

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

City of Fresno
2600 Fresno Street
Fresno, Ca. 93721
Attention: City Manager

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

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

CITY OF FRESNO, a municipal corporation

By: _____

Wilma Quan-Schecter

Its: City Manager

Dated: _____

By: _____

Marlene Murphey

Its: Executive Director,
Housing Successor

Dated: _____

**FIRST AMENDMENT TO
DISPOSITION AND DEVELOPMENT AGREEMENT**

By and Between

THE CITY OF FRESNO
a municipal corporation,

and

NOYAN FRAZIER CAPITAL, LLC
a California Limited Liability Company

**FIRST AMENDMENT TO
DISPOSITION AND DEVELOPMENT AGREEMENT**

by and among

CITY OF FRESNO
a municipal corporation,

and

NOYAN FRAZIER CAPITAL, LLC
a California Limited Liability Company

South Fulton Street
Mixed Use Residential Rental Project
Fresno, California 93721

ATTACHMENTS

- Exhibit B1 Scope of Development and Basic Design
- Exhibit C1 Budget/Financial Plan
- Exhibit D1 Performance Schedule
- Exhibit G1 Affordability Restrictions

**FIRST AMENDMENT TO
DISPOSITION AND DEVELOPMENT AGREEMENT**

This First Amendment (Amendment) is entered into as of _____, 2018, between CITY OF FRESNO, a municipal corporation (City), and NOYAN FRAZIER CAPITAL, LLC, a California Limited Liability Company (the Developer).

RECITALS

The parties enter this Amendment based on the following facts, understandings, and intentions:

- A. The parties entered into the Disposition and Development Agreement (DDA) on March 15, 2016, recorded as Document No. 2016-0068936 in the Office of the Fresno County Recorder.
- B. Since entering into the DDA, certain conditions have been met. Specifically:
 - 1. The City has purchased the Parking Lot at Inyo and Fulton Streets formerly owned by the Successor Agency (APN 468-282-23T);
 - 2. The Fulton Street reconstruction has been completed;
 - 3. Developer has secured certain funding, and intends to apply for additional funding; and
 - 4. The Negotiating Period for the exclusive negotiation for certain phases of the Project has expired.
- C. The City and Developer now wish to amend certain terms of the DDA as set forth herein.

FIRST AMENDMENT

In consideration of the mutual promises and covenants and upon the terms and conditions set forth in this Amendment, the parties agree as follows:

- 1. Section 1.18 is amended to read:

Outside Date. "Outside Date" means April 11, 2020 or the date that aligns with the Affordable Housing and Sustainable Communities funding award extension, whichever is earlier.
- 2. Section 2.3.1 E. is amended to read:

E. Developer has submitted evidence that combined monies from the funding sources are not less than the greater of the total development cost of \$18,162,963 or the amount which the City determines is necessary to complete the Project, including evidence of a loan commitment for such funding sources acceptable to the City. The Project has secured the following sources of funds: (A) Affordable Housing and Sustainable Communities funding (AHSC funding award), administered by the California Department of Housing and Community Development in the amount of \$1,945,352 for Housing Related Infrastructure, \$2,345,836 for Sustainable Transportation Infrastructure, \$122,999 for Transportation Related Amenities

and \$1,324,543 for the Affordable Housing Development in the form of a loan; (B) Measure C TOD funds programmed in Fiscal Years 15/16 and 16/17 of \$711,085 and \$25,000 in Measure C Bikeways; and (C) San Joaquin Valley Air Pollution Control District Public Benefits Grants Program in the amount of \$1,889,511. Additionally, Developer intends to apply for tax credits no later than December 31, 2018. If City determines that said funds are not sufficient to complete the Project, Owner may satisfy this condition as agreed to by Developer and City in writing. Developer's inability to secure an extension of the AHSC funding award through April 11, 2020 or the date that aligns with the Affordable Housing and Sustainable Communities funding award extension, whichever is earlier, will automatically terminate this Agreement.

3. Section 4.12 is amended to read:

4.12 Exclusive Good Faith Negotiations. The Parties, during the Negotiation Period defined in Section 4.12.2 below, and only for so long as Developer timely meets its obligations under this DDA, shall negotiate exclusively and in good faith regarding the proposed development of Phase 4 of the Fulton Street Project as further described in Exhibit H and incorporated herein by reference ("Phase 4 Site") and the terms of the DDA for that Phase. Good faith negotiations shall include, without limitation, attending scheduled meetings, directing staff and consultants to cooperate with the other Party to the extent reasonably practicable and necessary to negotiations, providing information reasonably available to the Party and necessary to negotiations, and promptly reviewing and returning any comments on correspondence, reports, agreements or other documents received from the other Party.

