

AGREEMENT NO. _____

**HOME INVESTMENT PARTNERSHIP PROGRAM
AGREEMENT FOR THE CONSTRUCTION OF
AFFORDABLE HOUSING**

This **AGREEMENT** is made and entered into on _____, by and among the **CITY OF BAKERSFIELD**, a charter city and municipal corporation ("CITY" herein) and the **GOLDEN EMPIRE AFFORDABLE HOUSING, INC. II**, a California nonprofit public benefit agency ("DEVELOPER" herein).

RECITALS

WHEREAS, the Congress of the United States has enacted the "HOME Investment Partnerships Act" at 42 USC 12741 et. seq. of the Cranston-Gonzalez "National Affordable Housing Act" and amendments (hereinafter called the "HOME Act"); and

WHEREAS, CITY has submitted certain documents to the Department of Housing and Urban Development (hereinafter called "HUD") requesting to receive funds pursuant to the HOME Program (hereinafter the "Program"); and

WHEREAS, CITY is empowered, under the Program, to administer funds received under the Program and to enter into agreements for expenditure of those funds; and

WHEREAS, DEVELOPER will provide the community with sixteen quality, affordable housing units for a minimum of twenty years; and

WHEREAS, DEVELOPER has site control of 610 and 624 4th Street, Bakersfield, California ("Project Property" herein) and desires to add sixteen units of affordable housing; and

WHEREAS, DEVELOPER needs funding assistance to pay for eligible related acquisition, soft and hard costs for the construction of affordable housing units pursuant to 24 CFR 92.206; and

WHEREAS, CITY desires to assist DEVELOPER by loaning to it funds to be used to pay for eligible related soft and hard construction costs.

NOW, THEREFORE, incorporating the foregoing recitals herein, CITY and

DEVELOPER mutually agree as follows:

1. DEFINITIONS. Except to the extent modified or supplemented by the Program Agreement between CITY and HUD, any term defined in the HOME Program shall have the same meaning when used herein.

1.1. "Project" means DEVELOPER's construction of the Project Property, consisting of sixteen affordable multi-family housing units, and associated facilities.

1.2. "Project Property" means that certain real property at 610 and 624 4th Street, Bakersfield, California, more specifically described in **Exhibit "A"**, attached and incorporated by this reference as if set out in full.

1.3. "Project Completion" shall have the meaning set forth at 24 Code of Federal Regulations 92.2.

1.4. "Period of Affordability" means a twenty (20) year time period, beginning at Project Completion, during which period said housing must be affordable to all tenants of HOME-assisted units in accordance with 24 CFR 92.252 – qualification as affordable housing.

1.5. "Loan" means CITY's loan of funds to DEVELOPER to facilitate the construction of the Project to be paid back out of the Residual Receipts from the Facility.

1.6. "Complex" means the 16-unit multi-family property at 610 and 624 4th Street, Bakersfield, California and all improvements and grounds appurtenant thereto, to be developed by DEVELOPER.

1.7. "Debt Service" means regularly scheduled payments of principal and interest made in a calendar year pursuant to the approved financing obtained for the development and ownership of the Project, which is senior in lien priority to the Loan, but excluding payments made pursuant to the Loan.

1.8. "Eligible Project Costs" means those costs related to the Project which are enumerated in 24 CFR 92.206(a), 24 CFR 92.206(c) and 24 CFR 92.206(d) in application to the HOME Investment Partnership Funds.

