proposed work to be funded with County HOME loan funds for the development of the sixty-one (61) multi-family rental housing units in the Project is as follows:

Expenses to be paid with HOME loan funds:

|                    |           |
|--------------------|-----------|
| Construction Costs | \$980,000 |
|--------------------|-----------|

|                       |           |
|-----------------------|-----------|
| TOTAL HOME loan funds | \$980,000 |
|-----------------------|-----------|

Notwithstanding the estimates described in the above preliminary Project budget, disbursements for the eleven (11) HOME-assisted units in the Project from HOME loan funds will be based on the actual costs, and shall not exceed the total amount of Nine Hundred Eighty Thousand Dollars (\$980,000). Disbursement of HOME funds is subject to approval and execution of loan, security, and related documents acceptable to the County, in its sole discretion.

F. FUNDING:

1. Notwithstanding any other provision of the Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of loan funds or site approval, and that such "commitment of loan funds" or approval may occur only upon satisfactory completion of the environmental review and receipt by the County of a Release of Funds from HUD under 24 CFR § 58. In addition, no commitment of loan funds will be made until all requirements contained in this Agreement or any other loan, security or other related documents are met by the Borrower as determined by the County. The parties further agree that the loan of any funds to the Project is conditioned upon the County's determination to proceed with, modify, or cancel the Project based on the results of the Project's environmental review, as specified in Section III of this Agreement. The County will give written notification to the Borrower when these requirements have been met.

2 Attachment B to this Agreement, which is incorporated by this reference, lists the potential sources and proposed funding amounts for the Project. With the exception of County HOME funds, these sources and/or the amounts are subject to change. Notwithstanding the funding sources and amounts identified in Attachment B, disbursements for the Project from HOME loan funds will be



contingent upon reliable evidence acceptable to the County, in its sole discretion, that the Borrower has obtained all funding necessary to meet the total Project cost. In addition, the Borrower may not award the Project until the County has received authorization from HUD to use the grant funds, as described in subsection F(1) of this Section I.

G. CHANGES TO PROJECT:

The Borrower will give written notification to the County Department of Public Works and Planning, Community Development Division, of any event that changes the scope of the Project and/or the funding sources. The Director of the Department of Public Works and Planning, or his designee, at his discretion, is authorized to permit minor changes to the scope of the Project and/or the funding sources, provided the Director or his designee determines that such changes do not substantively alter the scope of the Project, the maximum amount of HOME loan funds allocated to the Project, or the Project's eligibility under the Federal HOME regulations, as more fully set forth in Section IX, subsection K of this Agreement.

II. OBLIGATIONS OF THE COUNTY

A. FUNDING:

The County shall reserve up to, but not more than, Nine Hundred Eighty Thousand Dollars (\$980,000) from the County's allocation of Federal HOME Program funds for the Project. All funds will be paid to the Borrower, in accordance with Section IX, (A) of this Agreement, subject to the requirements of all applicable Federal and State statutory and regulatory requirements. Notwithstanding changes in the funding sources and amounts identified in Attachment B, disbursements for the Project from HOME Program funds will be contingent upon the County's receipt, review, and approval of highly reliable evidence acceptable to the County, in its sole discretion, showing that the Borrower has obtained, or will obtain, all funding to meet the Project development costs. Evidence may include, but shall not be limited to, funding commitments and/or loan documentation from other lenders and/or documents regarding tax credit allocation commitments.

B. LOAN DOCUMENTS:

1. Promissory Note: The County will prepare a Promissory Note for execution by the Borrower in a form and content acceptable to the County, in the County's sole discretion. Said Promissory

Note ("Note") will set forth the terms and conditions and plan for repayment of the Nine Hundred Eighty Thousand Dollars (\$980,000) HOME loan and other fees or charges, including, but not limited to, liquidated damages, if applicable. HOME loan funds shall be utilized to assist with the construction of eleven (11) units in the sixty-one (61) unit affordable rental housing complex. In addition to the Note, HOME loan funds shall be secured with a Deed of Trust recorded against the Property, and other required security instruments, as described more fully below.

2. Deed of Trust: County shall record against the Property a Deed of Trust for the County HOME loan in a form and content acceptable to the County. Said Deed of Trust will be recorded for the purpose of securing repayment of the Nine Hundred Eighty Thousand Dollars (\$980,000) loan, and will name the County of Fresno, a political subdivision of the State of California, as beneficiary. Said Deed of Trust will be in second lien position during construction and after construction (unless the County provides written approval for a lesser lien position), until the Note described in this Section II is fully repaid.

3. HOME Regulatory Agreement and Declaration of Restrictive Covenants: The County will record a HOME Regulatory Agreement and Declaration of Restrictive Covenants ("Regulatory Agreement") signed by the Borrower in a form and content acceptable to the County. Said Regulatory Agreement will impose the requirements of the HOME Investment Partnerships Program, as set forth in the Code of Federal Regulations (24 CFR Parts 91 and 92) for the eleven (11) HOME-assisted units.

#### C. LABOR COMPLIANCE:

The County shall verify with the Labor Relations Division of HUD that the Project general contractor has not been debarred or suspended from participating in Federal projects, in accordance with Section IV, subsection (B-5) of the Agreement. The County will provide Borrower with written notification that this requirement has been met.

The County shall be provided at least ten (10) days' notice of, and shall attend, the pre-construction meeting between the Borrower and any project or construction management company contracting with the Borrower (whether those construction contractors are contracting directly with the Borrower or indirectly through the Borrower's project or construction management company) to discuss 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. The County will provide to the Borrower records of the HUD-determined HOME  
4 Rents, the authorized utility allowances by unit size, and the household income limits, adjusted for family  
5 size, for the initial year of Project operations, and annually thereafter for the Period of Affordability (as  
6 specified in Section I, subsection A(1)).

7 2. The County shall annually review information provided by the Borrower for the  
8 eleven (11) HOME-assisted units, and shall periodically conduct on-site inspections to ensure compliance  
9 with the affordability requirements of 24 CFR § 92.252 and 92.504(d), the tenant and participant  
10 protection requirements of 24 CFR § 92.253, and compliance with the terms of this Agreement, including  
11 but not limited to, tenants' income, rents, property standards, and other HOME rental requirements during  
12 the Project's Period of Affordability. The County shall provide the Borrower with the approved method for  
13 determining income-eligibility. The County requires HUD's Part 5 definition of annual income, as defined  
14 in 24 CFR § 5.609, to be used to determine initial eligibility, which shall be used on an annual basis to  
15 recertify tenant incomes during the Period of Affordability. Source documentation is required for  
16 recertification every year of the Period of Affordability. The County will maintain a record of inspections  
17 in its Project file, and will provide copies to Borrower upon request.

