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

CITY OF FRESNO

By: \_\_\_\_\_  
Georgeanne A. White  
City Manager

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

CITY OF FRESNO  
STATE AND LOCAL FISCAL RECOVERY FUNDS  
(PART OF THE AMERICAN RESCUE PLAN)  
AGREEMENT

by and between

CITY OF FRESNO,  
a municipal corporation

and

Lowell Community Development Corporation

regarding

Land Use for Tiny Homes  
Fresno, California

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**CITY OF FRESNO  
STATE AND LOCAL FISCAL RECOVERY FUNDS  
(PART OF THE AMERICAN RESCUE PLAN)  
GRANT AGREEMENT  
WITH LOWELL COMMUNITY DEVELOPMENT CORPORATION**

This State and Local Fiscal Recovery Funds Agreement (Agreement) is entered into on \_\_\_\_\_, 2024, by and between the City of Fresno, a municipal corporation, (City), and Lowell Community Development Corporation, a California Nonprofit Public Benefit Corporation (Developer).

**RECITALS**

A. WHEREAS, the CITY has received State and Local Fiscal Recovery Funds (SLFRF) from the U.S. Department of the Treasury under the American Rescue Plan Act (Pub.L. 117-2) (Act) and is subject to any constraints set forth therein included but not limited to, the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) Final Rule (31 CFR Part 35).

B. WHEREAS, the City has elected to use a portion of the SLFRF allocation to support the COVID-19 Public Health and Economic Response to address impacts on households by using funds to support affordable housing development, an eligible use of funds under the Act.

C. WHEREAS, the Project, as defined below, serves the intent of the SLFRF Program by selecting households that meet the qualifications of the U.S Department of Housing and Urban Development, HOME Investment Partnerships Program.

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

E. WHEREAS, the Developer desires to act as the owner/developer exercising effective project control, as to be the provider of land for the development of deed-restricted SLFRF-assisted units to be preserved as Low- to Moderate-Income housing and related on-site and off-site improvements as more particularly described in EXHIBIT "A" – Project Description, attached hereto and incorporated herein (Project).

F. WHEREAS, to further its goal to increase the supply of Affordable Housing within the City of Fresno, the City desires to assist the Developer by providing up to 24 Tiny House units (Homes) (SLFRF Grant) with terms and conditions of the release of the Homes to the Developer as set forth in the terms and conditions of this Agreement.

G. WHEREAS, due to the needs of the local housing market, and the severe under production of homes for families of Low and Moderate-Income, the community as a whole is negatively impacted such that an income restriction of up to 60% of annual median income (AMI) is justified in Fresno.

H. WHEREAS, the City has determined that this Agreement is in the best interest of, and will materially contribute to, the Housing Element of the General Plan. Further, the City has found that the Project: (i) will have a positive influence in the neighborhood and surrounding environs, (ii) is in the vital and best interest of the City, and the health, safety, and welfare of the City residents, (iii) complies with applicable federal, State, and local laws

and requirements, (iv) will increase, improve, and preserve the community's supply of Extremely Low Income Housing available at an affordable cost to Extremely Low Income households, as defined hereunder, (v) planning and administrative expenses incurred in pursuit hereof are necessary for the production, improvement, or preservation of Extremely Low Income Housing, and (vi) will comply with any and all owner participation rules and criteria applicable thereto.

I. WHEREAS, the City and Developer have determined that the Developer's activities constitute routine programmatic/grantee activities utilizing available and allocated program/grantee funding, outside the reach of the California Constitution Article XXXIV and enabling legislation.

J. WHEREAS, on \_\_\_\_\_, the Developer's Board reviewed and approved the Project and SLFRF application for funding.

K. WHEREAS, the parties acknowledge and agree that the obligations and liabilities of the Developer hereunder shall be joint and several unless and except to any extent expressly provided otherwise.

NOW, THEREFORE, IN CONSIDERATION of the above recitals, which recitals are contractual in nature, the mutual promises herein contained, and for other good and valuable consideration hereby acknowledge, the parties agree as follows:

#### **ARTICLE 1. DEFINITIONS**

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

1.1 Acquisition means vesting of the Property in fee title to the Developer for the purpose of developing Affordable Housing.

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

1.3 Affordability Period means the minimum period of 30-years commencing from the date the City records a Certification of Completion.

1.4 Affordable Housing means all the units in the Project required to meet the affordability requirements of the SLFRF.

1.5 Certificate of Completion means that certificate issued, in the form attached as EXHIBIT "C" (Exemplar Certificate of Completion), to the Developer by the City evidencing completion of the Project and a release of construction related covenants for the purposes of the Agreement.

1.6 CFR means the Code of Federal Regulations.

1.7 Commencement of Construction means the time the Developer or the Developer's construction contractor begins substantial physical work on the Property, including, without limitation, delivery of materials and any work, beyond maintenance of the Property in its status quo condition, which shall take place in accordance with the Project Schedule.

1.8 Completion Date means the date the City issues a recorded Certificate of Completion for the Project. The Completion of the Project is identified in EXHIBIT "C", attached hereto.

1.9 Declaration of Restrictions means the Declaration of Restrictions in the form attached hereto as EXHIBIT "B", which contains the affordability covenants and requirements of this Agreement which shall run with the land and which the Developer shall record or cause to be recorded against the Property no later than Commencement of Construction.

1.10 Event of Default shall have the meaning assigned to such term under Section 9.1 hereunder.

1.11 Extremely Low Income means 15-30% of AMI.

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

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

1.14 Household means persons occupying the rental units within the Project.

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

1.16 Notice of Cancellation means the formal written cancellation by the City upon the written request of the Developer where the parties terminate their contractual relationship in whole or in part as provided hereunder, without default.

1.17 Notice of Completion means a notice filed by the owner of a construction project, in the county records office, stating that construction has been completed.

1.18 Low- to Moderate-Income Households are those with (i) income at or below 300% of the Federal Poverty Guidelines for the size of the household based on the most recently published poverty guidelines or (ii) income at or below 65% to 80% of the area median income (AMI) for the county and size of household based on the most recently published data.

1.19 Operating Expenses means actual, reasonable and customary (for comparable quality, construction of rental housing in Fresno County) costs, fees and expenses directly incurred, paid and attributable to the operation, maintenance and management of the completed Project in a calendar year, including, without limitation; painting, cleaning, repairs, alterations, landscaping, utilities, refuse removal, certifications, permits and licenses, sewer charges, real and personal property taxes, assessments, insurance, security, advertising and promotion, janitorial services, cleaning and building supplies, purchasing, repair, servicing

and installation of appliances, equipment, fixtures and furnishings which are not paid from the capital replacement reserve, fees and expenses of property management and common area expenses, fees and expenses of accountants, attorneys, and other professionals, the cost of social services, repayment of any completion of operating loans including any and all deferred contractor's fees per the Budget, made to the Developer, its successors or assigns, and other actual operating costs and capital costs which are incurred and paid by the Developer, but which are not paid from reserve accounts.

1.20 Performance Milestones means the indicators and metrics of progress and performance that are identified as such in Exhibit D, attached hereto. Developer's failure to satisfy any one of the Performance Milestones will constitute a breach of this Agreement and will entitle the City to exercise any and all available remedies, including the recapture of released Project Units and the cancellation of this Agreement.

1.21 Project means the development of properties for the placement of up to 24 deed-restricted Tiny House units to be preserved for Affordable Housing.

1.22 Project Schedule means the schedule for commencement and completion of the Project included in EXHIBIT "A", attached hereto.

1.23 Project Units means the Tiny House units provided with the SLFRF Grant and preserved as Affordable Housing Units for the duration of the Affordability Period.

1.24 Project Unit Household means the tenant(s) occupying the SLFRF-assisted Units within the Project.

1.25 Property means the sites approved for use to develop and place the Project Units.

1.26 Record means all plans, drawings, specifications, ledgers, journals, statements, contracts/agreements, funding information, funding applications, purchase orders, invoices, loan documents, computer printouts, correspondence, memoranda, and electronically stored versions.

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

1.28 Tiny House (Homes). A structure intended for separate, independent living quarters for one household that meets these six conditions:

1. Is licensed and registered with the California Department of Motor Vehicles and meets ANSI 119.2 or 119.5 requirements;
2. Is towable by a bumper hitch, frame-towing hitch, or fifth-wheel connection. Cannot (and is designed not to) move under its own power. When sited on a parcel per requirements of this Code, the Wheels and undercarriage shall be

skirted;

3. Is no larger than allowed by California State Law for movement on public highways;

4. Has at least 100 square feet of first floor interior living space;

5. Is a detached self-contained unit which includes basic functional areas that support normal daily routines such as cooking, sleeping, and toiletry; and

6. Is designed and built to look like a conventional building structure.

1.29 U.S. Department of Treasury means the United States Department of Treasury or Department of Treasury.

## **ARTICLE 2. TERMS OF THE RELEASE OF THE TINY HOMES TO DEVELOPER**

2.1 Tiny Homes. The City agrees to provide up to 24 tiny homes, all under the terms and conditions provided in this Agreement.

2.2 Conditions of the Tiny Homes Release. Upon completion of construction of tiny homes from Fresno City College, the Developer will have access to four tiny homes. Upon occupancy and meeting performance milestones, the Developer will then have access to the next four tiny homes with the same conditions until all 24 homes are released to the Developer, as more specifically described in Exhibit “D” – Performance Milestones, attached hereto.

2.2a. Tiny Homes Relocation. It is the sole responsibility of the Developer to relocate the tiny homes from the Fresno City College site to proposed permanent sites.

2.2b. Performance Milestones. Failure to satisfy any of the performance milestones will constitute a breach of this Agreement and entitles the City to mandate the Developer to return to the City any tiny home disbursed that do not have a Certificate of Completion; in any such instances, the City may also cancel this Agreement without owing any damages or other payments to the Developer.

2.3 Term of Agreement. This Agreement is effective upon the date of full execution and shall remain in force with respect to the Project for the duration of the Affordability Period unless earlier terminated as provided herein. After the 30-year Affordability Period, this Agreement will expire. It is understood and agreed upon, however, if for any reason this Agreement should be terminated the City agrees to record a Notice of Cancellation regarding this Agreement upon the written request of the Developer.