4.12.1 The negotiations under this Section will be based on a project concept including components described in Exhibit H and incorporated by reference herein.

4.12.2 The Parties will negotiate until April 11, 2020 or the date that aligns with the Affordable Housing and Sustainable Communities funding award extension, whichever is earlier, for the Phase 4 Site (the "Negotiation Period"). When the Negotiation Period expires, this exclusive right to negotiate shall automatically terminate.

Notwithstanding the foregoing, any Party may terminate the rights under this Section 4.12 for cause in the event the other Party is in default of this DDA or this Section 4.12 for failure to negotiate in good faith. Any substantive breach of this DDA shall constitute a failure to negotiate in good faith. No Party shall terminate the rights under this Section 4.12 unless the Party seeking to terminate has first provided written notice of its intent to terminate the rights under this Section to the other Party, specifying the cause, and the non-performing party(ies) fail(s) to cure the default or other cause within ten (10) days after receipt of such notice. In the event the rights under this Section 4.12 are terminated, in accordance with this paragraph, no Party shall have any further rights, obligations, or liability to the other Party relating

to the Phase 2 Site.

4. Subsection 7.3.1 is amended to read:

7.3.1 Construction of Affordable Housing. The Developer covenants and agrees to construct a total of fifty four (54) units, in conformity with the Scope of Development. At least ten (10) of the Restricted Units shall be restricted to rental at an Affordable Rent to Very Low or Lower Income Households, or Moderate to Lower Income Households if permitted by the requirements of the grant issued by the Affordable Housing and Sustainable Communities Program, shown as 50% of AMI in Exhibit G, but in no case higher than 80% of AMI. All Restricted Units shall be subject to and shall be leased in compliance with the Tenant Selection Criteria attached hereto.

5. Exhibits B, C, D, and G shall be replaced with Exhibit B1, C1, D1, and G1 attached to this Amendment.

6. Except as expressly amended in this First Amendment, all terms of the DDA shall remain in full force and effect.

IN WITNESS WHEREOF, City and Developer have executed this Amendment on the dates set forth below.

DEVELOPER:
NOYAN FRAZIER CAPITAL, LLC,
A California Limited Liability Company

CITY:
CITY OF FRESNO,
A Municipal Corporation

By: 
Mehmet Noyan

By: _____
Wilma Quan-Schecter, City Manager

Its: General Partner

Dated: JUNE 13 2018

Dated: _____

By: 
Terance Frazier

By: _____
Marlene Murphey, Executive Director

Its: _____

City in its capacity as Housing Successor

Dated: 6/13/18

Dated: _____

The above persons to execute this agreement before a Notary Public and attach the notary acknowledgments.

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By _____
(Deputy)

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By  _____
(Deputy/Assistant)

- Attachments:
- Exhibit B1 Scope of Development and Basic Design
 - Exhibit C1 Budget/Financial Plan
 - Exhibit D1 Performance Schedule
 - Exhibit G1 Affordability Restrictions/Exhibits

EXHIBIT B1

SCOPE OF DEVELOPMENT

The **South Fulton Street Project** pertains to 4.52 acres of property located on both sides of Fulton Street between Kern and Inyo Streets, a portion of a property located on the northwesterly corner of Inyo and Home Run Alley, and a portion of property located on the north side of Inyo between Federal Alley and Van Ness Avenues. A five-phase mixed use project is proposed on these sites as noted below:

Phase 1 will cover .79 acres of property located on the northwest corner of Fulton and Inyo Streets, and proposes up to a five-story mixed use building that will include 50 multiple family residential units and up to 15,000 square feet of ground floor retail and will involve the demolition of two existing vacant buildings totaling 6,500 square feet. Outdoor/sidewalk dining may be a part of this phase.

Phase 2 DELETED.

Phase 3 DELETED.

Phase 4 will cover .24 acres and is located on the southwest corner of Fulton and Kern Streets, 887 Fulton Mall. This phase is proposed to entail the adaptive reuse of the existing Berkeley's building 33,750 square feet for retail use. A new 9,000 square foot roof deck is also proposed. Any work performed on the Berkeley building's character defining features that form the basis for this building's potential historic significance shall follow the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Restoring and Reconstructing Historic Buildings or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), Weeks and Grimmer. Outdoor/sidewalk dining may be a part of this phase.