1.9. "Operating Expenses" means actual, approved, reasonable and customary costs, fees and expenses directly attributable to the operation, recordkeeping, maintenance, taxes and management of the Project, including without limitation: a commercially reasonable property management fee, taxes and assessments; payroll and payroll taxes for property employees; insurance;

security; painting, cleaning, repairs, and alterations; landscaping; sewer charges, utility charges; advertising, promotion and publicity, cable television, satellite and other similar services; office, janitorial, cleaning and building supplies; approved recreational amenities and supplies; purchase, repair, servicing and installation of appliances, equipment, fixtures and furnishing; fire alarm monitoring; fees and expenses of accountants, attorneys, consultants and other professionals that are directly attributable to the Project and which are customarily incurred in the operations of projects comparable to the Project. The Operating Expenses shall be reported in the Annual Financing Statement. Expenses for the purpose of calculating Residual Receipts are subject to CITY approval and shall be calculated on an accrual basis. Operating Expenses shall not include long term capital improvements (other than the maintenance of the Replacement Reserve Fund), repairs or replacements paid out of insurance proceeds received by DEVELOPER, or depreciation of buildings or other similar non-cash items of expense or deduction from income.

1.10. "Operating Reserve Fund" means the fund established to ensure that operating expenses will be paid.

1.11. "Payment Date" means within 30 days of approval of Residual Receipts from the CITY of the year following project completion and after the end of the DEVELOPER's fiscal year with respect to the preceding fiscal year.

1.12. "Replacement Reserve Fund" means the fund, which shall be used in the future to replace furniture, fixtures and equipment and to replace various aspects of the buildings (e.g. roof, landscape, etc.) in the Complex.

1.13. "Residual Receipts" shall mean, for each calendar year, Revenues less the sum of (i) Operating Expenses, (ii) Debt Service, (iii) Deposits to the Operating Reserve Fund and Replacement Reserve Fund, (iv) Deferred developer fees, and (v) a partnership management fee to a general partner of DEVELOPER, and/or a general partner asset management fee payable to one or more of the general partners of the DEVELOPER, and/or an asset management fee payable to one or more of the limited partners of DEVELOPER and/or other amounts payable to one or more of the limited partners of DEVELOPER in accordance with Section 4.2 of the Amended and Restated Agreement of Limited Partnership of the DEVELOPER ahead of payments to the CITY, or the DEVELOPER, and an annual audit fee, in such amounts which are set forth in the Financing Plan which is approved by the CITY; provided, however, that if such calculation results in a negative number, Residual Receipts shall be zero for that year.

1.14. "Revenues" shall mean the sum of (1) all cash received from rents, lease payments and all other sources including, without limitation, rental

assistance payments, but excluding (a) tenant security or other deposits (unless forfeited), (b) capital contributions and interest thereon, (c) proceeds from capital transactions and (d) interest on reserves not available for distribution, (2) the net proceeds of any insurance (including rental interruption insurance), other than fire and extended coverage and title insurance, to the extent not reinvested, and (3) any other funds deemed available for distribution by the DEVELOPER.

1.15. "National Objective" means Program funds expended for eligible Program Activities that 100% benefit low-income household occupants by housing individuals or families whose incomes do not exceed 120 percent of area median income.

1.16. "Activity" means acquisition, soft and hard costs associated with the construction of the Project and paid for with Program funds.

1.17. "HOME assisted units" means seven (7) one-bedroom floating units that will stay consistently under HOME compliance requirements for the duration of the period of affordability. All HOME assisted units shall be comparable to the non-assisted HOME units in terms of size, features, number of bedrooms and other amenities throughout the period of affordability.

1.18. "Completion Guaranty" means that certain completion guaranty executed by GUARANTOR in favor of the CITY guaranteeing to the CITY the completion of the Project by the DEVELOPER in the manner and within the time required by this Agreement, in the form of **Exhibit "N"** to this Agreement. The occurrence of either a Transfer or a Permitted Transfer shall not operate to totally or partially release the guarantor under the Completion Guaranty unless the CITY expressly consents to such release in writing, which consent may be given or withheld in the CITY's sole and absolute discretion. Notwithstanding the foregoing, in lieu of the Completion Guaranty, DEVELOPER may, in the same time and manner as required of the Completion Guaranty, obtain a performance bond, subject to the CITY'S satisfaction and approval, or replace the guarantor on the Completion Guaranty. The approval or disapproval of the performance bond or replacement guarantor shall be within the sole and absolute discretion of the CITY.