2.4 Incorporation of Documents. If applicable, the Affordable Housing Development Request for Proposals, Lowell CDC Tiny Homes Application, the City Council approved minutes, approving this Agreement, the SLFRF regulations and all exhibits, attachments, documents, and instruments referenced herein, as now in effect and as may be amended from time to time, constitute part of this Agreement and are incorporated herein by reference. All such documents have been provided to the parties herewith or have been otherwise provided to/procured by the parties and reviewed by each of them prior to execution hereof.

2.5 Covenants of Developer. The Developer for itself and its agents/assigns covenants and agrees to comply with all the terms and conditions of this Agreement and the requirements of the SLFRF and the Act, as such may be amended from time to time.

2.6 California Environmental Quality Act Requirements (CEQA). The Developer shall select sites that will meet the threshold requirements of CEQA Guidelines Section 15912 and Section 15914 in accordance with Exhibit F “Project Implementation Checklist.” This section cannot be modified or amended; and shall survive the termination of this Agreement.

### **ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF DEVELOPER**

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

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

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

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

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

3.6 No Litigation Material to Project. The Developer represents and warrants to the City as of the date hereof, except as disclosed to, and approved by the City in writing,



there is no action, proceeding, or investigation now pending, or any basis therefor known or believed to exist by the Developer that questions the validity of this Agreement, or of any action to be taken under this Agreement, that would, if adversely determined, materially or substantially impair the Developer's ability to perform and observe its obligations under this Agreement, or that would either directly or indirectly have an adverse effect or impair the completion of the Project.

3.7 Assurance of Governmental Approvals and Licenses. The Developer represents and warrants to the City, as of the date hereof, that the Developer has obtained and, to the best of the Developer's knowledge, is in compliance with all federal, State, and local governmental reviews, consents, authorizations, approvals, and licenses presently required by law to be obtained by the Developer for the Project as of the date hereof.

#### **ARTICLE 4. WARRANTIES AND COVENANTS OF THE DEVELOPER**

The Developer, for itself and its development team covenants and warrants that:

4.1 Affirmative Marketing. The Developer warrants, covenants and agrees with the City that it shall comply with all affirmative marketing requirements, including without limitation, those set out at 24 CFR 92.350 and 92.351, in order to provide information and otherwise attract eligible persons from all racial, ethnic and gender groups in the housing market in the rental of the Project Units. The Developer shall maintain records of actions taken to affirmatively market units constructed in the future, and to assess the results of these actions.

4.2 Compliance with Agreement. The Developer warrants, covenants and agrees that, in accordance with the requirements of the SLFRF Act, upon any uncured default by the Developer within the meaning of Article 9.1 of this Agreement, the City may suspend or terminate this Agreement and all other agreements with the Developer without waiver or limitation of rights/remedies otherwise available to the City.

4.3 Conflict of Interest. The Developer warrants, covenants and agrees that it shall comply with the Conflict-of-Interest requirements including, without limitation, that no , agent, or of the Developer may occupy a Project Unit. The Developer understands and acknowledges that no employee, agent, , officer or elected official or appointed official of the City, who exercises any functions or responsibilities with respect to the Project, or who is in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from the Project, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for anyone with which that person has family or business ties, during his or her tenure or for one year thereafter.

4.4 Construction Standards. The Developer shall cause placement of the proposed Project Units assisted under this Agreement in compliance with all applicable local codes, ordinances, and zoning requirements in effect at the time of issuance of City building permits.

4.5 Covenants and Restrictions to Run with the Land. The City and the Developer expressly warrant, covenant and agree to ensure that the covenants and restrictions set forth in this Agreement are recorded and will run with the land, provided, however, that, on expiration of this Agreement such covenants and restrictions shall expire.

A. The City and the Developer hereby declare their understanding and intent that the covenants and restrictions set forth herein directly benefit the land by:

(a) enhancing and increasing the enjoyment and ownership of the proposed Project by a certain Extremely Low-Income Households, and (b) making possible the obtaining of advantageous financing for construction.

B. The Developer covenants and agrees with the City that after issuance of a recorded Certification of Completion for the Project until the expiration of the Affordability Period, Developer shall cause all Project Units to be rented as Affordable Housing for households with average incomes of no more than 60% AMI with a minimum of 30% of the units-(8) supporting Extremely Low-Income households, at or below 30% of AMI.

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

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

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

4.6 Displacement of Persons. The Developer covenants and agrees with the City that pursuant to 24 CFR 92.353, it will take all reasonable steps to minimize the displacement of any persons (families, individuals, businesses, nonprofit organizations and farms).

4.7 Initial and Annual Income Certification and Reporting. The Developer covenants and agrees with the City that it shall comply with the procedures for annual income determination at 24 CFR 92.203. The Developer shall obtain, complete and maintain on file, immediately prior to initial occupancy, and annually thereafter, income certifications from the Project Unit Household members. The Developer, shall make a good faith effort to verify that the income provided by an applicant or occupying Household in an income certification is accurate by taking one or more of the following steps as part of the verification process: (1) obtain a pay stub for the three most recent pay periods; (2) obtain an income verification form from the applicant's current employer; (3) obtain an income verification form from the Social Security Administration and California Department of Social Services if the applicant receives assistance from either of such agencies; (4) obtain income tax return for the most recent three years; or (5) if the applicant is unemployed, obtain another form of independent verification. Copies of Household income certification and verification must be available for review and approval by the City prior to initial lease up. The Developer further warrants, covenants and agrees that it will cooperate with the City in the City's income certification/affordability monitoring activities.

4.8 Lead-Based Paint. The Developer covenants and agrees with the City that it shall comply with all applicable requirements of the Lead-Based Paint Poisoning Prevention Act of 42 U.S.C. 4821 et seq., 24 CFR Part 35, including the HUD 1012 Rule, and 24 CFR 982.401(j), and any amendment thereto, and Environmental Protection Agency (EPA) Section 402 I(3) of the Toxic Substances Control Act (TSCA) to address lead-based hazards created by renovation, repair, and painting activities that disturb lead-based paint in target housing and child-occupied facilities. Contractors performing renovations in lead-based paint units must be EPA-certified renovators. These requirements apply to all units and common areas of the Project. The Developer shall incorporate or cause incorporation of this provision in all contracts and subcontracts for work performed on the Project, which involve the application of paint. The Developer shall be responsible for all disclosure, inspection, testing, evaluation, and control and abatement activities.

4.9 Minority Outreach Activities. The Developer covenants and agrees with the City that it shall comply with all federal laws and regulations described in Subpart H of 24 CFR Part 92, including, without limitation, any requirement that the Developer comply with the City's minority outreach program.

4.10 Other Laws and Regulations. The Developer covenants and agrees with the City that, in addition to complying with the federal laws and regulations already cited in this Agreement, the Developer has reviewed, and shall comply with and require all its contractors and subcontractors on the Project to comply with, all other federal laws and regulations that apply to the SLFRF, including, without limitation, requirements of the Act (Pub.L. 117-2), Coronavirus State and Local Fiscal Recovery Funds Final Rule (31 CFR Part 35), 24 CFR 58.6 and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001-4128) and the following:

- A. The Project is not located in a tract identified by the Federal Emergency Management Agency as having special flood requirements.
- B. The Project requirements, Subpart F of 24 C.F.R. Part 92, as applicable and in accordance with the type of Project assisted.
- C. The property standards at 24 CFR 92.251.
- D. The Project "Labor" requirements, as applicable, of 24 C.F.R. 92.354 including Davis Bacon prevailing wage requirements (40 U.S.C. 27-a - 276a-7), as supplemented by Department of Labor regulations (29 CFR Part 5). The provisions of Section 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor Regulations (29 CFR Part 5), in regard to the construction and management of the proposed Project.
- E. The Developer and its contractors, subcontractors and service providers for the Project, shall comply with all applicable local, State and federal requirements concerning equal employment opportunity, including compliance with Executive Order (E.O.) 11246, "Equal Employment Opportunity", as amended by E.O. 11375, (amending E.O. 11246 Relating to Equal Employment Opportunity), and as supplemented by regulations at 41 CFR chapter 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor".
- F. The provisions of the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and

Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”).

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

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

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

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

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

L. E.O. 11063 on Equal Opportunity and Housing.

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

N. The Housing and Community Development Act of 1974.

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

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

Q. Recipients of SLFRF Funds shall comply, to the extent required by the Act and the SLFRF with 2 CFR Part 200, Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (commonly called the 'Uniform Guidance').

R. Violence Against Women Act (VAWA), 24 CFR 92.359 and 24 CFR 92.504(c)(3)(v)(F), including but not limited to notice requirements, obligations under emergency transfer plan, bifurcation of lease requirements, imposition of requirements for the duration of the period of affordability, and inclusion of VAWA lease addendum requirements.

S. Developer shall comply with broadband infrastructure requirements for new housing and rehabilitation projects as set forth in 24 CFR 92.251.

4.11 Faith Based Activities. The Developer warrants, covenants and agrees with the City that it shall not engage in any prohibited activities described in 24 CFR 92.257.

4.12 Reporting Requirements. The Developer warrants, covenants and agrees with the City that it shall submit annual income reports to the City.

4.13 Housing Affordability. The Developer covenants and agrees with the City that the Project Units will be affordable to households with average incomes of no more than 60% AMI with a minimum of 30% of the units supporting Extremely Low-Income households and other requirements during the Affordability Period. The Project Units, at a minimum, shall be rented to and occupied by, or, if vacant, available for rental and occupancy by (a) person(s) whose annual household income at the time of initial occupancy is not greater than 60% of AMI consistent with SLFRF Program regulations, for the Affordability Period except upon foreclosure or other transfer in lieu of foreclosure following default. However, if at any time following a transfer by foreclosure or transfer in lieu of foreclosure, but still during the

Affordability Period, the owner of record prior to the foreclosure or transfer in lieu of foreclosure, or any newly formed entity that includes such owner of record those whom such owner of record has or had business ties, obtains an ownership interest in the Project or the Property, the Affordability Period shall be revived according to its original terms. In the event the Developer fails to comply with this Section, or the Affordability Period is not revived following transfer by foreclosure or transfer in lieu of foreclosure, the Developer shall return to the City all tiny homes disbursed to the Developer by the City.

4.14 Terminated Projects. The Developer understands and agrees that, if the Project is terminated before completion, either voluntarily or otherwise, such constitutes an ineligible activity, and the City will not be required to provide any further tiny homes to the project.

4.15 Pre-term termination exemption. If the City or the Developer terminates the Agreement before all 24 units are completed; the Units with Certificates of Completion will continue to operate under this Agreement for the affordability period. Units without a Certificate of Completion will not be provided to the Developer for the remaining Project. Units that become noncompliant with the 30 year period may be eligible for relocation to retain its eligibility status. The Developer will have 180 days to relocate any noncompliant Unit to an eligible location; once the Developer has relocated the Unit, the City will file a Notice of Cancellation on the deed of the property that the Unit was removed from.