Phase 5 DELETED

**EXHIBIT C1
Budget/Financial Plan**

Affordable Housing Development (AHD)

Sources	Amount
LAND	\$432,280
AHSC Grant	\$1,945,352
AHSC Loan	\$1,324,543
4% Tax Credit Equity	\$694,763
Impact Fee Waiver	\$495,270
Developer Equity	\$1,400,000
Air Pollution Control District	\$1,900,000
<i>Subtotal</i>	<i>\$8,192,208</i>
Perm Loan	\$9,970,755
Total Sources	\$18,162,963

Uses	Amount
Land Acquisition + Closing Costs	\$436,603
Soft Costs	\$930,127
Hard Costs	\$14,946,115
Developer Fee	\$424,884
Financing Costs	\$1,425,234
Total Uses	\$18,162,963

AHD and Transportation Infrastructure

Measure C TOD	\$ 711,085.00
Measure C Bikeways	\$ 25,000.00
AHSC - Sustainable Transportation Infrastructure	\$ 2,345,836.00
AHSC - Transportation Related Amenities	\$ 122,999.00
	\$ 3,204,920.00

Total Development Project **\$ 21,367,883.18**

**EXHIBIT D1
PERFORMANCE SCHEDULE**

<u>Items Completed</u>	<u>Time for Performance</u>	<u>Estimated Date</u>
Developer prepares and submits to City Concept Drawings and Site Plan, including architectural theme and treatment. Thereafter, final drawings and specifications shall be prepared in accordance with Concept Drawings and Site Plan.	Complete	Complete
Developer executes and delivers Agreement to City		Complete
City approves Disposition and Development Agreement (DDA) with Developer for Project	February 25, 2016	Complete
City executes Agreement.	Within 15 days after approval of this Agreement by City Council.	Complete
Escrow opens	Subject to securing of all financing sources necessary to move forward with construction.	January 2019
Escrow closes	Subject to satisfaction of all conditions precedent.	June 2019
<u>Commencement of Construction of Developer's Improvements.</u> Within 30 days after receipt of building permits by the Developer, construction shall commence on improvements to be constructed on the Project Site.	Within six months of Close of Escrow.	July 2019
<u>Completion of Construction of Developer's Improvements.</u> The Developer shall complete construction of the improvements to be constructed on the Project Site.	Within the specified months after commencement thereof by the Developer, not to exceed 12 months after commencement of	July 2020

	construction	
<u>Issuance – Certificate of Completion.</u> City shall furnish the Developer with a Certificate of Completion on the Project.	Promptly after completion of all construction and upon written request thereof by the Developer.	August 2020

Improvements shall be completed within 12 months of the start of construction.

Construction to commence by: July 31, 2019
 Construction to be completed by: August 31, 2020 (“**Construction Completion Date**”)

* These dates are subject to termination and extension provisions expressly provided in the DDA.

EXHIBIT G1

**REGULATORY AGREEMENT AND
DECLARATION OF COVENANTS AND RESTRICTIONS**

FREE RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CITY OF FRESNO
2344 Tulare Street
Fresno, CA 93721
Attn: Executive Director

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

**REGULATORY AGREEMENT AND
DECLARATION OF COVENANTS AND RESTRICTIONS**

THIS REGULATORY AGREEMENT AND DECLARATION OF COVENANTS AND RESTRICTIONS ("Agreement") is made and entered into this ____ day of _____, _____, by and between the CITY OF FRESNO, a public body, corporate and politic ("City"), and NOYAN FRAZIER CAPTAL, LLC, a California limited liability company ("Owner").

RECITALS:

A. Pursuant to a Disposition and Development Agreement by and between City and Owner dated _____, 201_ (the "DDA"), City has provided to Owner financial assistance in the amount of approximately One Hundred Thousand Dollars (\$100,000.00) in in kind assistance (the "City Assistance"), for the purpose of assisting Owner in the acquisition of real property and the construction of a residential apartment complex thereon wherein 20% percent of the units shall be rented to low income households, on that certain real property located in the City of Fresno, County of Fresno, State of California, more particularly described in Exhibit "1" attached hereto and incorporated herein by reference (the "Property").

B. Pursuant to the DDA, Owner has agreed to construct and maintain a rental apartment housing project consisting of fifty four (54) total residential units (hereinafter referred to collectively as the "Project") on the Property. The Project is also referred to in the DDA as the "Project," and is further described in the Scope of Development and Project Design attached to the DDA.