2. CONDITIONS OF THE LOAN

2.1. Scope of Project. The loan is intended to provide money, in the amount set forth in **Section 5**, below, to apply toward the cost of developing the Project. The scope of work of the Project will include the activities as set out in **Exhibit "B"** attached and incorporated by reference as if set out in full.

2.2. The Loan. Subject to the terms and conditions of this Agreement, CITY agrees to loan to DEVELOPER, and DEVELOPER agrees to accept from CITY, up to the amount of money set forth in **Section 5** herein.

2.3. Period of Affordability. In compliance with 24 CFR 92.252(e), and the "Period of Affordability" shall be twenty (20) years and shall commence with Project Completion, as defined in 24 CFR 92.2. If DEVELOPER is not in full compliance with the terms of this Agreement at any time during the term of this Agreement, it shall be an event of default subject to the provisions set forth in **Section 8** of this Agreement.

2.4. Failure to Complete Project. If, for any reason DEVELOPER fails to complete the construction of the Project as set out in **Exhibit "C,"** after being given a reasonable time to so complete it, it shall be an event of default subject to the provisions set forth in **Section 8** of this Agreement.

2.5. Duration of the Agreement. All HOME program requirements, as required under 24 CFR 92 detailed in this agreement shall be in effect for the period of affordability. All loan obligations, including residual receipt payments and its related conditions, shall be in effect during the term of the loan, as fully described in Section 5.1.

3. TERMINATION OF AGREEMENT. This Agreement may be terminated by either party in accordance with 2 CFR 200.399. CITY shall only convey to DEVELOPER funds for work done prior to the effective date of termination.

4. TERM. This Agreement shall be in effect from the date of execution through the Period of Affordability, except that DEVELOPER shall retain records as required in this Agreement.

5. CITY'S OBLIGATION

5.1. Amount and terms of Loans. CITY shall loan DEVELOPER no more than ONE MILLION TWO HUNDRED FIFTY-NINE THOUSAND NINE HUNDRED NINETEEN DOLLARS (**\$1,259,919**), subject to the terms of this Agreement. The loan shall consist of HOME funds to be used for eligible hard cost, soft cost, and acquisition cost as enumerated in 24 CFR 92.206(a), (c), and (d) as amended. Such loan shall be due and payable fifty-five (55) years from the date of execution by DEVELOPER of a promissory note as required herein ("Maturity Date"), unless repaid sooner as set forth in this Agreement or the promissory note.

5.1.1. The CITY Loan shall be due and payable as of the Maturity Date unless repaid sooner as set forth in this Agreement or the Note. In the event

DEVELOPER prepays the CITY Loan before the Maturity Date, DEVELOPER shall pay accrued interest up to that point. DEVELOPER shall pay simple interest at a rate of three percent (3%) per year. DEVELOPER shall begin making annual payments of principal and interest from Residual Receipts in the year following Project Completion, as defined herein, within 30 days. Payments shall be made from 50% of available Residual Receipts and are allocated based on the proportionate size of the CITY Loans. CITY shall apply such payments first to pay current annual interest due, then the cumulative interest owed, and then to reduce the principal amount of the CITY Loan.

5.1.2. DEVELOPER shall execute a promissory note in favor of the CITY for ONE MILLION TWO HUNDRED FIFTY-NINE THOUSAND NINE HUNDRED NINETEEN DOLLARS (**\$1,259,919**), subject to adjustment as set forth herein. Additionally, DEVELOPER shall execute and record a deed of trust on the Project Property in favor of CITY. Such deed of trust shall be no less than a third deed of trust, second only to DEVELOPER's construction lender and any other matters of record reasonably acceptable to CITY. The deed of trust shall secure all DEVELOPER's promises extended to CITY in this Agreement. The promissory note, referred to herein shall be in the form which is attached hereto as **Exhibit "E"** and deed of trust referred to herein shall be in the form, which is attached hereto as **Exhibit "F"** and incorporated herein by reference. The deed of trust shall be recorded in substantial form of **Exhibit "F"**, with the amount of funds being used for development at each of the Project Property being recorded in the deed recorded at that specific property.