18 III. PROJECT SUBJECT TO ENVIRONMENTAL CLEARANCE and RELEASE OF FUNDS

19 In accordance with Federal HOME regulations, the Borrower may not incur costs to be  
20 paid with County HOME loan funds for this Project until the County notifies the Borrower that it has  
21 received the Authorization to Use Grant Funds notice (i.e., release of funds) from HUD. The County shall  
22 specify in a letter to the Borrower that such notice has been received.

23 Any costs incurred prior to the County's written notification to Borrower that grant funds  
24 may be released shall not be reimbursed from the County HOME loan funds, and may jeopardize use of  
25 County HOME funds for the Project.

26 IV. OBLIGATIONS OF THE BORROWER

27 A. FUNDING:

28 1. The Borrower hereby certifies the authenticity and accuracy of the information

provided to the County with regards to the fiscal soundness of the Borrower, and Borrower's capacity to undertake the proposed Project. The Borrower further certifies that it has examined the Project neighborhood market conditions, and determined there is adequate need for the Project.

2. The Borrower will provide any and all sums of money in excess of Nine Hundred Eighty Thousand Dollars (\$980,000) that may be necessary to complete the Project. Prior to disbursement of County HOME loan funds, the Borrower shall secure or obtain firm commitments from other funding sources for any and all sums of money in excess of Nine Hundred Eighty Thousand Dollars (\$980,000) that may be necessary to complete the Project. The Borrower will provide evidence of such commitments of funds satisfactory to the County, as specified in Section I, subsection F(2) herein. The failure to secure all sums of money in excess of Nine Hundred Eighty Thousand Dollars (\$980,000) that may be necessary to complete the Project shall be deemed a material breach of this Agreement, as discussed in Section IX, subsection E of this Agreement.

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

4. The Borrower will provide matching funds of at least Two Hundred Forty-Five Thousand Dollars (\$245,000) (i.e., twenty-five percent (25%) of the County's HOME loan) to the Project from other non-Federal sources, in accordance with 24 CFR § 92.220. The Borrower shall obtain a letter from the County specifying that the conditions of this Section have been met.

**B. DEVELOPMENT:**

1. The Borrower is prohibited from undertaking or committing any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair, or construction prior to the environmental clearance. A violation of this provision will result in the denial of HOME loan funds under this Agreement.

2. Prior to the execution of loan documents, the Borrower will provide the County with a copy of the appraisal establishing the fair market value of the land on which the Project is to be built. Such appraisal shall be performed by a State certified real estate appraiser or other appraiser acceptable

1 to the County.

2                   3. The Borrower shall develop and construct the Project as new construction rental  
3 housing for households earning no more than sixty percent (60%) of the AMI for Fresno County, as defined  
4 by HUD at time of initial occupancy. Additionally, in accordance with 24 CFR § 92.252, rental projects  
5 with five (5) or more HOME-assisted rental units must provide a minimum of twenty percent (20%) of the  
6 HOME-assisted units for occupancy by very low income families earning no more than fifty percent (50%)  
7 of AMI during the HOME loan term specified in the Note.

8                   4. Prior to award of the construction contract, the Borrower will provide the County  
9 an independent cost-estimate for the Project to determine cost-reasonableness, in order to obtain from  
10 the County written approval of the contractor, the award, amount of the contract, and the final Project  
11 budget. Prior to the date the work is to begin, the Borrower will provide both the contractor and the County  
12 with a copy of the Notice to Proceed.

13                   5. Prior to award of contracts, the Borrower will furnish the name of the general  
14 contractor to the County so that the County can verify with the HUD Labor Relations Division that the  
15 general contractor has not been debarred or suspended from participating in the Federal projects.

16                   6. To the extent contractors and/or subcontractors are utilized on this Project, the  
17 Borrower will conduct outreach to minority-and women-owned business enterprises (MWBE), and ensure  
18 that contractors/subcontractors are informed of the requirements of Section 3 of the Housing and Urban  
19 Development Act of 1968 ("Section 3") applicable to the Project, and are licensed in accordance with the  
20 regulations of the Contractors State License Board.

21                   7. The Borrower will conduct a pre-construction meeting with the Contractor, and will  
22 notify the County at least ten (10) working days prior to the meeting, so that a representative of the County  
23 can be in attendance to discuss HOME labor compliance requirements and the applicable Section 3 and  
24 MWBE policies for the Project. Attachment C to this Agreement, which is incorporated by this reference,  
25 provides the required Section 3 compliance forms to be provided by the County to the Borrower and the  
26 contractor to complete and return to the County.

27                   8. Prior to the start of the construction, the Borrower will secure all permits required  
28 by the City of Kerman. The Borrower will provide to the County copies of all such permits.



1                   9. The Borrower shall comply with the mitigation measures and conditions identified  
2 in Environmental Assessment No. 7380, which is incorporated herein by reference.

3                   C. DISBURSEMENT:

4                   1. The Borrower may not request disbursement of loan funds under this Agreement  
5 until all conditions stated under Section III, Section IV and Section VIII of this Agreement have been  
6 satisfied. HOME loan funds will be distributed to the Borrower on a reimbursement basis for actual eligible  
7 costs.

8                   2. In the event that the Project costs less than the current estimated total Project cost  
9 of Seventeen Million, Four Hundred-Eighty Thousand, Eight Hundred and Three Dollars (\$17,480,803),  
10 the Borrower will notify the County of such savings. The County may then, at its sole discretion, reduce  
11 the County's contribution in direct proportion to the percentage of savings.

12                  D. LOAN DOCUMENTS:

13                  1. Prior to execution of the County's loan documents, the Borrower shall submit to  
14 the County all loan term sheets, any and all other requested loan documents, and any amendments  
15 thereto, including any required deed restrictions from other funding sources.

16                  2. The Borrower will select and use a title company acceptable to the County for title  
17 work.

18                  3. The Borrower will record a Notice of Completion and will provide the County a copy  
19 of the Notice of Completion after recordation.

20                  4. The Borrower will inform the County in writing of the names and addresses of all  
21 co-owners, all limited partners, and all lenders of the Project. The Partnership will inform the County in  
22 writing of any addition, change, removal, or replacement of any co-owner, any limited partner, or any  
23 lender of the Project.

24                  5. The Partnership shall not remove or replace the original Managing General Partner  
25 or any proposed partner approved by the County from the Partnership without the County's prior written  
26 approval, which shall not be unreasonably withheld. Furthermore, in the event the Managing General  
27 Partner withdraws from the Partnership, the Partnership will replace the Managing General Partner with  
28 another Managing General Partner approved by the County, and the new Managing General Partner

1 must be a current member of the Partnership, unless otherwise agreed by County.