C. City and Owner now desire to place restrictions upon the use and operation of the Project, in order to ensure that the Project shall be operated continuously as a rental apartment housing project with at least ten (10) of the units available for rental by low income persons for the term of this Agreement.

A G R E E M E N T:

NOW, THEREFORE, the Owner and City declare, covenant and agree, by and for themselves, their heirs, executors, administrators and assigns, and all persons claiming under or through them, that the Property shall be held, transferred, encumbered, used, sold, conveyed, leased and occupied, subject to the covenants and restrictions hereinafter set forth, all of which are declared to be in furtherance of a common plan for the improvement and sale of the Property, and are established expressly and exclusively for the use and benefit of the City, the residents of the City of Fresno, and every person renting a dwelling unit on the Property.

AFFORDABILITY RESTRICTIONS RUNNING WITH LAND

In addition to the covenants and conditions contained in the DDA, the following California Community Redevelopment Law (California Health & Safety Code Section 33000 et seq.) affordability requirements shall be imposed upon the ten (10) Affordable Units on the Property funded under the Agreement and shall bind the Owner and all purchasers of the Property and their successors until the date that is fifty-five (55) years following recordation of the City's Certificate of Completion as defined in the OPA.

The Affordable Units on the Property are held and will be held, transferred, encumbered, used, sold, conveyed and occupied subject to the covenants, restrictions, and limitations set forth in this Agreement, all of which are in furtherance of the Project, the Community Redevelopment Law including City's obligations set forth at California Health & Safety Code respect to Low and Moderate Income Housing Asset Funds. 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 Affordable Units upon 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 or other transferee of an interest covering any right, title or interest in any part of the Affordable Units upon the Property, by accepting a deed or a contract of sale or agreement of purchase, accepts the document subject to, and agrees to be bound by, any and all restrictions, covenants, and limitations set forth in this Agreement until the date that is fifty-five (55) years following recordation of the City's Certificate of Completion.

1. Restrictions. The following covenants and restrictions ("Restrictions") on the use and enjoyment of the Affordable Units upon 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 Affordable Units upon 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. From the date of recordation of this Agreement until the expiration of the Affordability Period, the ten (10) Affordable Units funded under the DDA are to be used as Low Income Affordable Rental Housing and affordable replacement dwellings as provided for in the DDA and this Agreement. Owner agrees to file a recordable document setting forth the Project Completion Date and the Affordability Period as and when determined by the City. Unless otherwise provided in the Agreement, the term "Affordable Rental Housing" shall include without limitation compliance with the following requirements:

Nondiscrimination. There shall be no discrimination against nor segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, ancestry, or handicap in the sale, transfer, use, occupancy, tenure, or enjoyment of any of the Property, nor shall Owner or any person claiming under the Owner, 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 Property.

Principal Residence. Each of the Affordable Units upon the Property shall be leased only to natural persons, who shall occupy such as a principal residence.

Income Requirements. The ten (10) Affordable Units constituting Low Income Affordable Rental Housing upon the Property may be leased only to (a) natural person(s) whose annual household income at the time of initial occupancy is not greater than fifty percent (50%) of the most recent annual median income calculated and published by HUD for the Fresno Metropolitan Statistical Area applicable to such household's size, and at an affordable rent for very low income households, consistent with the applicable California Redevelopment Law, including California Health & Safety Code Section 50053(b). The income requirements referenced in this paragraph shall be referred to collectively as the "Low-Income Requirements."

Injunctive Relief and Recapture. Should any of the ten (10) Affordable Units constituting Low Income Affordable Rental Housing upon the Property not continue, at the time of initial occupancy, to satisfy the Low-Income Requirements, then, during the Affordability Period, such Unit(s) shall be made available for subsequent lease only to Households that qualify as a required Extremely Low, Very Low-, Lower, or Moderate-Income Household, as defined in California Health & Safety Code Sections 50106, 50105, and 50079.5 for use as the Household's principal residence.

2. 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 this Agreement, including the Restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof.