5.2. Disbursement of Funds. CITY shall not be obligated to disburse, or pay to, DEVELOPER, any HOME funds until and after CITY receives Program funds, allocated for this Project, from the Federal Government. If CITY does not receive such funds, CITY, at its sole option, may terminate or suspend this Agreement, without any liability to the other party, until CITY receives such funds. DEVELOPER shall not be entitled to any damages from CITY if CITY refuses to disburse funds until CITY receives funds, even if DEVELOPER has detrimentally relied upon this Agreement. Additionally, CITY shall not be obligated to disburse any funds pursuant to this Agreement until DEVELOPER has recorded a Regulatory Agreement in substantially the same form as the Regulatory Agreement attached hereto as **Exhibit "G"** on the Project Property.

5.3. Process for Disbursement of Funds. CITY shall disburse Program funds received, as provided for in Section 4.2, only after the following processing conditions are met:

5.3.1. DEVELOPER has executed the Promissory Note and recorded the Deed of Trust referred to in Section 3.1.2 on the Project Property.

5.3.2. DEVELOPER has recorded the Regulatory Agreement (**Exhibit "G"**) against the Project Property.

5.3.3. At least thirty (30) days in advance of DEVELOPER's first request for disbursement of funds, DEVELOPER has provided CITY, for its review and approval an Affirmative Marketing Plan outlining the program for marketing the Complex, as provided for in Section 4.13.23.1.

5.3.4. At least thirty (30) days in advance of DEVELOPER's first request for disbursement of funds, DEVELOPER has provided CITY, for its review and approval a security plan outlining measures DEVELOPER will be taking to ensure the day-to-day security of the residents of the Project, as well as to ensure the security and safety of the physical facility of the Project itself ("Security Plan"). No disbursement shall be required until the Security Plan is approved by the CITY or its designee.

5.3.5. Payments shall be made to DEVELOPER upon DEVELOPER's submittal to the CITY of a monthly certified claim executed by a properly designated official of DEVELOPER indicating the percentage of the Project that has been completed. Said certified claims shall be itemized and properly documented to clearly show the items, tasks or services for which payment is being claimed and the basis for cost computation whether by cost per hour, cost per weight, cost per task or other measurement as agreed by and between DEVELOPER and CITY, as more fully described in the attached **Exhibit "B"**. Further, request for disbursement of funds under this agreement cannot be made until funds are need to pay of eligible cost and such request are limited to the amount needed. It is understood by CITY and DEVELOPER that CITY will disburse 95% of the loan funds under this agreement in order to assist in the close of escrow. DEVELOPER shall submit the first invoice to accompany the close of escrow, requesting HOME funds to cover all eligible costs incurred up to that point and any costs to be incurred with fifteen days of the close of escrow. Additionally, the first invoice shall include detailed construction cost to be incurred at the commencement of construction for which the remaining funds will be utilized.

5.3.6. After receipt by CITY of a satisfactory monthly certified claim for construction costs, including any HUD required labor standards documentation (payroll forms, employee interviews, and other construction compliance monitoring actions), soft costs, including but not limited to, impact fees and project design costs, CITY shall make a payment to DEVELOPER in the amount of ninety-five percent (95%) of the CITY's pro rata portion of the construction costs incurred by the DEVELOPER within thirty days of approval of a

certified claim. The balance of the cumulative five percent (5%) retention from each claim shall be paid to DEVELOPER thirty-five (35) days after DEVELOPER files a Notice of Completion.