2 E. PAYMENT FOR MONITORING/ATTORNEY FEES

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

9 2. Attorney Fees: The Partnership hereby agrees to reimburse and pay to County,  
10 the County's actual costs incurred in having legal counsel review all loan documents, security documents,  
11 and other documents related to the financing of the Project, up to a maximum of Ten Thousand Dollars  
12 (\$10,000).

13 F. COMPLIANCE:

14 1. Prior to distribution of County HOME loan funds, the Borrower or its property  
15 management firm will prepare and provide to the County its Affirmative Marketing Procedures conforming  
16 to the requirements of 24 CFR § 92.351.

17 2. Prior to execution of County loan documents, the borrower shall provide evidence  
18 to the County of the Project's compliance with the applicable site and neighborhood standards in 24 CFR  
19 § 983.6(b), and will meet these standards upon completion.

20 3. The Borrower will comply with the requirements of 24 CFR § 92.252 and 92.504(d),  
21 including, but not limited to, the requirements to annually permit on-site inspections, and provide the  
22 County with information on rents and occupancy of HOME-assisted units to demonstrate compliance with  
23 the affordability requirements. The eleven (11) HOME-assisted units are designated "floating HOME  
24 units" as defined in 24 CFR § 92.252(j).

25 4. The Borrower will provide the County with copies of all leases to be executed for  
26 the HOME-assisted units for County's review and approval. In the event that any of the basic terms of  
27 such leases are changed during the Period of Affordability, the Borrower will re-submit such lease(s) to  
28 the County for review and approval of the changes. The Borrower agrees to comply with the requirements



of 24 CFR § 92.253 regarding tenant leases, including giving tenants a minimum 30-day notice of rent increases, and a minimum 30-day eviction notice.

5. The Borrower will not be required to lower rents below the HOME Rent limits in effect at the time of this Agreement for the eleven (11) HOME-assisted units, but must submit requests for rent increases to the County, and receive County's approval of same before implementing higher rents. HUD's 2019 Rent Limits are listed in Attachment D to this Agreement, which is incorporated by this reference. The Borrower agrees to conduct income determinations utilizing HUD's Part 5 definition of annual income, to certify tenant income eligibility before renting units to tenant applicants, and to recertify tenant household income annually.

6. The Borrower agrees to comply with the requirements of 24 CFR § 92.252, and will maintain the correct number of high and low HOME Rent units, and adjust rents accordingly for tenants whose incomes rise above eighty percent (80%) of the AMI.

7. The Borrower will comply with all Federal regulations (including, but not limited to: 24 CFR Parts 91, 92 and 135) governing the use of HOME funds with Low Income Housing Tax Credits (LIHTC) and 24 CFR Parts 91 and 92, and specifically Sections 92.203 Income Determinations, 92.205 Eligible Activities-General, 92.206 Eligible Project Costs, 92.207 Eligible Administrative and Planning Costs, 92.214 Prohibited Activities, 92.216 Income Targeting: Tenant Based Rental Assistance and Rental Units, Sec. 92.250 Maximum Per-Unit Subsidy Amount and Subsidy Layering, 92.253 Tenant and Participant Protections, 92.255 Converting Rental Units to HOME ownership Units for Existing Tenants, 92.350 Other Federal Requirements and Nondiscrimination, 92.351 Affirmative Marketing; Minority Outreach Program, 92.353 Displacement, Relocation, and Acquisition, 92.356 Conflict of Interest, 92.503 Program Income, Repayments, and Recaptured Funds, 92.505 Applicability of Uniform Administrative Requirements and 92.354 Labor Provisions; Borrower to comply with all prevailing wage requirements, as they may apply. Borrower to provide access to all original documents and provide copies, as requested by the County and HUD.

#### V. CONFORMANCE WITH APPLICABLE LAWS AND REGULATIONS

The Borrower, its consultants, contractors, and subcontractors will comply with all applicable State and Federal laws and regulations governing projects that utilize Federal funds.

1 Whenever the Borrower uses the services of a contractor or property management  
2 company, whether directly or indirectly, the Borrower shall require that the contractor or property  
3 management company comply with all Federal, State and local laws, ordinances, regulations, this  
4 Agreement, and Fresno County Charter provisions applicable in the performance of their work.

5 Because the Borrower will borrow at least One Hundred Thousand Dollars (\$100,000) for  
6 the Project from the County's HOME Program under this Agreement, the Borrower will complete and  
7 submit to the County a "Certification for Contracts, Grants, Loans and Cooperative Agreements" form  
8 and a "LLL-Disclosure of Lobbying Activities" form. Likewise, before the Borrower awards a contract using  
9 at least One Hundred Thousand Dollars (\$100,000) of such HOME loan funds, the Borrower will require  
10 the consultant and/or contractor and all their sub-consultants and/or subcontractors to complete and  
11 submit the two (2) forms described herein to both the Borrower and the County.

12 VI. PERFORMANCE STANDARDS:

13 The Borrower agrees to meet the following performance standards for this Project  
14 throughout the project's Period of Affordability:

15 A. The Property will be adequately maintained to meet the required property standards;  
16 and

17 B. Occupancy reports for rental housing projects must be received by the County on an  
18 annual basis, or as requested.

19 VII. FINANCIAL RECORDS REQUIREMENTS:

20 Within nine (9) months after the end of the County's Fiscal Year in which the Project is  
21 completed, and for each subsequent Fiscal Year until the end of the loan term specified in the Note,  
22 Borrower will provide County with audited Statement of Cash Flows, Distribution of Net Cash Flow,  
23 Balance Sheet and Profit and Loss Statements prepared by an independent, certified public accountant.  
24 These statements shall be prepared in accordance with Generally Accepted Accounting Principles  
25 (GAAP).

26 VIII. INSURANCE

27 Without limiting the County's right to obtain indemnification from the Borrower or any third  
28 parties, the Borrower, at its sole expense, will maintain in full force and effect the following insurance

1 policies throughout the term of this Agreement:

2 A. PROPERTY INSURANCE:

3 A policy of Property Insurance to the extent of not less than one hundred percent  
4 (100%) of the actual full replacement cost (without depreciation) of all buildings and improvements  
5 located on the Property, insuring against loss or damage by fire, extended coverage perils and such other  
6 hazards, casualties or other contingencies (other than damage from earthquakes), as from time to time  
7 may be reasonably required by the County of Fresno.