## **ARTICLE 5. PROPERTY MAINTENANCE**

The Developer covenants and agrees to the following, for the entire term of the Agreement.

5.1 Adequate Repair and Maintenance. The Developer during its time on title shall cause the maintenance to the Project and Property to be in compliance with all applicable codes, laws, and ordinances. The City reserves the right to require the Developer to change the property management company for the Property if it is determined through annual property monitoring that the property management company is not performing satisfactorily.

5.2 Affordable Rental Housing. The Developer covenants and agrees that the Project shall constitute Project Units for rent to households with average incomes of no more than 60% AMI with a minimum of 30% of the units (8 units of 24) supporting Extremely Low-Income Rental Households as provided at 24 C.F.R.92.252 during the entire Affordability Period of 30 years. This covenant shall remain in effect and run with and restrict the land during the entirety of the Affordability Period. In the event the Developer fails to comply with the time period in which the Project Units constitute Affordable Housing, the City shall without waiver or limitation, be entitled to injunctive relief, as the Developer acknowledges that damages are not adequate remedy at law for such breach.

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

violation is discovered, the Developer shall pay for the reasonable cost of the independent consultant.

Additionally, the Developer agrees:

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

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

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

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

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

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

D. To indemnify, defend, and hold the City harmless from any and all claims, actions, causes of action, demand, judgments, damages, injuries, administrative orders, consent agreements, orders, liabilities, penalties, costs, expenses (including attorney's fees and expenses), and disputes of any kind whatsoever arising out of or relating to the Developer or Developer's employees', contractors' or agents' use or release of any hazardous or toxic chemicals, materials, substance, or waste on the Property regardless of cause or origin, including any and all liability arising out of or relating to any investigation, site monitoring, containment, cleanup, removal, restoration, or related remedial work of any kind or nature

5.4 Compliance with Laws. The Developer shall promptly and faithfully comply with, conform to and obey all present and future federal, State and local statutes, regulations, rules, ordinances and other legal requirements applicable by reason of this Agreement or otherwise to the Project including without limitation prevailing wage requirements. The Developer acknowledges that the use of SLFRF Funds subjects the Project to extensive federal regulation and covenants and agrees that it shall comply with, conform to and obey (and take steps as are required of the Developer to enable the City to comply with, conform

to and obey) all federal statutes, regulations, rules and policies applicable to the Project.

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

5.6 Inspection and Audit of Books, Records and Documents. The Developer shall account for all expenditures disbursed for the Project pursuant to this Agreement. Any duly authorized representative of the City shall, at all reasonable times, have access to and the right to inspect, copy, make excerpts or transcripts, audit, and examine all books of accounts, records, files and other papers or property, and other documents of the Developer pertaining to the Project or all matters covered in this Agreement and for up to six years after the expiration or termination of this Agreement.

A. The Developer will maintain books and records for the Project using generally accepted accounting principles. The Developer agrees to maintain books and records that accurately and fully show the date, amount, purpose and payee of all expenditures expended or financed for the Project and to keep all invoices, receipts and other documents related to expenditures expended or financed for the completion of the Project, for not less than six years after the expiration or termination of the Agreement. Books and records must be kept accurate and current. For purposes of this section, "books, records and documents" include, without limitation; plans, drawings, specifications, ledgers, journals, statements, contracts/agreements, funding information, funding applications, purchase orders, invoices, loan documents, computer printouts, correspondence, memoranda, and electronically stored versions of the foregoing. This section shall survive the termination of this Agreement. The City may audit any conditions relating to this Agreement at the City's expense, unless such audit shows a significant discrepancy in information reported by the Developer in which case the Developer shall bear the cost of such audit. The Developer shall also comply with any applicable audit requirements of 24 CFR 92.506. This section shall survive the termination of this Agreement.

B. The Developer will cooperate fully with the City in connection with any interim or final audit relating to the Project that may be performed relative to the performance of this Agreement.

5.7 Inspection of Property. Any duly authorized representative of the City shall, at all reasonable times and with 72 hours' written notice, have access and the right to inspect the Property until completion of the Project and expiration of the applicable Affordability Period, subject to the rights of the tenants.

5.8 No Other Liens. The Developer shall not create or incur, or suffer to be created or incurred, or to exist, any additional mortgage, pledge, lien, charge, or other security interest of any kind on the eligible Property, other than those related to the Project's rehabilitation and construction loans in relation to the Project, consistent with the attached Budget, without the prior written consent of the City.

5.9 Nondiscrimination. The Developer shall comply with and cause any and all contractors and subcontractors to comply with any and all federal, State, and local laws with regard to illegal discrimination, and the Developer shall not illegally discriminate against any persons on account of race, religion, sex, family status, age, handicap, or place of national

origin in its performance of this Agreement and the completion of the Project.

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

A. The Developer shall request City's written approval of the granting of the security interests in the Property described in Section 5.8 above.

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

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

## **ARTICLE 6. REHABILITATION AND CONSTRUCTION OF THE PROJECT**

Without waiver of limitation, the parties agree as follows:

6.1 Pre-Construction Meeting Regarding Processes and Procedures. The City may schedule, and the Developer shall attend, or the Developer may schedule, and the City shall attend a meeting prior to construction for the purpose of outlining the Project processes and procedures.

6.2 Commencement and Completion of Project. The Developer shall commence construction of the Project, and when completed, record a Certificate of Completion of construction of the Project in accordance with the Project Schedule, and provide the City with a copy of the recordation.

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

6.4 Damage to Property. To the extent consistent with the requirements of any permitted encumbrance, or as otherwise approved by the City, and subject to Article 8 of this Agreement, if any building or improvement constructed on the Property is damaged or destroyed by an insurable cause, the Developer shall, at its cost and expense, diligently



undertake to repair or restore said buildings and improvements consistent with the original Plans and Specifications of the Project. Such work or repair shall begin within ninety (90) days after the insurance proceeds are made available to the Developer and shall be completed within two (2) years thereafter. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, the Developer shall use its best efforts to make up the deficiency.

6.5 Fees, Taxes and Other Levies. The Developer shall be responsible for payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Property or the Project and shall pay such charges prior to delinquency. However, the Developer shall not be required to pay and discharge any such charge so long as: (a) the legality thereof is being contested diligently and in good faith and by appropriate proceedings, and (b) if requested by the City, the Developer deposits with the City any funds or other forms of assurances that the City, in good faith, may determine from time to time are appropriate to protect the City from the consequences of the contest being unsuccessful. The Developer shall have the right to apply for and obtain an abatement and/or exemption of the Project from real property taxes in accordance with all applicable rules and regulations, including Section 214(g) of the California Revenue and Taxation Code.

6.6 Financing. The Developer shall promptly inform the City of any new financing or funding not included in the budget for Project, and the Developer shall provide the City with copies of all agreements with any and all funding sources for the Project. The Developer shall require each agreement with any and all funding sources not included in the Budget to contain a provision whereby the party(ies) to the agreement other than the Developer, if permitted by the party(ies) applicable rules and regulations, agree to notify the City immediately of any event of default by the Developer thereunder. Should the Developer not comply with all the obligations of this section, the Developer shall return to the City all tiny homes disbursed to the Developer by the City, that do not contain a Certificate of Completion; and the City will not be required to provide any further tiny homes to the project. This Section shall survive expiration or termination of this Agreement.

6.7 Inspections. The Developer shall permit, facilitate, and require its contractors and consultants to permit and facilitate observation and inspection at the Project site by the City and other public authorities during reasonable business hours, for the purpose of determining compliance with this Agreement, including without limitation those annual on-site inspections required by the City.

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

6.9 Insurance and Bonds. The Developer shall submit for City approval bonds, certificates and applicable endorsements for all insurance and bonds required by this Agreement in accordance with Article 8.

6.10 Mechanic's Liens and Stop Notices. If any claim of lien is filed against the Property or a stop notice affecting any financing, the Project Units or funding sources for the Project is served on the City or any other third party in connection with the Project, the Developer shall, within 20 days of such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to the City a

surety bond in sufficient form and amount, or provide the City with other assurance satisfactory to the City that the claim of lien or stop notice will be paid or discharged.

A. If the Developer fails to discharge, bond or otherwise satisfy the City with respect to any lien, encumbrance, charge or claim referred to in Section 6.11 above, then, in addition to any other right or remedy, the City may, but shall not be obligated to, discharge such lien, encumbrance, charge, or claim at the Developer's expense. Alternatively, the City may require the Developer to immediately deposit with the City the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. The City may use such deposit to satisfy any claim or lien that is adversely determined against the Developer. The Developer hereby agrees to indemnify and hold the City harmless from liability for such liens, encumbrances, charges or claims together with all related costs and expenses.

6.11 Permits and Licenses. The Developer shall submit, for City approval, all the necessary permits and licenses required for Commencement of Construction. As the City may reasonably request, the Developer, at its sole cost and expense, shall provide to the City copies of any and all permit approvals and authorizations including plot plan, plat, zoning variances, sewer, building, and other permits required by governmental authorities other than the City in pursuit of the Project, and for its stated purposes in accordance with all applicable building, environmental, ecological, landmark, subdivision, zoning codes, laws, and regulations. The Developer is responsible at its sole cost and expense to determine the location of any utilities on the Property and to negotiate with the utility companies to relocate the utilities, if any, as necessary to complete the Project.

6.12 Plans and Specifications. The Developer has submitted to the City preliminary plans and specifications for the Project. The Developer will construct the Project in full conformance with the City-approved Development Permit and plans and specifications and modifications thereto approved by the City. The Developer shall obtain the City's prior written approval for any modifications to the plans and specifications.

6.13 Project Responsibilities/Public Work-Prevailing Wage Requirements. The Developer shall be solely responsible for all aspects of the Developer's conduct in connection with the Project, including but not limited to, compliance with all local, State and federal laws including without limitation, as to prevailing wage and public bidding requirements. The Council of the City of Fresno has adopted Resolution No. 82-297 ascertaining the general prevailing rate of per diem wages and per diem wages for holidays and overtime in the Fresno area for each craft, classification or type of workman needed in the execution of contracts for the City. A copy of the resolution is on file at the Office of the City Clerk. Actual wage schedules are available upon request at the City's Construction Management Office. Without limiting the foregoing, the Developer shall be solely responsible for the quality and suitability of the work completed and the supervision of all contracted work, qualifications, and financial conditions of and performance of all contracts, subcontractors, consultants, and suppliers. Any review or inspection undertaken by the City with reference to the Project and/or payroll monitoring/auditing is solely for the purpose of determining whether the Developer is properly discharging its obligation to the City and shall not be relied upon by the Developer or by any third parties as a warranty or representation by the City as to governmental compliance and/or the quality of work completed for the Project.