6. DEVELOPER'S OBLIGATIONS

6.1. Financing of the Project. The estimated cost of the Project is in excess of ONE MILLION TWO HUNDRED FIFTY-NINE THOUSAND NINE HUNDRED NINETEEN DOLLARS (**\$1,259,919**). In order to facilitate DEVELOPER'S completion of the Project, the parties agree as set forth herein. It is the intent of the parties that DEVELOPER shall finance the construction and completion of the Project pursuant to this Agreement.

6.1.1. DEVELOPER shall provide all other funding for all other amounts required to complete the Project, which cannot be paid by CITY's assistance, except at its discretion.

6.2. Financing Not Obtained. All of the project's financing described herein shall have closed within 90 days of the date of this Agreement. In the event said financing has not been provided or is not available, then DEVELOPER shall present to CITY alternative financing sources for the Project to continue prior to the close of the aforementioned ninety-day period. If DEVELOPER cannot present sources to replace said funding proposed in this agreement, then the CITY may, at its discretion, terminate all obligations under this agreement.

6.3. Security for Performance Hereunder. DEVELOPER and/or General Contractor shall cause certain subcontractors that shall be agreed upon between DEVELOPER and its investor limited partner (with the consent of the CITY) to provide a performance (completion) bond and a payment bond (labor and materials bond), each in the amount of one hundred percent (100%) of the estimated cost of the work that is the subject of the subcontract ten (10) days prior to commencement of the work under such subcontract. Such payment and performance bonds shall be issued by a surety company admitted and licensed in California with a Best rating of "A" or better and approved by CITY and naming the CITY as beneficiary. These bonds must be in a form approved by CITY's legal counsel. Notwithstanding the foregoing, in the event that the DEVELOPER's lender and Tax Credit limited partner waive the requirement for payment and performance bonds, the CITY may also waive any such requirement.

6.3.1. Additionally, DEVELOPER shall execute a deed of trust on the Project Property naming CITY as beneficiary. Such deed of trust shall be

subordinate to any permanent or construction loan deed of trust, but shall be in no less than third position. Such deed of trust shall remain on the Project Property throughout the term of the Loan or until the Loan is repaid in full.

6.3.2. In addition to the insurance coverage required pursuant to **Section 9** below, during construction and prior to Project Completion, DEVELOPER shall maintain coverage of the type now known as builder's completed value risk insurance, as delineated on an All Risk Builder's Risk 100% Value Non-Reporting Form. Such insurance shall insure against direct physical loss or damage by fire, lightning, wind, storm, explosion, collapse, underground hazards, flood, vandalism, malicious mischief, glass breakage and such other causes as are covered by such form of insurance. Such policy shall include, (1) an endorsement for broad form property damage, breach of warranty, demolition costs and debris removal, (2) a "Replacement Cost Endorsement" in amount not less than 100% of the then full replacement cost, to be determined at least once annually and subject to reasonable approval by CITY, and (3) an endorsement to include coverage for budgeted soft costs (including construction loan interest, building permit fees, construction inspection fees, builder's risk insurance, and property taxes during construction). The replacement cost coverage shall be for work performed and equipment, supplies and materials furnished to the Property or any adjoining sidewalks, streets and passageways, or to any bonded warehouse for storage pending incorporation into the work, without deduction for physical depreciation and with a deductible not exceeding \$50,000 per occurrence (except that any earthquake coverage shall carry a deductible equal to 5% of the policy amount, or such other deductible amount as CITY may determine is acceptable, in light of the cost of the premium for such insurance).

6.4. Cost of Construction. The cost of constructing the Project on the Project Property shall be borne by DEVELOPER. In the event the Project should cost more to construct than estimated herein or DEVELOPER makes changes to the Project, which increase the costs, DEVELOPER shall pay for and bear full responsibility for all such additional costs. This provision concerning DEVELOPER's responsibility for additional costs shall not be deemed to authorize changes to the Project without CITY's review and approval by means of an amendment to this Agreement. The assistance provided by CITY shall not exceed the amounts set forth in **Section 9** herein.