3. Income Computation and Certification Reporting Requirements. Prior to each Household's occupancy of an Affordable Unit, Owner shall comply with all of the following requirements:

a. Income Computation. Immediately prior to a Household's occupancy of an Affordable Unit, Owner shall obtain and maintain on file an Income Computation and Certification form, attached hereto as Exhibit "2," from each such Household dated immediately prior to the date of initial occupancy in the Project by such Household. In addition, the Owner will provide such further information as may be required in the future by the City. Owner shall use its best efforts to verify that the income provided by an applicant is accurate by taking the following steps as a part of the verification process: (i)

obtain three (3) pay stubs for the most recent pay periods; (ii) obtain a written verification of income and employment from applicant's current employer; (iii) obtain an income verification form from the Social Security Administration and/or California Department of Social Services if the applicant receives assistance from either agency; (iv) if an applicant is unemployed or did not file a tax return for the previous calendar year, obtain other verification of such applicant's income as is satisfactory to the City; and (v) obtain such other information as may be requested by the City. A copy of each such completed Income Computation and Certification form shall be filed with the City prior to the occupancy of an Affordable Unit by a Household whenever possible, but in no event more than thirty (30) days after initial occupancy by said Household.

b. **Income Recertification.** Immediately prior to the first anniversary date of the occupancy of an Affordable Unit by a Household and on each anniversary date thereafter, Owner shall recertify the income of such Household by obtaining a completed Income Computation and Certification form based upon the current income of each occupant of the Affordable Unit.

In the event the recertification demonstrates that such Household's income exceeds the income at which such Household would qualify to rent the Affordable Unit, such Household will no longer qualify for Affordable Rent. Owner shall provide the City with a copy of each such completed recertification with the next submission of Certificate of Continuing Program Compliance, as specified herein.

c. **Certificate of Continuing Program Compliance.** Upon the issuance of the Certificate of Completion and annually by October 31 of each year, or at any time upon the written request of City, Owner shall advise the City of the occupancy of the Project by delivering a Certificate of Continuing Program Compliance, attached hereto as Exhibit "3," certifying: (i) the number of Affordable Units of the Project which were occupied or deemed occupied pursuant to this Agreement by a Household during such period; and (ii) to the knowledge of Owner either: (a) no unremedied default has occurred under this Agreement; or (b) a default has occurred, in which event the Certificate of Continuing Program Compliance shall describe the nature of the default and set forth the measures being taken by the Owner to remedy such default.

d. **Maintenance of Records.** Owner shall maintain complete and accurate records pertaining to the Affordable Units, and shall permit any duly authorized representative of the City to inspect the books and records of Owner pertaining to the Project including, but not limited to, those records pertaining to the occupancy of the Affordable Units.

e. **Reliance on Tenant Representations.** Each lease between Owner and a Household shall contain a provision to the effect that Owner has relied on the income certification and supporting information supplied by the Household in determining qualification for occupancy of the Affordable Unit,

and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease.

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 above Restrictions. The acceptance of a deed of conveyance to the Property shall constitute an agreement that the Restrictions, as such may be amended or supplemented from time to time, is accepted and ratified by such future owners, tenant or occupant, and such Restrictions 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 Restrictions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof.

5 Benefit. This Agreement and the Restrictions herein shall run with and bind the Property for a term commencing on the date this Agreement is recorded in the Office of the Recorder of the County of Fresno, State of California, and expiring upon the expiration of the Affordability Period. The failure or delay at any time of City and/or any other person entitled to enforce these 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.

6. Costs and Attorney's Fees. In any proceeding arising because of failure of Owner or any future owner of the Property to comply with the Restrictions required by this Agreement, as may be amended from time to time, 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 Owner nor any future owner of the Property may exempt itself from liability for failure to comply with the Restrictions required in this Agreement.

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

9. Pronouns. Any reference in this Agreement and the Restrictions herein 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 Agreement are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Agreement or any provision hereof.

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

12. Amendments. This Agreement shall be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the County of Fresno.

13. Notice. Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, or by certified or registered 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 hereto:

City: City of Fresno as Housing Successor
2344 Tulare Street, Suite 200
Fresno, CA 93721
Attn: Executive Director

Copy to: City Attorney
Fresno City Hall
2600 Fresno Street
Fresno, CA 92612

Owner: _____

The notice shall be deemed given three (3) business days after the date of mailing, or, if personally delivered, when received.

14. GOVERNING LAW. This Agreement shall be governed by the laws of the State of California.

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

16. FURTHER ASSURANCES. The parties will execute such other and further documents, and will take any other steps, necessary, helpful, or appropriate to carry out the provisions of this Agreement.

[END -- SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the City and Owner have executed this Regulatory Agreement and Declaration of Covenants and Restrictions by duly authorized representatives on the date first written hereinabove.