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

15 B. COMMERCIAL GENERAL LIABILITY INSURANCE:

16 Commercial General Liability Insurance with limits of not less than One Million Dollars  
17 (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$2,000,000) is required.  
18 This policy will be issued on a per occurrence basis. The County may require specific coverage including  
19 completed operations, product liability, contractual liability, Explosion-Collapse-Underground, fire,  
20 extended coverage, legal liability or any other liability insurance deemed necessary because of the nature  
21 of this Agreement.

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

1 given to the County.

2 C. AUTOMOBILE LIABILITY INSURANCE:

3 Comprehensive Automobile Liability Insurance with limits for bodily injury of not less  
4 than Two Hundred Fifty Thousand Dollars (\$250,000) per person, Five Hundred Thousand Dollars  
5 (\$500,000) per accident and for property damages of not less than Fifty Thousand Dollars (\$50,000) or  
6 such coverage with a combined single limit of Five Hundred Thousand Dollars (\$500,000) is required.  
7 Coverage should include owned and non-owned vehicles used in connection with this Agreement.

8 D. PROFESSIONAL LIABILITY INSURANCE:

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

13 E. WORKER'S COMPENSATION INSURANCE:

14 A policy of Worker's Compensation Insurance as may be required by the California  
15 Labor Code.

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

21 Within thirty (30) days of the date the Borrower signs this Agreement, the Borrower  
22 will provide certificates of insurance and endorsement as stated above for all of the listed policies, as  
23 required herein, to the County of Fresno, Community Development Division, Program Manager,  
24 Affordable Housing Programs, 2220 Tulare Street, 6<sup>th</sup> Floor, Fresno, CA 93721, stating that such  
25 insurance coverages have been obtained and are in full force; that the County of Fresno, its officers,  
26 agents and employees will not be responsible for any premiums on the policies; that for such worker's  
27 compensation insurance the Borrower has waived its right to recover from the County, its officers, agents,  
28 and employees any amounts paid under the insurance policy and that waiver does not invalidate the

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

8 In the event the Borrower fails to keep in effect at all times insurance coverage as  
9 herein provided, the County may, in addition to other remedies it may have, suspend or terminate this  
10 Agreement upon the occurrence of such event.

11 All policies will be with admitted insurers licensed to do business in the State of  
12 California. Insurance purchased will be purchased from companies possessing a current A.M. Best, Inc.  
13 rating of A FSC VII or better.

14 F. BOND INSURANCE:

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

23 IX. GENERAL REQUIREMENTS AND POLICIES

24 A. LOAN DISBURSEMENT

25 1. Amount: The total amount of HOME funds available to be loaned for the Project  
26 shall not exceed the total sum of Nine Hundred Eighty Thousand Dollars (\$980,000).

27 2. Disbursement Requests

28 a. The Borrower will submit written requests to the County for loan

1 disbursements to pay actual costs incurred in the performance of this Agreement. Any such request for  
2 disbursement from HOME loan funds will be accompanied by a written certification from the Borrower  
3 that the request for disbursement is consistent with the amount of work that has been completed, and  
4 that to the best of the Borrower's knowledge, the work is in accordance with this Agreement.

5                   b. 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. After appropriate review and progress inspection, the County shall make  
9 disbursements to the Borrower from HOME loan funds provided in this Agreement for all verified eligible  
10 costs specified herein. The Project's proposed disbursement schedule is provided in Attachment E to this  
11 Agreement, which is incorporated herein by reference. A ten percent (10%) retention of the total loan  
12 amount of Nine Hundred Eighty Thousand Dollars (\$980,000) will be held back from disbursement, to be  
13 disbursed thirty-five (35) days after the Notice of Completion has been filed with the County Recorder's  
14 Office. A copy of the Notice of Completion must accompany the request for disbursement of the retained  
15 funds.

16                   c. All requests for disbursement and supporting documentation shall be sent  
17 to:

18                   Department of Public Works and Planning  
19                   Community Development Division  
20                   Program Manager, Affordable Housing Programs  
21                   2220 Tulare Street, 6<sup>th</sup> Floor  
22                   Fresno, CA 93721

23                   d. The County shall not be obligated to make any disbursement of funds for  
24 the Project under this Agreement if the request for disbursement is submitted by the Borrower more than  
25 sixty (60) days after the Notice of Completion has been filed with the County Recorder's Office. The  
26 Director of the Department of Public Works and Planning, or his designee, prior to the deadline, may  
27 grant an extension to the sixty (60) day period, if the Borrower can demonstrate just cause for the delay.

28                   3. All requests for disbursements will be processed via Special Run check processing  
or a wire transfer, as determined by the County and processed by the County's Auditor-

1 Controller/Treasurer-Tax Collector ("ACTTC").

2 4. Outside Agreements: The County will not be bound by any agreement between  
3 the Borrower and any of its partners, agents, employees or subcontractors. The County will be bound  
4 only by the terms of this Agreement. It is understood and agreed by the parties hereto that no third party  
5 beneficiary status or rights are created by or under this Agreement, and that no other person, firm,  
6 corporation, or entity shall be deemed a third party beneficiary of this Agreement.

7 5. The Borrower will establish accounting and bookkeeping procedures in  
8 accordance with GAAP and standard bookkeeping practices, including, but not limited to, employee  
9 timecards, payrolls and other records of all transactions to be paid with HOME loan funds, in accordance  
10 with the performance of this Agreement. All records and accounts will be available for inspection by the  
11 County, the State of California, the Federal government, and if applicable, the Comptroller General of the  
12 United States or any of their duly authorized representatives, at all reasonable times for a period of at  
13 least five (5) years following the term of this Agreement or the closure of all other related pending matters,  
14 whichever is later. The borrower will certify accounts when required or requested by the County.

15 B. AUDITS

16 The Borrower is required to comply with the provisions of the Single Audit Act of 1984  
17 (31 USC Sections 7501 et seq.), as amended. Whenever the Borrower receives HOME loan funds from  
18 the County for a project, a copy of any audit performed by the Borrower in accordance with said Act shall  
19 be forwarded to the Affordable Housing Programs Manager within nine (9) months of the end of any fiscal  
20 year in which loan funds were distributed, borrowed, and/or outstanding for the Project. Failure to perform  
21 the requisite audit functions as required by this paragraph may result in the County performing any  
22 necessary audit task or, at the County's option, contracting with a public accountant to perform the audit.  
23 All audit costs related to the Borrower's failure to perform the requisite audit are the sole responsibility of  
24 the Borrower, and such audit work costs incurred by the County shall be billed to the Borrower as  
25 determined by the County's ACTTC. The Borrower agrees to take prompt and appropriate corrective  
26 action on any instance of material non-compliance with applicable laws and regulations.