6.5. Construction, Operation and Maintenance Standards. DEVELOPER shall construct, operate and maintain the Complex in accordance with the plans and specifications delivered to CITY by DEVELOPER, which plans and specifications shall have been drawn by architects and engineers of DEVELOPER and which are consistent with CITY's requirements and in compliance with 24 CFR 92.251(a).

6.6. Schedule. DEVELOPER shall submit to CITY for review and approval a schedule outlining the time frame in which all work on the Project will be done. This document shall be in the form of **Exhibit "C"**, attached hereto. Henceforth, this schedule shall be referred to as the "Schedule of Performance." DEVELOPER shall commence and complete all construction and development within the times specified in the Schedule of Performance or such reasonable extension of said times as may be mutually agreed upon by CITY and DEVELOPER. The Schedule of Performance is subject to revision from time to time if mutually agreed upon in writing between DEVELOPER and CITY. The CITY's City Manager or their designee is hereby authorized to approve an extension of no more than one hundred (100) days to any time set for performance in DEVELOPER's Schedule of Performance. Any extension will automatically add that same amount of time to any act, which is to perform subsequent to the act for which the extension was granted.

6.6.1. Developer shall commence construction as required herein by no later than December 31, 2024. In addition, developer shall construct the property in accordance with the schedule of performance, more fully described in **Exhibit "C"**.

6.7. City and Other Governmental Permits. Before commencement of construction, or development of any buildings, structures or other work of improvement upon the Project Property, or any other work provided for by this Agreement, DEVELOPER shall, at its own expense, secure, or cause to be secured, any and all permits which may be required by the City of Bakersfield or any other governmental or private agency affected by or having jurisdiction over such construction, development or work. Additionally, DEVELOPER shall require its construction contractor and all subcontractors to acquire a seller's permit (if required by Title 18, Section 1521 of the California Code of Regulations) associated with construction of the Complex on the Project Property.

6.8. Rights of Access. For the purpose of assuring compliance with this Agreement, representatives of CITY shall have reasonable right of access to the Project Property without charges or fees and at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the improvements provided, however, such inspections shall not unreasonably interfere with the construction work in progress. This provision shall not be construed to replace or modify inspection requirements arising out of the issuance of building permits or land use entitlements.

6.9. Local and State Laws. DEVELOPER shall carry out the construction of

the Project/Complexes and all other work and activities provided for in this Agreement in conformity with all applicable laws. It is understood that DEVELOPER is responsible for compliance with all applicable laws including, but not limited to, the California Labor Code, California Public Contract Code, the California Health and Safety Code and the California Government Code. DEVELOPER and any of DEVELOPER's contractors or subcontractors shall pay State of California prevailing wages on all work resulting from this Agreement, to the extent if and required by law.

6.10. Federal Law. DEVELOPER shall conform to the HOME Act (and any amendments to it), Federal regulations and guidelines now existing or hereafter enacted pursuant to the HOME Act, terms of the HOME Agreement between HUD and CITY now or hereafter in effect, and regulations now or hereafter enacted by CITY to facilitate its administration of the HOME Program, and any other statute, regulation or guideline applicable to the HOME Program. DEVELOPER shall become familiar with the appropriate statutes, regulations, and guidelines governing the HOME Program.

6.11. Labor Standards Provisions. DEVELOPER shall comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provision of Contract Work Hours and Safety Standards Act, the Fair Labor Standards Act of 1938, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a5; 40 U.S.C. 327 and 40 U.S.C. 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards and prevailing wages insofar as those acts apply to the performance of this Agreement. If applicable, DEVELOPER shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to CITY for review upon request.