ATTEST:
CITY CLERK

Deputy

CITY OF FRESNO,
a municipal corporation in its capacity as
Housing Successor to the Redevelopment
Agency of the City of Fresno

By: _____
Marlene Murphey
Executive Director

APPROVED AS TO FORM:
CITY ATTORNEY

NOYAN FRAZIER CAPITAL, LLC, a
California limited liability company

By: _____
Date: _____
Name: _____
Title: _____

[END OF SIGNATURES]

Attachments:

- Exhibit A: Legal Description of Property
- Exhibit B: Income Computation and Certification Form
- Exhibit C: Certificate of Continuing Program Compliance

STATE OF CALIFORNIA)

) ss.

COUNTY OF)

On _____, before me, _____, personally appeared

_____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Notary Public

[SEAL]

STATE OF CALIFORNIA)

) ss.

COUNTY OF)

On _____, before me, _____, personally appeared

_____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Notary Public

[SEAL]

///

EXHIBIT "1" to REGULATORY AGREEMENT

LEGAL DESCRIPTION

Real property in the City of Fresno, County of Fresno, State of California, described as follows:

835 Fulton – APN 468-282-22T
 829 Fulton – APN 468-282-05T
 Parking lot at Fulton & Inyo – APN 468-282-23T

**EXHIBIT "2" TO REGULATORY AGREEMENT AND
 DECLARATION OF RESTRICTIONS**



**City of Fresno as Housing Successor to
 the Redevelopment Agency of the City of
 Fresno**

**2344 Tulare Street
 Suite 200
 Fresno, CA 93721
 www.fresnorda.com
 559.621.7628**

**Multi-Family Housing Program
 INCOME COMPUTATION AND CERTIFICATION**

Property Information

Name of Property:	Number of Bedrooms (see table on page 3 for allowable rents)	Income Category	Maximum Income Level of Household (percent of Area Median Income)
Property Address:			
Rental Agent (Name):	<input type="checkbox"/> 0 (studio)	Extremely Low	<input type="checkbox"/> 30% of AMI
	<input type="checkbox"/> 1 bedroom	Very Low	<input type="checkbox"/> 50% of AMI
Owner Certification (Signature):	<input type="checkbox"/> 2 bedrooms	Lower	<input type="checkbox"/> 80% of AMI
	<input type="checkbox"/> 3 bedrooms	Moderate	<input type="checkbox"/> 120% of AMI
Owner has relied on the income certification and supporting information supplied by the Applicant in determining qualification for occupancy of the Affordable Unit, and any material misstatement in such certification by Applicant (whether or not intentional) may be cause for immediate termination of such lease.			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Applicant Contact Information

Information on primary

lease applicant(s).

Name (LAST, FIRST, M.I.)	Current Address City, State, Zip	Contact Phone No.	Other Phone No.
1.	1. (if different)	1. (if different)	1. (if different)
2.	2.	2.	2.

Household Information

List all members of the household* proposed to live at the address listed above.

Name (LAST, FIRST, MIDDLE INITIAL)	Social Security	Employer/ Contact Phone Number	Birth Date (mm/dd/yy)	Relations hip
	CA Driver's License			
1.				<i>Self</i>
2.				
3.				

*Household is a group of related or unrelated persons occupying the same house with at least one member being the head of the household. If roommates, please complete above form as "Self" for each roommate. Use a separate page for additional household members.

Show income received from the following sources by all persons listed above. Do not show income from persons less than 14 years of age.

Yes	No	Source of Income	Gross Income (Current Year)	Person Receiving Income (As Shown Above)
<input type="checkbox"/>	<input type="checkbox"/>	Wages or salary from employment.		
<input type="checkbox"/>	<input type="checkbox"/>	Earnings from self-employment		
<input type="checkbox"/>	<input type="checkbox"/>	Unemployment Compensation		
<input type="checkbox"/>	<input type="checkbox"/>	Social Security or Supplemental Security Income (SSI)		
<input type="checkbox"/>	<input type="checkbox"/>	Veteran's Benefits		
<input type="checkbox"/>	<input type="checkbox"/>	Worker's Compensation		
<input type="checkbox"/>	<input type="checkbox"/>	Child support or alimony payments		
<input type="checkbox"/>	<input type="checkbox"/>	Pensions or Annuities/Railroad Retirement		
<input type="checkbox"/>	<input type="checkbox"/>	Property rental income		
<input type="checkbox"/>	<input type="checkbox"/>	Aid to Families w/Dependent		

employment from applicant's current employer; (iii) obtain an income verification form from the Social Security Administration and/or California Department of Social Services if the applicant receives assistance from either agency; (iv) if an applicant is unemployed or did not file a tax return for the previous calendar year, obtain other verification of such applicant's income; and (v) obtain such other information as may be requested by the Agency. A copy of each such completed Income Computation and Certification form shall be completed and made available for Agency review prior to the occupancy of an Affordable Unit by a Household whenever possible, but in no event more than thirty (30) days after initial occupancy by said Household.