27 C. INDEMNIFICATION

28 The Borrower will indemnify, save, hold harmless, and at the County's request, defend



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

10 The provisions of this Section IX(C) shall survive termination of this Agreement.

11 D. TIME OF PERFORMANCE

12 1. The term of this Agreement will commence on the date upon which this Agreement  
13 is executed by the County, and will expire when the Period of Affordability ends, twenty (20) years after  
14 the date the Project is completed and closed in IDIS, or when the loan of Nine Hundred Eighty Thousand  
15 Dollars (\$980,000), and such other amounts, including but not limited to liquidated damages, if applicable,  
16 as set forth in the Promissory Note, have been repaid, and the Deed of Trust has been reconveyed,  
17 whichever is later.

18 2. The Project, as described in Section I, herein, will commence on the day the  
19 Agreement is executed by the County, and construction completed within eighteen (18) months of the  
20 construction start date.

21 3. The following schedule shall apply to the Project:

- 22 a. Award of Tax Credit Allocation Committee (TCAC) funding:  
23 June 2019
- 24 b. Provide all necessary documents to execute loan documents by:  
25 November 2019
- 26 c. All other funding sources secured by: November 2019
- 27 d. Begin Construction: December 2019
- 28 e. Record Notice of Completion: June 2021

1 f. Project leased up: October 2021

2 4. The Borrower will give immediate written notification to the Director of the County  
3 Department of Public Works and Planning, or his designee, of any events that occur, which may affect  
4 the Project Schedule and completion date noted above, or any event that may have significant impact  
5 upon the Project, or affect the attainment of the Project's objectives. The Project's proposed schedule is  
6 provided in Attachment F to this Agreement, which is incorporated by this reference. The Director of the  
7 County Department of Public Works and Planning, or his designee, is authorized to make adjustments in  
8 the Project schedule if, in the Director's or his designee's judgment, the delays are beyond the control of  
9 the parties involved.

10 E. BREACH OF AGREEMENT

11 In the event the Borrower fails to comply with any of the terms of this Agreement, the  
12 County may, at its option, deem the Borrower's failure to be a material breach of this Agreement, and  
13 utilize any of the remedies set forth in 24 CFR § 85.43, or that it deems appropriate. Should the County  
14 deem a breach of this Agreement to be a material breach, the County will immediately be relieved of its  
15 obligations to make further loan disbursements as provided herein. Termination of this Agreement due  
16 to breach will not, in any way whatsoever, limit the rights of the County in seeking any other legal relief  
17 in a court of law or equity, including the recovery of damages. In addition to the Agreement being  
18 terminated by the County in accordance with a material breach of this Agreement by the Borrower, the  
19 County, in accordance with 24 CFR § 85.44, may also terminate this Agreement for convenience.

20 F. TERMINATION

21 1. Non-Allocation Of Funds: The terms of this Agreement, and the funds provided  
22 thereunder, are contingent on the award and/or commitment of funds by HUD to the County, and to the  
23 award and/or commitment of funds to the Project by the Sources of Funds identified in Attachment B of  
24 this Agreement. Should HUD fail to award funds to County, or should the County determine, in its sole  
25 discretion, that sufficient funds have not been allocated by the other sources of funds to complete the  
26 development of the sixty-one (61) units comprising the Project, the County may terminate this Agreement  
27 at any time without penalty by giving the Borrower thirty (30) days advance written notice, and the  
28 Borrower shall promptly repay to the County any and all HOME loan funds previously paid, pursuant to

1 all applicable laws and regulations.

2           2. Termination For Convenience: This Agreement may also be terminated for  
3 convenience by the County, in accordance to the requirements of 24 CFR § 85.44. In the event the  
4 County terminates this Agreement solely for convenience, the Borrower promptly shall repay to the  
5 County any and all HOME loan funds, pursuant to all applicable laws and regulations. However, in the  
6 event of termination, the County, at its sole discretion, may negotiate with the Borrower alternate terms  
7 of repayment of HOME loan funds

8           3. For Cause: The County may elect to terminate this Agreement for cause, as set  
9 forth in Paragraph E of this Section IX.

10           G. VENUE: GOVERNING LAW

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

14           H. INDEPENDENT CONTRACTOR

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

25           Because of its status as an independent contractor, the Borrower shall have absolutely  
26 no right to employment rights and benefits available to County employees. The Borrower shall be solely  
27 liable and responsible for providing to, or on behalf of, its employees all legally required employee  
28 benefits. In addition, the Borrower shall be solely responsible and save the County harmless from all

1 matters relating to payment of the Borrower's employees, including compliance with Social Security  
2 withholding, and all other laws and regulations governing such matters. It is acknowledged that during  
3 the term of this Agreement, the Borrower may be providing services to others unrelated to the County or  
4 to this Agreement.

5 I. MODIFICATION

6 Any matters of this Agreement may be modified from time to time by the written  
7 consent of all parties without, in any way, affecting the remainder.

8 J. NON-ASSIGNMENT

9 Neither party shall assign, transfer or sub-contract this Agreement nor their rights or  
10 duties under this Agreement without the written consent of the other party. Any transfer or assignment  
11 without the County's prior consent shall be voidable and, at the County's sole discretion, shall constitute  
12 a material breach of this Agreement. No consent to any assignment shall constitute a further waiver of  
13 the provisions of this Section IX(J).

14 K. AUTHORIZATION AND NOTICES

15 1. County Authority: The Director of the County's Department of Public Works and  
16 Planning, or his duly authorized designee, at his discretion, is hereby authorized to enter into and sign in  
17 the name of the County, all loan documents, security documents and other related documents, and any  
18 amendments thereto, subject to the prior review and approval of County Counsel and the Auditor-  
19 Controller/Treasurer-Tax Collector, as shall be necessary for the purpose of developing the Project as  
20 described in Section I of this Agreement. Additionally, in the County's experience, changes in  
21 circumstances frequently occur that require a quick response from the County, otherwise the project  
22 and/or its financing may fail. In such cases, where the County's response is time-sensitive, the Director,  
23 or his duly authorized designee, hereby is authorized, but not required, to consent to the following matters  
24 in the name of the County, subject to the prior review of County Counsel and the Auditor-  
25 Controller/Treasurer-Tax Collector: (1) changes to Attachments to this Agreement that do not alter the  
26 terms of the Agreement or substantively alter the scope of the Project; (2) non-substantive changes to  
27 the scope of the Project, so long as the Director or his designee determines that the Project remains  
28 eligible under the Federal HOME regulations; (3) changes of funding sources from those specific other

1 entities named in Attachment B, so long as the Director or his designee determines that the Project  
2 remains eligible under the Federal HOME regulations and this Agreement; (4) changes of the specific  
3 dollar amounts set forth in Attachment B coming from other entities, or the total thereof, provided the total  
4 monies coming from the County under this Agreement do not increase, and further provided that the  
5 Director or his designee determines that the Project remains viable, is fully funded, and eligible under the  
6 Federal HOME regulations and this Agreement; (5) to sign subordination documents solely in order to  
7 facilitate the placement of permanent financing, and only within the first two years after the Notice of  
8 Completion is recorded; and (6) terminate the Agreement if it has been determined that the Borrower is  
9 not able to acquire the funds necessary to meet the terms described in the Agreement.