6.14 Property Condition. The Developer shall maintain the Project and all improvements on site in a reasonably good condition and repair (and, as to landscaping, in

a healthy condition), all according to the basic design and related plans, as amended from time to time. The Developer and those taking direction under the Developer shall:

(i) maintain all on-site improvements according to all other applicable law, rules, governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials;

(ii) keep the improvements free from graffiti;

(iii) keep the Project Property free from any accumulation of debris or waste material;

(iv) promptly make repairs and replacements to on-site improvements;

(iv) promptly replace any dead, or diseased plants and/or landscaping (if any) with comparable materials, and

(v) enforce tenant lease terms.

6.15 Quality of Work. The Developer shall ensure that the site development of the Project employs building materials of a quality suitable for the requirements of the Project. The Developer shall cause completion of the construction of the Project on the Property in full conformance with applicable local, State, and federal laws, statutes, regulations, and building and housing codes.

6.16 Tiny Home Warranty. The Developer agrees to accept the Tiny Homes as built, and that any warranty of the Tiny Homes will be between the Developer and the builder, Fresno City College. The Tiny Homes will be ANSI certified with the California Tiny House.

6.17 Reporting Requirements. The Developer shall submit to the City the following Project reports:

A. Annually, by February 15<sup>th</sup> of each year, and continuing until the termination of this Agreement, the Developer shall submit an Annual Rent Roll Report to the City, Exhibit E Self-Certification of annual income. The Annual Report shall include, at a minimum, the following information: occupancy of each Project Unit including the annual income and the household size, the date occupancy commenced, certification from an officer of the Developer that the Project is in compliance with the Affordability requirements, and such other information the City may be required by law to obtain. The Developer shall provide any additional information reasonably requested by the City upon request and at the annual monitoring of the Property.

B. Annually, by February 15<sup>th</sup> of each year, evidencing the completion of the Project, and continuing until the expiration of this Agreement, the Developer shall submit proof of property and liability insurance, as required in Article 8, listing the City as loss payee.

C. Annually, by February 15<sup>th</sup> of each year, report to the City the number of leases that were not renewed or terminated and the reason for such non-renewal or termination.

6.18 Scheduling and Extension of Time; Unavoidable Delay in Performance. It shall be the responsibility of the Developer to coordinate and schedule the work to be performed so that the Commencement of the Construction and issuance of the Notice of Completion will take place in accordance with the provisions of this Agreement and Project Schedule. The time for performance contained in the Project Schedule shall be automatically extended

upon the following:

A. The time for performance of provisions of this Agreement by either party shall be extended for a period equal to the period of any delay directly affecting the Project or this Agreement which is caused by: war, insurrection, strike or other labor disputes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of a public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, suits filed by third parties concerning or arising out of this Agreement, or unseasonable weather conditions (force majeure). An extension of time for any of the above specified causes will be granted only if written notice by the party claiming such extension is sent to the other party within 10 calendar days from the date the affected party learns of the commencement of the cause and the resulting delay, and such extension of time is accepted by the other party in writing. In any event, the Project must be completed no later than 180 calendar days after the scheduled completion date specified in this Agreement, notwithstanding any delay caused by that included in this Section.

B. Any and all extensions hereunder shall be by mutual agreement between the City and Developer. The City's Planning Director may administratively extend deadline for up to 180 days cumulatively. Any extension beyond the Director's 180-day cumulative extension shall require City Council approval.

6.19 Certificate of Completion. Upon completion of the construction of the Project, the Developer shall submit to the City: 1) certification in writing that the Project has been substantially completed in accordance with the plans and specifications, approved by the City; 2) a recorded Notice of Completion; and 3) a request for a recorded Certification of Completion. Upon a determination by the City that the Developer is in compliance with all of the Developer's construction obligations, as specified in this Agreement, the City shall furnish and record, within 60 calendar days of a written request by the Developer, a recordable Certificate of Completion for the Project in the form attached hereto as EXHIBIT "C". The City will not unreasonably withhold or delay furnishing the Certificate of Completion. If the City fails to provide the Certificate of Completion within the specified time of 60 calendar days, it shall provide the Developer a written statement indicating in what respects the Developer has failed to complete the Project in conformance with this Agreement or has otherwise failed to comply with the terms of this Agreement, and what measures the Developer will need to take or what standards it will need to meet in order to obtain the Certificate of Completion. Upon the Developer taking the specified measures and meeting the specified standards, the Developer will certify to the City in writing of such compliance and the City shall deliver and record the Certificate of Completion to the Developer in accordance with the provisions of this Section.

## **ARTICLE 7. OPERATIONS OF THE PROJECT**

7.1 Operation of the Project. The Developer shall sell, lease, operate, and manage the Project in full conformity with the terms of this Agreement.

7.2 Occupancy Requirements. The Project Units shall be rented or sold and occupied by, or if vacant, available for rental occupancy by households with average incomes of no more than 60% AMI with a minimum of 30% of the units supporting Extremely Low-Income households, at or below 30% of AMI. The Developer shall comply with the income targeting requirements of the SLFRF.

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

7.4 Lease of SLFRF-Assisted Project Units Provisions. In addition to the SLFRF requirements and the VAWA lease addendum required in accordance with 24 CFR 92.359(e), the leases are subject to the following:

A. Each such lease agreement shall also provide that the Household is subject to annual certification, and that, if the Household's annual income increases above the applicable limits for no more than 60% AMI Income household, such Household's rent may be subject to increase to the lesser of: 1) the amount payable by tenant under State or local law; or 2) 30% of the Household's actual adjusted monthly income, except that, tenants of SLFRF-assisted Project Units that have also been allocated Low Income Housing Tax Credits by a housing credit agency pursuant to section 42 of the internal Revenue Code of 1986 (26 U.S.C. 42) must meet both program rules.

7.5 Final Management Plan. Before leasing and at least sixty 60 calendar days prior to the construction Completion Date, the Developer shall submit to the City, for review and approval, a plan for marketing and managing the proposed Project Units (Final Management Plan). The Final Management Plan shall address in detail how the Developer or its designated management entity plans to market the availability of the Project Units to prospective tenants and how the Developer plans to certify the eligibility of potential tenants. The Final Management Plan shall also address how the Developer and/or the management entity plan to manage and maintain the Project Units in accordance with SLFRF regulations for Property Standards and shall include appropriate financial information and documentation. The Final Management Plan shall contain detailed descriptions of policies and procedures with respect to tenant selections and evictions. Topics to be covered in these procedures shall include at a minimum the following:

- Interviewing procedures for prospective tenants;
- Previous rental history of tenants with references;
- Credit reports;
- Criminal background checks;
- Deposit amounts, purpose, use and refund policy;
- Employment/Income verification;

- Occupancy restrictions;
- Income Limits;
- Equal Housing Opportunity Statement;
- Restrictions on use of the premises; and
- Tenant/Landlord dispute resolution procedures.

The Final Management Plan shall contain copies of all standardized forms associated with the above listed topics. The Final Management Plan shall include a form lease agreement that the Developer proposes to enter into with the Extremely Low-Income tenants. The Developer shall abide by the terms of this Final Management Plan, approved by the City, in marketing, managing, and maintaining the SLFRF-Assisted Project Units.

7.6 Property Management. The Developer shall comply with the following:

A. Management Responsibilities. If the Units are owned by the Developer, the Developer will be directly and/or through its designated management entity, be specifically responsible for all management functions with respect to the Project including, without limitation, the selection of tenants, certification and recertification of Household size and income, evictions, collection of Rents and deposits, construction management, affirmative marketing, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items and security. The City shall have no responsibility for such management of the Project.

B. If the Unit is sold to a homeowner or to a resident of the Unit, management can be provided by the owner of the Unit. The Developer will be responsible to provide the income verification on an annual basis to the City of Fresno.

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

7.8 Nondiscrimination. The Developer shall not illegally discriminate or segregate in the constructed complex, the use, enjoyment, occupancy, or conveyance of any part of the Project or Property on the basis of race, color, ancestry, national origin, religion, sex, marital status, family status, source of income/rental assistance subsidy, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), sexual orientation, or any other arbitrary basis. The Developer shall otherwise comply with all applicable local, State, and federal laws concerning nondiscrimination in housing. Neither the Developer nor any person claiming under or through the Developer, shall establish or permit any such practice or practices of illegal discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants or vendees of any Project Unit or in connection with employment of persons for the construction of any Project Unit. All deeds or contracts made or entered into by the Developer as to the Project Units or the Project or portion thereof, shall contain covenants concerning nondiscrimination consistent with this section. The Developer shall include a statement in all advertisements, notices, and

signs for availability of Project Units for rent to the effect that the Development is an Equal Housing Opportunity Provider.

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

7.9 Rent Schedule and Utility Allowances. The Developer covenants and agrees to charge rent to tenants occupying the SLFRF-Assisted Units in an amount which does not exceed those rents prescribed to the Project as they associate with particular rent limit established annually by the Department of the Treasury, consistent with the SLFRF Program requirements applicable to the Project Units in the Fresno, California area. The Developer agrees to furnish the City with an annual rent roll setting forth the maximum monthly rent for the SLFRF-Assisted Units until the expiration of the Affordability Period. The Developer shall reexamine the rent and tenant income for the SLFRF Units at least annually.

7.10 Rental Housing Fees. The Developer covenants and agrees not to charge fees that are not customarily charged in rental housing such as laundry room access fees, and other fees in accordance with 24 CFR 92.504(c)(3)(xi).

7.11 Early Termination and Relocation. If a site is not in compliance and a remedy cannot be found, the Developer will have up to 180 days to relocate a unit to a new site. The City will then issue a Notice of Cancellation for the site that the unit was removed from and a new Notice of Completion for the new site.