6.11.1. DEVELOPER, and all contractors engaged under contracts in excess of \$2,000 for the construction, alteration, and/or repair of any building or work financed in whole or in part with Federal funds provided under this Agreement, shall comply with HUD requirements pertaining to such contracts and the applicable requirements of the regulations of the Department of Labor under 29 CFR parts 3, 5, and 5.5a, governing the payment of wages and the ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under such regulations are imposed by state or local law, nothing hereunder is intended to relieve DEVELOPER of its obligation, if any, to require payment of higher rates. DEVELOPER shall cause or require to be inserted in full, in all such contracts subject to such regulations, the clause, or any modification thereof, set out in 29 CFR parts 3,5, and 5.5a. DEVELOPER shall comply with the procedures set out in the HUD handbook 1344.1, "Federal Labor Standards Compliance in Housing and Community Development Programs" (as amended).

6.11.2. Political Activity. DEVELOPER shall expend no HOME Program funds to finance any political activity in contravention of the Hatch Act (Chapter 15 of Title 5 of the United States Code).

6.11.3. Lobbying. DEVELOPER certifies, to the best of its knowledge and belief, no Federally-appropriated funds have been paid or will be paid, by or on behalf of DEVELOPER, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

6.11.3.1. If funds, other than Federally-appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, DEVELOPER shall complete and submit, in accordance with its instructions, Standard Form-LLL, "Disclosure Form to Report Lobbying," **Exhibit "H."**

6.11.3.2. DEVELOPER shall require the language of this certification to be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all subrecipient's shall to certify and disclose accordingly.

6.11.4. Funds for Religious Purpose. DEVELOPER shall permit no HOME to be expended for the design, construction, operation, or maintenance of any facility to be used for sectarian instruction or as a place for religious worship, except in situations where such use is incidental and does not favor one religious group over another.

6.11.5. Prohibited Interest of Officials and Employees. No member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from it. No member, officer or employee of DEVELOPER, or its designees or agents, no member of CITY's Council or any other public official who exercises any functions or responsibilities with respect to the HOME Program during his tenure, or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed pursuant to this

Agreement, DEVELOPER shall incorporate or cause to be incorporated, a provision prohibiting such interest in all contracts or subcontracts, relating in any manner to this Agreement.

6.11.6. Equal Employment Opportunity (Non-discrimination Clause).

DEVELOPER shall not discriminate against any employee, or applicant for employment, because of race, color, religion, sex, national origin, age, disability, or sexual orientation. DEVELOPER shall take affirmative action to ensure that applicants for employment and employees are treated during employment, without regard to race, color, religion, sex, national origin, age, disability, or sexual orientation. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. DEVELOPER shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by CITY or HUD setting forth the provisions of this nondiscrimination clause. DEVELOPER shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age, disability, or sexual orientation.

6.11.6.1. DEVELOPER shall be bound by the equal opportunity clause set out in **Exhibit "I,"** attached, with respect to its own employment practices when it participates in federally-assisted construction work; provided, however, the clause is not applicable to any agency, instrumentality, or subdivision of DEVELOPER which does not participate in work on or under the contract.

6.11.6.2. Non-Discrimination Requirements. Under any related agreements or contracts, DEVELOPER shall provide that no person, on the grounds of race, color, national origin, religion, sex, sexual orientation, or gender identity shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with HOME Program funds. In addition, HOME Program funds must be made available in accordance with the following:

6.11.6.3. The requirements of the Fair Housing Act and implementing regulations at 24 CFR 100. This agreement is subject to the provisions of the Code of Federal Regulations at 24 CFR, Part 100.303. The provision sets forth an exemption to the protected class of familial status under the Fair Housing Act, when housing is provided under any Federal or State program is designed, intended and operated for occupancy by elderly persons, 62 years of age or older.

6.11.6.4. Executive Order 11063 (Equal Opportunity in Housing).

6.11.6.5. Title VI of the Civil Rights Act of 1964 (PL 88-352) and Title VIII of the Civil Rights Act of 1968 (PL 90-284 nondiscrimination and fair housing on federally assisted programs).

6.11.6.6. In addition to the foregoing, DEVELOPER will comply with the nondiscrimination clause listed in **Exhibit "J"**, attached hereto and incorporated herein by this reference as if set forth in full.