10                 2. Borrower Authority: The Administrative General Partner of WP Gateway Villas  
11 Apartments, LP, has authority to enter into and sign this Agreement, and the loan, security and all other  
12 related documents, and any amendments thereto on behalf of the Partnership, as shall be necessary for  
13 the purpose of borrowing the funds to develop the Project as described in Section I herein.

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

16                 County:

17                         County of Fresno  
18                         Department of Public Works and Planning  
19                         Community Development Division  
20                         Attention: Manager, Affordable Housing Programs  
21                         2220 Tulare Street, 6<sup>th</sup> Floor  
22                         Fresno, CA 93721

23                 Borrower:

24                         WP Gateway Villas Apartments, LP  
25                         c/o Willow Partners, LLC  
26                         310 N. Westlake Blvd., #210  
27                         Westlake Village, CA 91362  
28                         Attention: Amelia Ross

Copy to:

                              Mechanic's Bank  
                              Riverlakes Branch  
                              3800 Riverlakes Drive  
                              Bakersfield, CA 93312  
                              Attention: Community Development Finance

And:

                              Law Offices of Patrick R. Sabelhaus  
                              1006 4<sup>th</sup> Street  
                              Sacramento, CA 95814  
                              Attention: Steve Strain

1 And: CREA Kimerly Park, LLC  
2 c/o CREA, LLC  
3 30 S. Meridian Street, Suite 400  
4 Indianapolis, Indiana 46204  
5 Attention: Asset Management

6 And: Applegate & Thorne-Thomsen, P.C.  
7 425 S. Financial Place, Suite 1900  
8 Chicago, Illinois 60605  
9 Attention: Warren P. Wenzloff

10 And: California USDA  
11 3800 Cornucopia Way, Suite E  
12 Modesto, CA 95358  
13 Attention: Yolanda Hauser

14 And: Bonneville Mortgage Company  
15 111 Main, Suite 1600  
16 Salt Lake City, UT 84111

17 And: Central Valley Coalition for Affordable Housing  
18 3351 M Street, Suite 100  
19 Merced, CA 95348  
20 Attention: Christina Alley, Chief Executive Officer

21 L. ENTIRE AGREEMENT

22 This Agreement constitutes the entire Agreement between the Borrower and the  
23 County with respect to the subject matter hereof, and supersedes all previous discussions, negotiations,  
24 proposals, commitments, writings, advertisements, publications and understandings of any nature  
25 whatsoever unless expressly included in this Agreement.

26 M. EFFECTIVE DATE

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

29 N. DISCLOSURE OF SELF-DEALING TRANSACTIONS

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

33 Members of the Borrower's Board of Directors shall disclose any self-dealing  
34 transactions that they are a party to while the Borrower is providing goods or performing services under

1 this Agreement. A self-dealing transaction shall mean a transaction to which the Borrower is a party, and  
2 in which one or more of its directors has a material financial interest. Members of the Board of Directors  
3 shall disclose any self-dealing transactions that they are a party to by completing and signing a *Self-*  
4 *Dealing Transaction Disclosure Form* (Exhibit 1), and submitting it to the County prior to commencing  
5 with the self-dealing transaction or immediately thereafter.

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1 IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth above.

2  
3 WP GATEWAY VILLAS APARTMENTS, LP,  
4 A California limited partnership  
5 By: its Administrative General Partner

6 By: 

7 G. Davis Slajchert

8 Date: 9/9/19

COUNTY OF FRESNO



Nathan Magsig, Chairman of the Board  
of Supervisors of the County of Fresno

Date: October 22, 2019

9 **ATTEST:**

10 Bernice E. Seidel  
11 Clerk of the Board of Supervisors  
County of Fresno, State of California

12 By: 

13 Deputy

14 FUND NO: 0001  
15 SUBCLASS NO: 10000  
16 ORG NO.: 55122008  
ACCOUNT NO.: 7295

17 REMIT TO:  
18 WP Gateway Villas Apartments, LP  
19 Attention: G. Davis Slajchert,  
20 Managing Member  
21 310 N. Westlake Blvd., Suite 210  
22 Westlake Village, CA 91362  
23 Telephone: (805) 379-8555  
24  
25  
26  
27  
28

## ATTACHMENT A

### Unit Mix and Rent Schedule

#### TOTAL UNITS (61)

| Unit Type | Rent Level | Number of Units | Unit Sq.Ft. | Max HOME Rent | Gross Rent | Utility Allowance | Net Rent |
|-----------|------------|-----------------|-------------|---------------|------------|-------------------|----------|
| 2 Bedroom | 30%        | 3               | 899         | 730           | 437        | 68                | 369      |
| 2 Bedroom | 40%        | 3               | 899         | 730           | 583        | 68                | 515      |
| 2 Bedroom | 50%        | 15              | 899         | 730           | 729        | 68                | 661      |
| 2 Bedroom | 60%        | 9               | 899         | 929           | 874        | 68                | 806      |
| 3 Bedroom | 30%        | 3               | 1061        | 842           | 505        | 87                | 418      |
| 3 Bedroom | 40%        | 3               | 1061        | 842           | 673        | 87                | 586      |
| 3 Bedroom | 50%        | 15              | 1061        | 842           | 842        | 87                | 755      |
| 3 Bedroom | 60%        | 9               | 1061        | 1065          | 1010       | 87                | 923      |
| 3 Bedroom | Manager    | 1               | 1400        | N/A           | N/A        | N/A               | N/A      |
| Total     |            | 61              |             |               |            |                   |          |