## **ARTICLE 8. INSURANCE AND INDEMNITY AND BONDS**

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

### 8.1 Insurance Requirements.

(a) Throughout the life of this Agreement, Developer shall pay for and maintain in full force and effect all insurance as required herein with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated no less than "A-VII" in the Best's Insurance Rating Guide, or (ii) as may be authorized in writing by the City's Risk Manager or his/her designee at any time and in his/her sole discretion. The required policies of insurance as stated herein shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to the City, its officers, officials, employees, agents and volunteers as additional insureds, shall be the greater of the minimum limits specified therein or the full limit of any insurance proceeds to the named insured.

(b) If at any time during the life of this Agreement or any extension, Developer or any of its subcontractors fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to Developer shall be withheld until notice is received by the City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to the City. Any failure to maintain the required insurance shall be sufficient cause for the City to terminate this Agreement. No action taken by the City pursuant to this section shall in any way relieve Developer of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by the City that an insurer has

commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

(c) The fact that insurance is obtained by Developer shall not be deemed to release or diminish the liability of Developer, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify the City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Developer. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Developer, vendors, suppliers, invitees, contractors, sub-contractors, subcontractors, or anyone employed directly or indirectly by any of them.

Coverage shall be at least as broad as:

- (i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and include insurance for “bodily injury,” “property damage” and “personal and advertising injury” with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under this Agreement) with limits of liability not less than the following:
  - \$2,000,000 per occurrence for bodily injury and property damage
  - \$2,000,000 per occurrence for personal and advertising injury
  - \$4,000,000 aggregate for products and completed operations
  - \$4,000,000 general aggregate applying separately to the work performed under this Agreement.
- (ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto) with limits of liability of not less than \$1,000,000 per accident for bodily injury and property damage.
- (iii) Workers’ Compensation insurance as required by the State of California and Employer’s Liability Insurance.
- (iv) EMPLOYEE LIABILITY insurance with limits of liability of no less than \$1,000,000 each accident, \$1,000,000 disease policy limit and \$1,000,000 diseased each employee

**UMBRELLA OR EXCESS INSURANCE**

In the event Developer purchases an Umbrella or Excess insurance policy(ies) to meet the “Minimum Limits of Insurance,” this insurance policy(ies) shall “follow form” and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the City, its officers, officials, employees, agents and volunteers.



## **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Developer shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and Developer shall also be responsible for payment of any self-insured retentions.

## **OTHER INSURANCE PROVISIONS/ENDORSEMENTS**

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar day written notice has been given to the City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, the Developer shall furnish the City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for the City, the Developer shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than fifteen (15) calendar days prior to the expiration date of the expiring policy.

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form.

The General Liability and Automobile Liability insurance policies shall name the City, its officers, officials, agents, employees and volunteers as an additional insured for ongoing and completed operations. All such policies of insurance shall be endorsed so the Developer's insurance shall be primary, and no contribution shall be required by the City.

The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents, and volunteers.

If the Developer maintains higher limits of liability than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits of liability maintained by the Developer.

All insurance policies required including the Workers' Compensation insurance policy shall contain a waiver of subrogation as to the City, its officers, officials, agents, employees, and volunteers.

The Developer shall furnish the City with all certificate(s) and applicable endorsements effecting coverage required hereunder. All certificates and applicable endorsements are to be received and approved by the City's Risk Manager or his/her designee before work commences. Upon request of the City, the Developer shall immediately furnish the City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

In the event of a partial or total destruction by the perils insured against of any or all of the work and/or materials herein provided for at any time prior to the final completion of this Agreement and the final acceptance by the City of the work or materials to be performed or supplied thereunder, the Developer shall promptly reconstruct, repair, replace, or restore all work or materials so destroyed or injured at his/her sole cost and expense. Nothing herein provided for shall in any way excuse the Developer or his/her insurance company from the obligation of furnishing all the required materials and completing the work in full compliance with the terms of this Agreement.

## **SUBCONTRACTORS**

If Developer subcontracts any or all of the services to be performed under this Agreement, Developer shall require, at the discretion of the City Risk Manager or designee, subcontractor(s) to enter into a separate Side Agreement with the City to provide required indemnification and insurance protection. Any required Side Agreement(s) and associated insurance documents for the subcontractor must be reviewed and preapproved by City Risk Manager or designee. If no Side Agreement is required, Developer will be solely responsible for ensuring that its subcontractors maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant industry.

8.2 Indemnification. To the furthest extent allowed by law, including California Civil Code section 2782, Developer shall indemnify, defend and hold harmless the City and each of its officers, officials, employees, agents, and volunteers from any and all claims, demands, actions in law or equity, loss, liability, fines, penalties, forfeitures, interest, costs including legal fees, and damages (whether in contract, tort, or strict liability, including but not limited to personal injury, death at any time, property damage, or loss of any type) arising or alleged to have arisen directly or indirectly out of (1) any voluntary or involuntary act or omission, (2) error, omission or negligence, or (3) the performance or non-performance of this Agreement. Developer's obligations as set forth in this section shall apply regardless of whether the City or any of its officers, officials, employees, agents, or volunteers are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active or sole negligence, or the willful misconduct, of the City or any of its officers, officials, employees, agents or volunteers.

To the fullest extent allowed by law, and in addition to the express duty to indemnify, Developer, whenever there is any causal connection between the Developer's performance or non-performance of the work or services required under this Agreement and any claim or loss, injury or damage of any type, Developer expressly agrees to undertake a duty to defend the City and any of its officers, officials, employees, agents, or volunteers, as a separate duty, independent of and broader than the duty to indemnify. The duty to defend as herein agreed to by Developer expressly includes all costs of litigation, attorneys' fees, settlement costs and expenses in connection with claims or litigation, whether or not the claims are valid, false or groundless, as long as the claims could be in any manner be causally connected to Developer as reasonably determined by the City.

Upon the tender by the City to Developer, Developer shall be bound and obligated to assume the defense of the City and any of its officers, officials, employees, agents, or volunteers, including the a duty to settle and otherwise pursue settlement negotiations, and shall pay, liquidate, discharge and satisfy any and all settlements, judgments, awards, or expenses resulting from or arising out of the claims without reimbursement from the City or any of its officers, officials, employees, agents, or volunteers.

It is further understood and agreed by Developer that if the City tenders a defense of a claim on behalf of the City or any of its officers, officials, employees, agents, or volunteers and Developer fails, refuses or neglects to assume the defense thereof, the City and its officers, officials, employees, agents, or volunteers may agree to compromise and settle or defend any such claim or action and Developer shall be bound and obligated to reimburse the City and its officers, officials, employees, agents, or volunteers for the amounts expended by each in defending or settling such claim, or in the amount required to pay any judgment rendered therein.

The defense and indemnity obligations set forth above shall be direct obligations and shall be separate from and shall not be limited in any manner by any insurance procured in accordance with the insurance requirements set forth in this Agreement. In addition, such obligations remain in force regardless of whether the City provided approval for, or did not review or object to, any insurance Developer may have procured in accordance with the insurance requirements set forth in this Agreement. The defense and indemnity obligations shall arise at such time that any claim is made, or loss, injury or damage of any type has been incurred by the City, and the entry of judgment, arbitration, or litigation of any claim shall not be a condition precedent to these obligations.

The defense and indemnity obligations set forth in this section shall survive termination or expiration of this Agreement.

If Developer should subcontract all or any portion of the work to be performed under this Agreement, Developer shall require each subcontractor to Indemnify, hold harmless and defend the City and each of its officers, officials, employees, agents and volunteers in accordance with the terms as set forth above.

8.3 Property Insurance. The Developer shall maintain in full force and effect, throughout the remaining life of this Agreement, a policy or policies of property insurance acceptable to the City, covering the Project premises, with limits reflective of the value of the Project premises upon issuance of the Certificate of Completion or substantial completion of the project referenced in this Agreement. The City shall be added by endorsement as a loss payee thereon.

8.4 Bond Obligations. The Developer or its General Contractor shall obtain, pay for and deliver good and sufficient payment and performance bonds along with a Primary Obligee, Co-Obligee or Multiple Obligee Rider in a form acceptable to the City from a corporate surety, admitted by the California Insurance Commissioner to do business in the State of California and Treasury-listed, in a form satisfactory to the City and naming the City as Obligee.

A. The "Payment Bond" shall be at least equal to 20% of the total amount of the Project to satisfy claims of material supplies and of mechanics and laborers employed for this Project. The bond shall be maintained by the Developer in full force and effect until the Project is completed and until all claims for materials and labor are paid and as required by the applicable provisions of Chapter 7, Title 15, Part 4, Division 3 of the California Civil Code.

## **ARTICLE 9. DEFAULT AND REMEDIES**

9.1 Events of Default. The parties agree that each of the following shall constitute an "Event of Default" by the Developer for purposes of this Agreement after the cure period in Section 9.2 has expired without a cure:

A. The Developer's failure to obtain and maintain the insurance coverage required under this Agreement;

B. Except as otherwise provided in this Agreement, the failure of the Developer to punctually and properly perform any other covenant or agreement

contained in this Agreement including without limitation the following: (1) the Developer's material deviation in the Project work specified in the Project Description as identified in this Agreement, without the City's prior written consent; (2) the Developer's use of defective or unauthorized materials or defective workmanship in pursuit of the Project; (3) the Developer's failure to commence or complete the Project, as specified in this Agreement, unless delay is permitted under Section 6.19 of this Agreement; (4) cessation of the Project for a period of more than fifteen (15) consecutive days (other than as provided at Section 6.19 of this Agreement) prior to submitting to the City certification that the Project is complete; (5) any material adverse change in the condition of the Developer or its development team, or the Project that gives the City reasonable cause to believe that the Project cannot be completed by the scheduled completion date according to the terms of this Agreement; (6) the Developer's failure to remedy any deficiencies in record keeping or failure to provide records to the City upon the City's request; or (7) the Developer's failure to comply with any federal, State or local laws or applicable City restrictions governing the Project, including but not limited to provisions of this Agreement pertaining to equal employment opportunity, nondiscrimination and lead-based paint;

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

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

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

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

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

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

9.2 Notice of Default and Opportunity to Cure. The City shall give written notice to the Developer of any Event of Default by specifying: (1) the nature of the event or deficiency giving rise to the default; (2) the action required to cure the deficiency, if any action to cure is possible; and (3) a date, which shall not be less than the lesser of any time period provided in this Agreement, any time period provided for in the notice no less than 10 days, or 30 calendar days from the date of the notice, by which such deficiency must be cured, provided that if the specified deficiency or default cannot reasonably be cured within the specified time, with the City's written consent, the Developer shall have an additional reasonable period to cure so long as it commences cure within the specified time and thereafter diligently pursues the cure in good faith. The City acknowledges and agrees that the Developer shall have the right to cure any defaults hereunder and that notice, and cure rights hereunder shall extend to any and all partners of the Developer that are previously identified in writing delivered to the City in the manner provided in this Agreement.