2015 Maximum Income Levels						
	One Person	Two Person	Three Person	Four Person	Five Person	Six Person
Extremely Low (≤ 30% of AMI)	\$12,15 0	\$15,93 0	\$20,09 0	\$24,25 0	\$28,41 0	\$32,57 0
Very-Low Income (≤ 50% of AMI)	\$20,30 0	\$23,20 0	\$26,10 0	\$28,95 0	\$31,30 0	\$33,60 0
Lower Income – (≤ 80% of AMI)	\$32,45 0	\$37,05 0	\$41,70 0	\$46,30 0	\$50,05 0	\$53,75 0
Moderate Income – (≤ 120% AMI)	\$48,65 0	\$55,60 0	\$62,55 0	\$69,50 0	\$75,05 0	\$80,60 0

2015 Maximum Rent Limits

- Affordable Rent for Extremely Low Income Households is the product of 30% times 30% of the area median income adjusted for family size appropriate to the unit less a reasonable allowance for utilities (Health and Safety Code Section 50053(b)(1).
- Affordable Rent for Very Low Income Households is the product of 30% times 50% of the area median income adjusted for family size appropriate to the unit less a reasonable allowance for utilities (Health and Safety Code Section 50053(b)(2).
- Affordable Rent for Lower Income Households is the product of 30% times 60% of the area median income adjusted for family size appropriate to the unit less a reasonable allowance for utilities (Health and Safety Code Section 50053(b)(3).
- Affordable Rent for Moderate Income Households is the product of 30% times 110% of the area median income adjusted for family size appropriate to the unit less a reasonable allowance for utilities (Health and Safety Code Section 50053(b)(4).
- Maximum Rents are calculated based on household sizes “appropriate to the unit” of 1 person for a studio unit; 2 persons for a one-bedroom apartment; 3 persons for a two bedroom apartment; 4 persons for a three bedroom apartment; 5 persons for a four bedroom apartment (Health & Safety Code Section 50052.5(h).

	Maximum	Est. Utility	Net
Maximum Rent for Extremely Low Income Households	Rent	Allowance*	Rent
Maximum Monthly Rent for a Studio Apartment	\$303.75	\$(42.00)	\$261.75
Maximum Monthly Rent for a One-Bedroom Apartment	\$384.75	\$(42.00)	\$342.75
Maximum Monthly Rent for a Two-Bedroom Apartment	\$502.25	\$(54.00)	\$448.25
Maximum Monthly Rent for a Three-Bedroom Apartment	\$606.25	\$(66.00)	\$540.25
Maximum Monthly Rent for a Four-Bedroom Apartment	\$710.25	\$(75.00)	\$635.25

	Maximum	Est. Utility	Net
Maximum Rent for Very Low Income Households	Rent	Allowance*	Rent
Maximum Monthly Rent for a Studio Apartment	\$507.50	\$(42.00)	\$465.50
Maximum Monthly Rent for a One-Bedroom Apartment	\$580.00	\$(42.00)	\$538.00
Maximum Monthly Rent for a Two-Bedroom Apartment	\$652.50	\$(54.00)	\$598.50
Maximum Monthly Rent for a Three-Bedroom Apartment	\$723.75	\$(66.00)	\$657.75
Maximum Monthly Rent for a Four-Bedroom Apartment	\$782.50	\$(75.00)	\$707.50

	Maximum	Est. Utility	Net
Maximum Rent for Lower Income Households	Rent	Allowance*	Rent
Maximum Monthly Rent for a Studio Apartment	\$608.75	\$(42.00)	\$566.75
Maximum Monthly Rent for a One-Bedroom Apartment	\$695.00	\$(42.00)	\$653.00
Maximum Monthly Rent for a Two-Bedroom Apartment	\$782.50	\$(54.00)	\$728.50
Maximum Monthly Rent for a Three-Bedroom Apartment	\$868.75	\$(66.00)	\$802.75
Maximum Monthly Rent for a Four-Bedroom Apartment	\$938.75	\$(75.00)	\$863.75