#### Maximum HOME Allowable Rent

#### HOME UNITS (11)

| Unit Type | Rent Level | Number of Units | Unit Sq.Ft. | Max HOME Rent | Gross Rent | Utility Allowance | Net Rent |
|-----------|------------|-----------------|-------------|---------------|------------|-------------------|----------|
| 2 Bedroom | 30%        | 2               | 899         | 730           | 437        | 68                | 369      |
| 2 Bedroom | 40%        | 2               | 899         | 730           | 583        | 68                | 515      |
| 2 Bedroom | 50%        | 1               | 899         | 730           | 729        | 68                | 661      |
| 3 Bedroom | 30%        | 2               | 1061        | 842           | 505        | 87                | 418      |
| 3 Bedroom | 40%        | 2               | 1061        | 842           | 673        | 87                | 586      |
| 3 Bedroom | 50%        | 2               | 1061        | 842           | 842        | 87                | 755      |
| Total     |            | 11              |             |               |            |                   |          |

## ATTACHMENT B

Sources and Uses of Funds are anticipated as follows:

### Sources of Funds

|    |                                  |              |
|----|----------------------------------|--------------|
| 1. | Construction Loan                | \$11,760,000 |
| 2. | County of Fresno HOME Loan Funds | \$980,000    |
| 3. | City of Kerman Land Donation     | \$1,310,000  |
| 4. | City of Kerman Fee Waiver        | \$612,848    |
| 5. | Developer (Deferred Costs)       | \$113,139    |
| 6. | Developer Fee                    | \$1,170,981  |
| 7. | Tax Credit Equity                | \$1,533,835  |
|    | Total Sources                    | \$17,480,803 |

### Uses of Funds:

|    |                                 |              |
|----|---------------------------------|--------------|
| 1. | Acquisition Costs               | \$1,310,000  |
| 2. | Construction Costs              | \$12,535,352 |
| 3. | Financing Costs                 | \$870,628    |
| 4. | Operating Reserves              | \$153,139    |
| 5. | Soft Costs and Development Fees | \$2,611,684  |
|    | Total Project Cost              | \$17,480,803 |

## ATTACHMENT C

### SECTION 3 REQUIREMENTS

- A. The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3"). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance, or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with part 135 regulations.
- C. The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.
- D. The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.

## **SECTION 3 ASSURANCES**

**[FORM MUST BE COMPLETED AND SUBMITTED PRIOR TO AWARD]**

I/We, the undersigned \_\_\_\_\_ (representative), as official representative of \_\_\_\_\_ (Contractor) agree to comply with Section 3 requirements for the \_\_\_\_\_ (Project). It is understood that failure to comply may result in the following sanctions: cancellation, termination, or suspension in whole or in part of this contract. A copy of this executed form and the charts for hires and contractors will be provided to the County along with any back up documentation requested prior to execution of contract.

### **Complete for Staffing:**

- A. How many new full time (permanent, temporary, seasonal) positions will be needed on this project? \_\_\_\_\_
- B. How many new employment training positions will be created? \_\_\_\_\_
- C. If New Hires and Employment Training will take place, how many positions are projected to be filled by local low income area residents? \_\_\_\_\_ (see goal below).

If new hires or employment training are anticipated then Contractor must provide copies of outreach efforts, any preferences given, and any actual Section 3 hires completed. If there were no Section 3 residents hired or the goals were not met, then an explanation of why this happened will be provided.

- D. If new hires or training were made available, did Contractor reach 30% Section 3 goal/target?  
\_\_\_\_\_

### **See attached chart with list of all New Hires / Transfers for this Project**

Complete for construction subcontractors and non-construction contracts:

- A. How many construction subcontractors will be utilized for this project? \_\_\_\_\_
- B. Of these subcontractors, how many are Section 3 subcontractors? \_\_\_\_\_
  - 1) Was the Section 3 Goal/target of 10% of project dollar amount reached? \_\_\_\_\_
- C. How many non-construction contracts will be utilized? \_\_\_\_\_
- D. Of these, how many are Section 3 businesses? \_\_\_\_\_
  - 1) Was the Section 3 Goal/target of 3% of project dollar amount reached? \_\_\_\_\_

### **See attached chart with list of all Contractors hired for this Project**

Authorized Signature \_\_\_\_\_

Date: \_\_\_\_\_

### Section 3 Resident Eligibility Certification

The U.S. Department of Housing and Urban Development (HUD) monitors our hiring practices on Section 3-funded projects. It is important, therefore that the information below be provided. Please be aware that your response, though needed, is voluntary and has no effect on your employment status.

Because these questions are personal in nature, your answers will be treated with confidentiality. Thank you for assisting us.

Sincerely,

Fresno County Community Development Division

- 
- 
1. Name: \_\_\_\_\_  
Address: \_\_\_\_\_
  2. Number of individuals living in your household (include yourself): \_\_\_\_\_
  3. Total annual household income (please CIRCLE one):

| Household Size              | 30%       | 50%       | 60%       | 65%       | 80%       |
|-----------------------------|-----------|-----------|-----------|-----------|-----------|
| 1                           | \$ 13,650 | \$ 22,700 | \$ 27,240 | \$ 29,490 | \$ 36,300 |
| 2                           | \$ 15,600 | \$ 25,950 | \$ 31,140 | \$ 33,710 | \$ 41,500 |
| 3                           | \$ 17,550 | \$ 29,200 | \$ 35,040 | \$ 37,940 | \$ 46,700 |
| 4                           | \$ 19,450 | \$ 32,400 | \$ 38,880 | \$ 42,120 | \$ 51,850 |
| 5                           | \$ 21,050 | \$ 35,000 | \$ 42,000 | \$ 45,500 | \$ 56,000 |
| 6                           | \$ 22,600 | \$ 37,600 | \$ 45,120 | \$ 48,870 | \$ 60,150 |
| 7                           | \$ 24,150 | \$ 40,200 | \$ 48,240 | \$ 52,240 | \$ 64,300 |
| 8                           | \$ 25,700 | \$ 42,800 | \$ 51,360 | \$ 55,610 | \$ 68,450 |
| Check Box If Above \$68,450 |           |           |           |           |           |

4. Are you currently employed? \_\_\_\_\_ Yes \_\_\_\_\_ No

I certify that the statements made on this sheet are true, complete and correct to be best of my knowledge and belief, and made in good faith.

Signature \_\_\_\_\_

Date: \_\_\_\_\_

### **Section 3 Business Eligibility Certification**

The U.S. Department of Housing and Urban Development (HUD) monitors our hiring practices on Section 3-covered projects. It is important, therefore that the information below be provided. Please be aware that your response, though needed, is voluntary and has no effect on your contracting.

Your answers will be treated with confidentiality. Thank you for assisting us.

Sincerely,

Fresno County Community Development Division

---

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_

1. Are 51% of the business owners qualified Section 3 Residents? \_\_\_\_\_

If YES stop, if NO proceed.

2. Are at least 30% of the employees Section 3 Residents (or were they when they started less three years ago)? \_\_\_\_\_

If YES stop, if NO proceed.