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

- A. Terminate this Agreement immediately upon written notice;
- B. Bring an action in equitable relief: (1) seeking specific performance of the terms and conditions of this Agreement, and/or (2) enjoining, abating or preventing any violation of said terms and conditions, and/or (3) seeking declaratory relief;
- C. Pursue any other remedy allowed by law or in equity or under this Agreement; and

## **ARTICLE 10. GENERAL PROVISIONS**

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

10.1 Amendments. No modification or amendment of any provision of this Agreement shall be effective unless made in writing and signed by the parties hereto; and subject to approval as to form by the City Attorney's Office.

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

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

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

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

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

10.7 Effective Date. This Agreement shall be effective upon the date first above written, upon the City and the Developer's complete execution following City Council approval and recordation of related documents.

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

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

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

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

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

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

10.14 No Assignment or Succession. The Developer shall not sell, transfer, assign or otherwise dispose of all or a material part of any interest it might hold in the Property without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, upon prior written notice to the City, the

Developer shall be permitted to assign its rights and obligations under this Agreement with respect to the Project without the City's consent.

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

10.16 No Waiver. Neither failure nor delay on the part of the City in exercising any right under this Agreement shall operate as a waiver of such right, nor shall any single or partial exercise of any such right preclude any further exercise thereof or the exercise of any other right. No waiver of any provision of this Agreement or consent to any departure by the Developer therefrom shall be effective unless the same shall be in writing, signed on behalf of the City by a duly authorized officer thereof, and the same shall be effective only in the specific instance for which it is given. No notice to or demand on the Developer in any case shall entitle the Developer to any other or further notices or demands in similar or other circumstances or constitute a waiver of any of the City's right to take other or further action in any circumstances without notice or demand.

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

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

If to the CITY:           City of Fresno  
                                  Planning and Development Department  
                                  Housing and Community Development Division  
                                  2600 Fresno Street, Room 3065  
                                  Fresno, CA 93721-3605

If to DEVELOPER: Lowell Community Development Corporation  
                                  Attn: Executive Director  
                                  250 N Calaveras St.  
                                  Fresno, CA 93701

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

10.20 Recording of Documents. The Developer agrees to cooperate with the City and execute any documents required, promptly upon the City's request, and to promptly effectuate the recordation of this Agreement, the Declaration of Restrictions, and any other

documents/instruments that the City requires to be recorded, in the Official Records of Fresno County, California, consistent with this Agreement.

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

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

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

CITY OF FRESNO,  
a California municipal corporation

By: \_\_\_\_\_  
Georgeanne A. White  
City Manager

APPROVED AS TO FORM:

ANDREW JANZ

City Attorney

DocuSigned by:  
By: Angela M. Janz  
Angela M. Janz  
Senior Deputy City Attorney

ATTEST:  
TODD STERMER, CMC  
City Clerk

By: \_\_\_\_\_  
Deputy Date

Lowell Community Development  
Corporation, a California nonprofit  
Community Based Corporation

DocuSigned by:  
By: Esther Carver  
6CD8BF9A15E243D...  
Name: Esther Carver

Title: Executive Director

(Attach notary certificate of  
acknowledgment)

DocuSigned by:  
By: Christian Gonzalez  
2E7D2930CE834AF...

Name: Christian Gonzalez

Title: Secretary

Attachments:

- EXHIBIT A: PROJECT DESCRIPTION
- EXHIBIT B: EXEMPLAR DECLARATION OF RESTRICTIONS
- EXHIBIT C: CERTIFICATE OF COMPLETION
- EXHIBIT D: PERFORMANCE MILESTONE
- EXHIBIT E: ANNUAL INCOME VERIFICATION
- EXHIBIT F: PROJECT IMPLEMENTATION CHECKLIST



## **EXHIBIT “A” PROJECT DESCRIPTION, INCOME LEVELS, SCHEDULE**

### **I. PROJECT DESCRIPTION**

The Land Use for Tiny Homes Project will be a scattered site(s) development within the City of Fresno to locate 24 tiny homes. The target populations will be households with average incomes of no more than 60% Area Median Income (AMI) with a minimum of 30% of the units supporting households with an average income of no more than 30% AMI. The size of the tiny homes will be 8' x 20', require transportation to the site, and will come with refrigerator, stove/oven, microwave, and will be “solar ready.” The project will be the site development of properties owned by Lowell Community Development Corporation or single family owner-occupied residents, partner organizations and community members who have signed an authorization of agent and site control agreement with the Lowell CDC to establish site control.

Tiny homes will be available to the Developer from Fresno City College upon completion, with an estimated 4 to 7 units annually through the year 2026 by meeting performance milestones.

### **II. PROJECT SCHEDULE**

- A. Commencement of Construction
- B. Completion of Construction
- C. Rent Up Completion

### **III. INCOME LEVEL**

In order to qualify for housing, all tenants will be required to meet or be below 60% AMI to be eligible for housing. While they will not lose their housing if they start making more income, once they move out, the new tenant will be at or below 60% AMI for Fresno.

The qualification of the housing is 60% or below AMI. While they will not lose their housing if the tenant's income exceeds the AMI requirement, once they move out, the new tenant will be at or below 60% AMI for Fresno.

**EXHIBIT “B”  
EXEMPLAR DECLARATION OF RESTRICTIONS**

Recorded at the Request of  
and When Recorded Return to:

City of Fresno  
Planning and Development Dept.  
Housing and Community Development Division  
2600 Fresno Street, Room 3065  
Fresno, CA 93721-3605

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

*The document is exempt from the payment of a recording fee in accordance with Government Code Sections 6103 and 27383.*

APN:

**DECLARATION OF RESTRICTIONS**

THIS DECLARATION OF RESTRICTIONS (Declaration) is executed as of this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Lowell Community Development Corporation, a California nonprofit community based organization (DECLARANT), in favor of the CITY OF FRESNO, a California municipal corporation (The CITY).

WHEREAS, the DECLARANT is the owner of the real estate in the City of Fresno, County of Fresno, California, located at, Fresno, CA particularly described in EXHIBIT “A” – Property Description, attached hereto and made a part hereof, including the improvements thereon (Property); and

WHEREAS, pursuant to a certain City of Fresno State and Local Fiscal Recovery Funds (“SLFRF”) Agreement dated \_\_, 2024, incorporated herein by reference (“SLFRF Agreement”) and instruments referenced therein, the DECLARANT agrees to utilize, and the CITY agrees to provide, certain SLFRF funded tiny homes from the United States Department of the Treasury, to the DECLARANT and the DECLARANT agrees to develop sites to place up to 24 tiny homes units, reserved for households with average incomes of no more than 60% AMI with a minimum of 30% of the units supporting Extremely Low-Income households, at or below 30% of AMI; and

WHEREAS, the SLFRF regulations promulgated by the Department of the Treasury, impose certain affordability requirements upon property owned by the DECLARANT, which affordability restrictions shall be enforceable for a 30-year period; and

WHEREAS, these restrictions are intended to bind the DECLARANT, and all purchasers of the Property and their successors.

NOW THEREFORE, the DECLARANT declares that the Property is held and will be held, transferred, encumbered, used, sold, conveyed and occupied subject to the covenants, restrictions, and limitations set forth in this Declaration, all of which are declared and agreed to be in furtherance of the Project. All of the restrictions, covenants and limitations will run with the land and will be binding on all parties having or acquiring any right, title or interest in

the Property or any part thereof, will inure to the benefit of the CITY, and will be enforceable by it. Any purchaser under a contract of sale covering any right, title or interest in any part of the Property, by accepting a deed or a contract of sale or agreement of purchase, accepts the document subject to, and agrees to be bound by, any and all restrictions, covenant, and limitations set forth in this Declaration commencing on the date the DECLARANT is notified by the CITY that the Affordable Unit Household information has been obtained and verified, constituting the commencement of the 30-year Affordability Period.

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

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

a. The DECLARANT for itself and its successor(s) on title covenants and agrees that from the date the Project is determined by the CITY to be complete, until the expiration of the Affordability Period, it shall cause all tiny homes in this project to be used as rental affordable housing to Extremely Low-Income households (at or below 60% AMI). The DECLARANT further agrees to file a recordable document setting forth the Project Completion Date when determined by the CITY. Unless otherwise provided in the Agreement, the term Affordable Housing shall include, without limitation, compliance with the following requirements:

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

ii. Principal Residence. The Housing Units constituting the Affordable Units upon the Project Property shall be leased only to eligible natural persons, who shall occupy the Affordable housing units as the tenants' principal place of residence. The forgoing requirement that the tenant of unit occupy the unit as their principal residence does not apply to (i) persons, other than natural persons, who acquire the Project Property or portion thereof by foreclosure or deed in lieu of foreclosure; or qualified entities that acquire the Property or portion thereof with the consent of the CITY.

iii. Household Income Requirements. In order to qualify for housing, all tenants will be required to meet or be below 60% AMI to be eligible for housing. While they will not lose their housing if they start making more income, once they move out, the new tenant will be at or below 60% AMI for Fresno.

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

3. Enforcement of Restrictions. Without waiver or limitation, the CITY shall be entitled to injunctive or other equitable relief against any violation or attempted violation of any Covenant and Restriction.

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

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

5. Benefit. This Declaration shall run with and bind the Property for a term of 30 years from the date of recordation of the Notice of Completion. The failure or delay at any time of the CITY and/or any other person entitled to enforce this Declaration shall in no event be deemed a waiver of the same, or of the right to enforce the same at any time or from time to time thereafter, or an estoppel against the enforcement thereof.

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

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

8. Severability. The invalidity of the Covenant and Restriction or any other covenant, restriction, condition, limitation, or other provision of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration and each shall be enforceable to the greatest extent permitted by law.

9. Pronouns. Any reference to the masculine, feminine, or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include all genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

10. Interpretation. The captions and titles of the various articles, sections, subsections, paragraphs, and subparagraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.

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

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

13. Capitalized Terms. All capitalized terms used in this Declaration, unless otherwise defined herein, shall have the meanings assigned to such terms in the SLFRF Agreement.