	Maximum	Est. Utility	Net
Maximum Rent for Moderate Income Households	Rent	Allowance*	Rent
Maximum Monthly Rent for a Studio Apartment	\$1,115.00	\$(42.00)	\$1,073.00
Maximum Monthly Rent for a One-Bedroom Apartment	\$1,275.00	\$(42.00)	\$1,233.00

Maximum Monthly Rent for a Two-Bedroom Apartment	\$1,433.75	\$(54.00)	\$1,379.75
Maximum Monthly Rent for a Three-Bedroom Apartment	\$1,592.50	\$(66.00)	\$1,526.50
Maximum Monthly Rent for a Four-Bedroom Apartment	\$1,720.00	\$(75.00)	\$1,645.00

* The utility allowance shown above is for a low-rise (1-2 stories) project constructed in 2011 or later.

**Exhibit "3" TO REGULATORY AGREEMENT AND
DECLARATION OF COVENANTS AND RESTRICTIONS**



**City of Fresno as Housing Successor to
the Redevelopment Agency of the City of
Fresno Redevelopment Agency**

**2344 Tulare
Street
Suite 200
Fresno, CA
93721**
www.fresnorda.com
559.621.7628

Multi-Family Housing Program

CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

Period Covered from _____ to _____

The undersigned, Noyan Frazier Capital, LLC, a California limited liability company (the "Owner"), has read and is thoroughly familiar with the provisions of the Disposition and Development Agreement ("DDA") and documents referred to therein executed by Owner and the City of Fresno ("Agency") including but not limited to the Regulatory Agreement and Declaration of Covenants and Restrictions ("Regulatory Agreement"). As of the date of this Certificate, for the period shown above, the following number of Units in the Project are: (i) occupied by tenants satisfying the Low-Income Requirements (as defined in the Regulatory Agreement) as a principal residence ("Eligible Tenants"), or (ii) currently vacant and being held available for such occupancy and have been so held continuously since the date an Eligible Tenant vacated such Unit:

Occupied Affordable
Units

Vacant Affordable Units

Property Information

Name of Property:	Number of Units by Bedrooms	Income Category	Number of Units by Income Level of
Property Address:			

	(see table for allowable rents)		Tenants (percent of AMI)
	___ 0 (studio)	Extremely Low	___ 30% of AMI
	___ 1 bedroom	Very Low	___ 50% of AMI
	___ 2 bedrooms	Lower	___ 80% of AMI
	___ 3 bedrooms	Moderate	___ 120% of AMI
Owner completing this Certificate has relied on the income certification and supporting information supplied by each Applicant in determining qualification for occupancy of the Affordable Unit.			

The Owner certifies that the information contained in the Occupancy Summary attached is true and accurate and hereby certifies that (1) a review of the activities of the Owner during such period and of the Owner's performance under the OPA and the documents referred to therein has been made under the supervision of the undersigned, and (2) to the best knowledge of the undersigned, based on the review described in clause (1) hereof, the Owner is not in default under any of the terms and provisions of the above documents (or describe the nature of any default and set forth the measures being taken to remedy such default).

[Signature on following page.]

Noyan Frazier Capital, LLC
a California limited liability company

By: _____

Name:

Its:

Date: _____

By: _____

Its: _____

Date: _____

- Affordable Rent for Very Low Income Households is the product of 30% times 50% of the area median income adjusted for family size appropriate to the unit less a reasonable allowance for utilities (Health and Safety Code Section 50053(b)(2).

- Affordable Rent for Lower Income Households is the product of 30% times 60% of the area median income adjusted for family size appropriate to the unit less a reasonable allowance for utilities (Health and Safety Code Section 50053(b)(3).

- Affordable Rent for Moderate Income Households is the product of 30% times 110% of the area median income adjusted for family size appropriate to the unit less a reasonable allowance for utilities (Health and Safety Code Section 50053(b)(4).

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* The utility allowance shown above is for a low-rise (1-2 stories) project constructed in 2011 or later.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Fresno)

On June 13, 2018 before me, Linda S. Cunha, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Mehmet Noyan
Name(s) of Signer(s)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Linda S. Cunha
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: First Amendment to DDA
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)
Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Fresno)

On June 13, 2018 before me, Cathy Rodriguez, Notary Public,
Date Here Insert Name and Title of the Officer
personally appeared Terance Frazier
Name(s) of Signer(s)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Cathy Rodriguez
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