3. Will the business subcontract more than 25% of the proposed work under the contract to business concerns that meet the qualification set forth in number 1 & 2 above? \_\_\_\_\_

If YES stop, if NO proceed.

\_\_\_\_\_ We currently do not qualify as a Section 3 business

I certify that the statements made on this sheet are true, complete and correct to be best of my knowledge and belief, and made in good faith.

Signature \_\_\_\_\_

Date: \_\_\_\_\_



## **SECTION 3 Project Work Force Breakdown**

| Job Category   | Total Positions Needed for Project | No. Positions Occupied by Permanent Employees | Number of Positions not Occupied | Number of Positions filled with Section 3 residents |
|----------------|------------------------------------|---|----------------------------------|---|
| Supervisor     |                                    |   |                                  |   |
| Professional   |                                    |   |                                  |   |
| Technical      |                                    |   |                                  |   |
| Office/Cleric. |                                    |   |                                  |   |
| Others         |                                    |   |                                  |   |
| TRADE:         |                                    |   |                                  |   |
| Journeyman     |                                    |   |                                  |   |
| Apprentices    |                                    |   |                                  |   |
| Trainees       |                                    |   |                                  |   |
| Others         |                                    |   |                                  |   |
| TRADE:         |                                    |   |                                  |   |
| Journeyman     |                                    |   |                                  |   |
| Apprentices    |                                    |   |                                  |   |
| Trainees       |                                    |   |                                  |   |
| Others         |                                    |   |                                  |   |

**\*Section 3 Resident:**

Individual residing within the Section 3 Area whose family income does not exceed 80% of the median income in the Metropolitan Statistical Area or the County if not within a MSA in which the Section 3 covered project is located. See attached income schedule.

NOTE: This document must be submitted with bid documents.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Project

\_\_\_\_\_  
Project Number

Person Completing Form:

Date:

\_\_\_\_\_

### **SECTION 3 Contracts / Subcontracts Breakdown**

| Type of Contract<br>(Business or<br>Profession) | Total<br>Number | Total Approx.<br>Dollar Amount | Estimated No. of<br>Contracts to<br>Section 3<br>Businesses | Estimated Dollar<br>Amount to Sec. 3<br>Businesses |
|---|-----------------|--------------------------------|---|--|
|   |                 |                                |   |  |
|   |                 |                                |   |  |
|   |                 |                                |   |  |
|   |                 |                                |   |  |
|   |                 |                                |   |  |
|   |                 |                                |   |  |
|   |                 |                                |   |  |
|   |                 |                                |   |  |
|   |                 |                                |   |  |
|   |                 |                                |   |  |
|   |                 |                                |   |  |
|   |                 |                                |   |  |
|   |                 |                                |   |  |
|   |                 |                                |   |  |

NOTE: This document is to be submitted by the Contractor with bid documents

\_\_\_\_\_  
Company

\_\_\_\_\_  
Project

\_\_\_\_\_  
Project Number

Person Completing Form:

Date:

\_\_\_\_\_

## SECTION 3 BUSINESS UTILIZATION REPORT

Project No. : \_\_\_\_\_ Total Dollar Amount of Contract: \$ \_\_\_\_\_

Federal ID No. : \_\_\_\_\_ Address: \_\_\_\_\_

Name of Prime Contractor: \_\_\_\_\_

| Name of Subcontractor | Sec 3<br>Y/N | Address/Telephone | Trade/Service or<br>Supply | Contract<br>Amount | Award Date | Competitive or<br>Negotiated Bid | Federal<br>Identification<br>No. |
|-----------------------|--------------|-------------------|----------------------------|--------------------|------------|----------------------------------|----------------------------------|
|                       |              |                   |                            |                    |            |                                  |                                  |
|                       |              |                   |                            |                    |            |                                  |                                  |
|                       |              |                   |                            |                    |            |                                  |                                  |
|                       |              |                   |                            |                    |            |                                  |                                  |
|                       |              |                   |                            |                    |            |                                  |                                  |
|                       |              |                   |                            |                    |            |                                  |                                  |
|                       |              |                   |                            |                    |            |                                  |                                  |

Total Dollar Amount Awarded to Section 3 Businesses: \_\_\_\_\_ Company  
\$

NOTE: This report must be completed and submitted by the Contractor (monthly) with each payment request.

Project

Project Number

Person Completing Form

Date

## ATTACHMENT D

U.S. DEPARTMENT OF HUD 2019  
STATE: CALIFORNIA 2019  
Fresno, CA MSA

### 2019 HOME PROGRAM RENTS

| PROGRAM              | Efficiency | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | 6 BR |
|----------------------|------------|------|------|------|------|------|------|
| Low HOME Rent Limit  | 567        | 608  | 730  | 842  | 940  | 1037 | 1134 |
| High HOME Rent Limit | 668        | 769  | 929  | 1065 | 1169 | 1271 | 1373 |

#### HOME Rents

Every HOME-assisted unit is subject to rent limits designed to help make rents affordable to low income households. These maximum rents are referred to as "HOME Rents." Annually, the U.S. Department of Housing and Urban Development establishes maximum monthly rents for HOME-assisted rental projects. Based on changes in area income levels or market conditions, HOME Rents, as calculated by HUD and approved by the Department, may increase.

## ATTACHMENT E

### Project Disbursement Schedule Gateway Villas Apartments

#### Draw Schedule

| 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<br>(First construction draw)                                  | \$245,000               | \$24,500        | \$220,500        |
| 3        | 25% of Total Loan Amount   | \$245,000               | \$24,500        | \$220,500        |
| 4        | 25% of Total Loan Amount   | \$245,000               | \$24,500        | \$220,500        |
| 5        | 25% of Total Loan Amount   | \$245,000               | \$24,500        | \$220,500        |
|          | <b>Total Amounts</b>   | <b>\$980,000</b>        | <b>\$98,000</b> | <b>\$882,000</b> |
|          | Retention Amount<br>(pay 35 days after the recordation<br>of the Notice of Completion) |                         |                 | \$98,000         |

## ATTACHMENT F

### Gateway Villas Apartments

| PROJECT TIMELINE       |        |
|------------------------|--------|
| TCAC Application       | Mar-19 |
| TCAC Award             | Jun-19 |
| Building Permits       | Nov-19 |
| Loan Documents         | Nov-19 |
| Construction Start     | Dec-19 |
| Market Units           | Oct-20 |
| Construction Complete  | Jun-21 |
| Lease Up Complete      | Oct-21 |
| Permanent Loan Closing | Apr-22 |



# EXHIBIT 1

## 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).

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