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

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

DECLARANT:

Lowell Community Development Corporation, a  
California nonprofit community-based corporation

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

By: LOWELL COMMUNITY DEVELOPMENT CORPORATION  
a California nonprofit community-based organization

By:  
Esther Carver  
Its: Executive Director

**(Attach notary certificate of acknowledgment)**

**EXHIBIT "C"**  
**CERTIFICATE OF COMPLETION**

Recorded at the Request of  
and When Recorded Return to:

City of Fresno  
Planning and Development Department  
Housing and Community Development Division  
2600 Fresno Street, Room 3065  
Fresno, CA 93721-3605

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

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

APN:

City of Fresno

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

Planning and Development Department

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

## Certificate of Completion

APN:

Recitals:

A. By a State and Local Fiscal Recovery Funds (SLFRF) Agreement dated \_\_\_\_\_, 2024, (SLFRF Agreement) between the City of Fresno, a municipal corporation (the CITY), and Lowell Community Development Corporation, a nonprofit public community based organization (DEVELOPER), the DEVELOPER agreed to develop site(s) to locate tiny homes, and related on-site and off-site improvements, with assistance of SLFRF while meeting the affordable housing, income targeting and other requirements of the SLFRF and according to the terms and conditions of the SLFRF Agreement other documents/instruments referenced therein.

B. The SLFRF Agreement was recorded on \_\_\_\_\_, as Instrument No. \_\_\_\_\_ in the Official Records of Fresno County, California.

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

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

E. The CITY's issuance of this Certificate of Completion is conclusive evidence that the DEVELOPER has completed the Project as set forth in the SLFRF Agreement.

### NOW THEREFORE:

1. The CITY certifies that the DEVELOPER commenced construction of the Project on \_\_\_\_\_, 20XX and completed construction of the Project on \_\_\_\_\_ 20XX, and has done so in full compliance with the SLFRF Agreement.

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

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

4. Nothing contained herein modifies any provision of the SLFRF Agreement.

IN WITNESS WHEREOF, CITY has executed this Certificate of Completion as of this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

CITY OF FRESNO

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

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

Planning & Development Department

(Attach notary certificate of acknowledgment)

ATTEST:  
TODD STERMER, CMC  
CITY CLERK

APPROVED AS TO FORM:  
ANDREW JANZ  
City Attorney

By: \_\_\_\_\_  
\_\_\_\_\_, Deputy

By: \_\_\_\_\_  
Angela M. Karst  
Senior Deputy City Attorney

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

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

Lowell Community Development Corporation  
a California nonprofit Community Based Corporation

By: \_\_\_\_\_  
Esther Carver  
Executive Director

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

**(Attach notary certificate of acknowledgment)**



## EXHIBIT “D” – PERFORMANCE MILESTONES

- Achieve Zone Clearance for **8** sites.
- Demonstrate financial capacity to develop additional ADUs
- Allow possession of **\_8\_** (# of units) immediately for ADU developments

### Milestone #1

- Successfully completed development (including final permits and Certificate of Occupancy) of 50% of original units and occupied with income-qualifying households
- Achieve Zone Clearance for **4** of new sites.
- Demonstrate financial capacity to develop additional ADUs.
- Allow possession of **\_4\_** (# of units) for ADU developments

### Milestone #2

- Successfully completed development (including final permits and Certificate of Occupancy) of 50% of total units and occupied with income-qualifying households
- Achieve Zone Clearance for **\_4\_** new sites.
- Demonstrate financial capacity to develop additional ADUs.
- Allow possession of **\_4\_** (# of units) for ADU developments

### Milestone #3

- Successfully completed development (including final permits and Certificate of Occupancy) of 50% of total units and occupied with income-qualifying households
- Achieve Zone Clearance for **\_4\_** # of new sites.
- Demonstrate financial capacity to develop additional ADUs.
- Allow possession of **\_4\_** (# of units) for ADU developments

### Milestone #4

- Successfully completed development (including final permits and Certificate of Occupancy) of 50% of total units and occupied with income-qualifying households
- Achieve Zone Clearance for **\_4\_** # of new sites.
- Demonstrate financial capacity to develop additional ADUs.
- Allow possession of **\_4\_** (# of units) for ADU developments

### Milestone #5

- Successfully completed development (including final permits and Certificate of Occupancy) of 50% of total units and occupied with income-qualifying households
- Achieve Zone Clearance for **\_2\_** # of new sites.
- Demonstrate financial capacity to develop additional ADUs.
- Allow possession of **\_2\_** (# of units) for ADU developments

**Upon occupancy and meeting performance milestones, the DEVELOPER will then have access to the next 4 tiny homes with the same performance milestones condition up to 24 tiny homes.**

**Failure to satisfy any of the performance milestones will constitute a breach of this agreement in any such instances, the CITY may also cancel this agreement without owing any damages or other payment to the DEVELOPER.**

# Self-Certification of Annual Income

## EXHIBIT E

### INSTRUCTIONS:

Please complete one form and include the requested information for all persons in the household. Complete an additional form if the applicant needs more space. The adult head of household must sign and date the form.

### PART I: ELIGIBILITY

HOME funded rental assistance is limited to income eligible families whose annual income does not exceed 60 percent of the area median income, [as determined by HUD](#).

U.S. DEPARTMENT OF HUD STATE: CALIFORNIA		----- 2023 ADJUSTED HOME INCOME LIMITS -----							
PROGRAM	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON	
<b>Bakersfield, CA MSA</b>									
30% LIMITS	17350	19800	22300	24750	26750	28750	30700	32700	
VERY LOW INCOME	28900	33000	37150	41250	44550	47850	51150	54450	
60% LIMITS	34680	39600	44580	49500	53460	57420	61380	65340	
LOW INCOME	46200	52800	59400	65950	71250	76550	81800	87100	
<b>Chico, CA MSA</b>									
30% LIMITS	17350	19800	22300	24750	26750	28750	30700	32700	
VERY LOW INCOME	28900	33000	37150	41250	44550	47850	51150	54450	
60% LIMITS	34680	39600	44580	49500	53460	57420	61380	65340	
LOW INCOME	46200	52800	59400	65950	71250	76550	81800	87100	
<b>El Centro, CA MSA</b>									
30% LIMITS	17350	19800	22300	24750	26750	28750	30700	32700	
VERY LOW INCOME	28900	33000	37150	41250	44550	47850	51150	54450	
60% LIMITS	34680	39600	44580	49500	53460	57420	61380	65340	
LOW INCOME	46200	52800	59400	65950	71250	76550	81800	87100	
<b>Fresno, CA MSA</b>									
30% LIMITS	17350	19800	22300	24750	26750	28750	30700	32700	
VERY LOW INCOME	28900	33000	37150	41250	44550	47850	51150	54450	
60% LIMITS	34680	39600	44580	49500	53460	57420	61380	65340	
LOW INCOME	46200	52800	59400	65950	71250	76550	81800	87100	
<b>Hanford-Corcoran, CA MSA</b>									
30% LIMITS	17350	19800	22300	24750	26750	28750	30700	32700	
VERY LOW INCOME	28900	33000	37150	41250	44550	47850	51150	54450	
60% LIMITS	34680	39600	44580	49500	53460	57420	61380	65340	
LOW INCOME	46200	52800	59400	65950	71250	76550	81800	87100	
<b>Los Angeles-Long Beach-Glendale, CA HUD Metro FMR Area</b>									
30% LIMITS	26500	30300	34100	37850	40900	43950	46950	50000	
VERY LOW INCOME	44150	50450	56750	63050	68100	73150	78200	83250	
60% LIMITS	52980	60540	68100	75660	81720	87780	93840	99900	
LOW INCOME	70650	80750	90850	100900	109000	117050	125150	133200	
<b>Santa Ana-Anaheim-Irvine, CA HUD Metro FMR Area</b>									
30% LIMITS	30150	34450	38750	43050	46500	49950	53400	56850	
VERY LOW INCOME	50250	57400	64600	71750	77500	83250	89000	94750	
60% LIMITS	60300	68880	77520	86100	93000	99900	106800	113700	
LOW INCOME	80400	91850	103350	114800	124000	133200	142400	151550	

## Self-Certification of Annual Income

### PART II: HOUSEHOLD INFORMATION

Enter legal address (where the applicant currently lives) and contact information below. If a household is experiencing homelessness or is in temporary housing, provide a mailing address (where the applicant currently receives mail).

	Legal Address	Mailing Address (if different from legal)
Street, Apt./Unit #		
State, City, Zip Code		
Phone Number(s)		
Email(s)		

Date of Occupancy \_\_\_\_\_

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### PART III: ANNUAL INCOME

Report all current income and income expected to be received in the next 12 months including long-term **unemployment compensation and all hazard pay**. **DO NOT INCLUDE:** IRS Economic Impact Payments (stimulus checks), Federal Pandemic Unemployment Compensation (the additional \$600 per week), Lost Wages Supplemental Payment Assistance (up to \$400 per week), income of a live-in-aide, children of live-in-aides, foster children, foster adults, or the income of minors.

The DEVELOPER, shall make a good faith effort to verify that the income provided by an applicant or occupying Household in an income certification is accurate by taking one or more of the following steps as part of the verification process: (1) obtain a pay stub for the three most recent pay periods; (2) obtain an income verification form from the applicant's current employer; (3) obtain an income verification form from the Social Security Administration and California Department of Social Services if the applicant receives assistance from either of such agencies; (4) obtain income tax return for the most recent three years; or (5) if the applicant is unemployed, obtain another form of independent verification. Copies of Household income certification and verification must be available for review and approval by the CITY prior to initial lease up. The DEVELOPER further warrants, covenants, and agrees that it will cooperate with the CITY in the CITY's income certification/affordability monitoring activities.

**Self-Certification of Annual Income**

**Worksheet for Computing Income**

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

**Summary of Family Income Data**

Name:

Address:

**Assets:**

Family Member	Asset Description	Current Market Value	Income From Assets	Monthly Income From Asset
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1. Net Cash Value of Assets:	\$	-----	-----
2. Total Actual Income From Assets:		\$	\$
3. If Line 1 is greater than \$5,000, multiply by .025 and enter results here, otherwise leave blank.		\$	\$

**Anticipated Monthly Income:**

Family Member:	Wages/ Salaries:	Benefits/ Pensions:	Public Assistance:	Other Income:	Asset Income:
----------------	---------------------	------------------------	-----------------------	---------------	---------------

Enter the  
Greater of Lines  
2 or 3, Monthly  
Income, Below

4. Totals:	a.	b.	c.	d.	e.
5. Enter Total of Items 4a through 4e				This is the <u>monthly</u>	\$
		<u>income</u>			

Number of Household Members \_\_\_\_\_ Annual income: \_\_\_\_\_ %

60% AMI Limit: \_\_\_\_\_

Staff: \_\_\_\_\_

**PART IV: APPLICANT CERTIFICATION**

I certify under penalty of perjury that the above information is complete and accurate to the best of my knowledge. I understand that Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony and assistance can be terminated for knowingly and willingly making a false or fraudulent statement to a department

### Self-Certification of Annual Income

of the United States Government. I agree to provide any additional documentation required by the program administer to document my/our household income.

<b>HEAD OF HOUSEHOLD</b>		
<b>Signature</b>	<b>Printed Name</b>	<b>Date</b>
<b>OTHER ADULT HOUSEHOLD MEMBERS</b>		
<b>Signature</b>	<b>Printed Name</b>	<b>Date</b>
<b>Signature</b>	<b>Printed Name</b>	<b>Date</b>
<b>Signature</b>	<b>Printed Name</b>	<b>Date</b>

**EXHIBIT F****Project Name:** \_\_\_\_\_**Date:** \_\_\_\_\_**Project Implementation Checklist**

This form will determine if a development project proposed under the Fresno Infill Tiny Homes Project will be covered under the Affordable Housing Exemption (California Environmental Quality Act [CEQA] Guidelines Section 15194). Please submit required supporting documentation and information indicated below along with this Checklist, if applicable.

Threshold Requirements		Would Project be consistent with/fulfil this requirement?	Notes / Additional Requirements
<b>CEQA Guidelines Section 15192</b>			
<i>Note: In order to qualify for an exemption set forth in section 15194 of the State CEQA Guidelines, a housing project must meet all of the threshold criteria set forth in section 15192, included below.</i>			
1. The project is consistent with the City's General Plan, applicable Specific Plans, and/or local planning programs outlined below, including any mitigation measures required by such plans or programs, as that plan or program existed on the date that the application for the project pursuant to Section 65943 of the Government Code was deemed complete.			
	a. City of Fresno General Plan	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, provide a brief analysis of project consistency with applicable goals, policies and/or mitigation measures for each applicable plan and/or program identified.
	b. Specific Plan Name: _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	c. Local Planning Program Name: _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	d. Other Plan/Program Name: _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	e. Other Plan/Program Name: _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	f. Other Plan/Program Name: _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	

**Project Implementation Checklist**

2. The project is consistent with the City's zoning ordinance, as that zoning ordinance existed on the date that the application for the project pursuant to Section 65943 of the Government Code was deemed complete.	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, please provide a brief analysis of project consistency with the City's zoning ordinance.	
3. The project is located within an area where community-level environmental review has been adopted or certified.	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, provide the applicable environmental review documentation to verify fulfillment of this requirement.	
4. The proposed project, and other cumulative projects in the City approved prior to the proposed project, would be adequately served by existing utilities, subject to the payment of applicable in-lieu or development fees.	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, provide supporting documentation from utility providers confirming service capacity, as applicable	
5. The proposed project site fulfills the following requirements:			
	a. The project site does not contain wetlands, as defined in Section 328.3 of Title 33 of the Code of Federal Regulations.	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, provide applicable supporting documentation to verify fulfillment of these requirements.
b. The project site does not have any value as an ecological community upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.	<input type="checkbox"/> Yes <input type="checkbox"/> No		
c. Construction at the project site would not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code).	<input type="checkbox"/> Yes <input type="checkbox"/> No		
d. Construction at the project site would not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project is deemed complete.	<input type="checkbox"/> Yes <input type="checkbox"/> No		
e. The project site is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.	<input type="checkbox"/> Yes <input type="checkbox"/> No		
6. The project site has been subjected to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity. In addition, the following steps have been taken in response to the results of this assessment:	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, provide adequate preliminary risk assessment document to verify fulfillment of this requirement.	

## Project Implementation Checklist

	<p>a. If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.</p>		
	<p>b. If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.</p>		
<p>7. The project does not have a significant effect on historical resources pursuant to Section 21084.1 of the Public Resources Code.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If yes, submit a cultural resources study by a historic and/or cultural resources professional that verifies this requirement.</p>	
<p>8. The project site is not subject to wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the General Plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If yes, provide applicable supporting documentation to verify fulfillment of this requirement.</p>	
<p>9. The project site does not have an unusually high risk of fire or explosion from materials stored or used on nearby properties.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If yes, provide applicable supporting documentation (e.g., Fresno Fire Department review) to verify fulfillment of this requirement.?</p>	
<p>10. The project site does not present a risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If yes, provide applicable supporting documentation (e.g. air quality impact analysis) to verify fulfillment of this requirement.?</p>	
<p>11. The project site is not within a delineated earthquake fault zone or a seismic hazard zone, as determined pursuant to Section 2622 and 2696 of the Public Resources Code respectively, or the General Plan or zoning ordinance contains provisions to mitigate the risk of an earthquake or seismic hazard.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If yes, provide applicable supporting documentation to verify fulfillment of this requirement.</p>	
<p>12. The project site does not present a landslide hazard, flood plain, flood way, or restriction zone, or the General Plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If yes, provide applicable supporting documentation to verify fulfillment of this requirement.</p>	
<p>13. The project site is not located on developed open space.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If yes, provide applicable supporting documentation to verify fulfillment of this requirement.?</p>	
<p>14. The project site is not located within the boundaries of a state conservancy.</p>	<p><input type="checkbox"/> Yes</p>	<p>?If yes, provide applicable supporting</p>	



**Project Implementation Checklist**

	<input type="checkbox"/> No	documentation to verify fulfillment of this requirement.					
15. The project has not been divided into smaller projects to qualify for one or more of the exemptions set forth in sections 15193 to 15195 of the State CEQA Guidelines.	<input type="checkbox"/> Yes <input type="checkbox"/> No	?					
<b>CEQA Guidelines Section 15194</b>							
1. The project meets the threshold criteria set forth in Section 15192 of the State CEQA Guidelines.	<input type="checkbox"/> Yes <input type="checkbox"/> No						
2. The project site is not more than five acres in area.	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, list project Assessor's Parcel Numbers (APNs) and acreages in Table A, included in Attachment 1 of this Checklist. The combined acreage of all parcels developed under the Fresno Infill Tiny Homes Project cannot exceed 5 acres.					
3. The project meets <u>one</u> of the following location requirements relating to population density							
<table border="1"> <tr> <td>a. The project site is located within an urbanized area or within a census-defined place with a population density of at least 5,000 persons per square mile.</td> <td rowspan="3"><input type="checkbox"/> Yes <input type="checkbox"/> No</td> <td rowspan="3"></td> </tr> <tr> <td>b. If the project consists of 50 or fewer units, the project site is located within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.</td> </tr> <tr> <td>c. The project is located within either an incorporated city or a census defined place with a population density of at least 1,000 persons per square mile and there is no reasonable possibility that the project would have a significant effect on the environment or the residents of the project due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.</td> </tr> </table>	a. The project site is located within an urbanized area or within a census-defined place with a population density of at least 5,000 persons per square mile.	<input type="checkbox"/> Yes <input type="checkbox"/> No		b. If the project consists of 50 or fewer units, the project site is located within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.	c. The project is located within either an incorporated city or a census defined place with a population density of at least 1,000 persons per square mile and there is no reasonable possibility that the project would have a significant effect on the environment or the residents of the project due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.		
a. The project site is located within an urbanized area or within a census-defined place with a population density of at least 5,000 persons per square mile.	<input type="checkbox"/> Yes <input type="checkbox"/> No						
b. If the project consists of 50 or fewer units, the project site is located within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.							
c. The project is located within either an incorporated city or a census defined place with a population density of at least 1,000 persons per square mile and there is no reasonable possibility that the project would have a significant effect on the environment or the residents of the project due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.							
4. The project meets <u>one</u> of the following site-specific location requirements:							
<table border="1"> <tr> <td>a. The project site has been previously developed for qualified urban uses; or</td> <td rowspan="3"><input type="checkbox"/> Yes <input type="checkbox"/> No</td> <td rowspan="3"></td> </tr> <tr> <td>b. The parcels immediately adjacent to the project site are developed with qualified urban uses.</td> </tr> <tr> <td>c. The project site has not been developed for urban uses and all of the following conditions are met: <ul style="list-style-type: none"> <li>o No parcel within the site has been created within 10 years</li> </ul> </td> </tr> </table>	a. The project site has been previously developed for qualified urban uses; or	<input type="checkbox"/> Yes <input type="checkbox"/> No		b. The parcels immediately adjacent to the project site are developed with qualified urban uses.	c. The project site has not been developed for urban uses and all of the following conditions are met: <ul style="list-style-type: none"> <li>o No parcel within the site has been created within 10 years</li> </ul>		
a. The project site has been previously developed for qualified urban uses; or	<input type="checkbox"/> Yes <input type="checkbox"/> No						
b. The parcels immediately adjacent to the project site are developed with qualified urban uses.							
c. The project site has not been developed for urban uses and all of the following conditions are met: <ul style="list-style-type: none"> <li>o No parcel within the site has been created within 10 years</li> </ul>							

**Project Implementation Checklist**

	<p>prior to the proposed development of the site.</p> <ul style="list-style-type: none"> <li>○ At least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses.</li> <li>○ The existing remaining 25 percent of the perimeter of the site adjoins parcels that have previously been developed for qualified urban uses.</li> </ul>		
<p>5. The project consists of the construction, conversion, or use of residential housing consisting of 100 or fewer units that are affordable to low-income households.</p>		<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>6. The developer of the project provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for lower income households for a period of at least 30 years, at monthly housing costs deemed to be "affordable rent" for lower income, very low income, and extremely low income households, as determined pursuant to Section 50053 of the Health and Safety Code.</p>		<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If yes, provide applicable supporting documentation to verify fulfillment of this requirement.</p>

**Attachment 1**

<b>Table A: Cumulative area of development projects under the Fresno Infill Tiny Homes Project</b>		
<b>Project Name</b>	<b>Project APN(s)</b>	<b>Project Area (acres)</b>
1. TBD	APN:	
	APN:	
2. TBD	APN:	
	APN:	
3. TBD	APN:	
	APN:	
4. TBD	APN:	
	APN:	
5. TBD	APN:	
	APN:	
6. TBD	APN:	
	APN:	
<b>Cumulative Total Area (acres)</b>		