6.11.7. Rehabilitation Act of 1973 and Americans with Disabilities Act.

This Agreement is subject to the provisions of Section 503 and 504 of the Rehabilitation Act of 1973 (PL 930112), 29 USC 706, and attendant regulations at 24 CFR, Part 8, which provide that no otherwise qualified, disabled individual shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving federal financial assistance. This Agreement is also subject to The Americans with Disabilities Act of 1990 (amended), 42 USC 12101, et. seq.

6.11.8. Non-discrimination Because of Age. This Agreement is subject to the Age Discrimination Act of 1975, as amended, (Title III of Public Law 94-135) and attendant Code of Federal Regulations at 48 CFR, Part 22, Subpart 22.9. That Act sets forth that, except as otherwise provided, no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

6.11.9. "Section 3" Training, Employment, and Business Opportunities.

This Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u) as amended, HUD regulations issued pursuant thereto at 24 CFR 135, and any applicable rules and orders of HUD issued thereunder.

6.11.9.1. For Section 3 covered assistance, DEVELOPER shall cause, or require to be inserted in full in all contracts and subcontracts for work financed, in whole or in part, with assistance provided under this Agreement, the Section 3 clause set forth in **Exhibit "K"**, attached.

6.11.10. Women- and Minority-Owned Business Enterprises.

DEVELOPER agrees to abide by the requirements of Executive Orders 11625, 12432 and 12138, the HUD regulations issued pursuant thereto at 41 CFR Part 24, 41 CFR

Subpart 1-1.13, and any applicable rules and orders of HUD. The foregoing require the maximum practicable opportunity to participate, in contracts funded in whole or in part with federal funds, be provided to women- and minority-owned business enterprises, as subcontractors and suppliers to contractors performing work, or rendering services as prime contractors or subcontractors, under federally-funded procurement contracts.

6.11.10.1. DEVELOPER shall include the Utilization of Minority Business Enterprises clause set forth in **Exhibit "L"**, attached, in all contracts in amounts which may exceed \$10,000 (except for contracts for services which are personal in nature).

6.11.11. Affirmative Action for the Vietnam-Era Veterans. DEVELOPER shall comply with 48 CFR, Chapter 1, Subpart 22.13 and shall take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam Era without discrimination based on disability or veteran's status in all employment practices such as employment, upgrading, demotion, transfer, recruitment, advertising, layoff, or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. In all contracts or agreements of \$10,000 or more relating to this Agreement, DEVELOPER shall include, or cause to be included, the "Affirmative Action for Special Disabled and the Vietnam Veterans Provisions" clause set out in **Exhibit "M,"** attached.

6.11.12. Relocation Assistance and Acquisition Policies. This Agreement is subject to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("URA" herein) (42 USC 4601), and the HUD implementing regulations. It is understood and agreed by the parties that the Project Property is currently unoccupied and, therefore, no relocation benefits are required to be provided to any person or entity. In the event relocation assistance must be provided to any person or entity as a result of the Project, DEVELOPER shall be solely responsible for the payment thereof.

6.11.13. Lead-Based Paint. This Agreement is subject to the Lead-Based Paint Poisoning Prevention Act (42 USC 4821, et. seq.) and its implementing regulations at 24 CFR Part 35.

6.11.14. Environmental Considerations. CITY and DEVELOPER want to assure that the policies of the National Environmental Policy Act of 1969 (NEPA), as amended, and the California Environmental Quality Act of 1970 (CEQA), as amended, are most effectively implemented. CITY shall comply with HUD Environmental Review Procedures (24 CFR Part 58) leading to certification of

release of funds for particular projects, and the CEQA review procedures (Title 14, Section 15000 et. seq. of the California Administrative Code) in connection with this Project. Further, DEVELOPER shall comply with all applicable requirements of NEPA as it pertains to the environmental assessment conducted by the CITY for the proposed undertaking.

6.11.14.1. This Agreement is subject to the requirements of the Clean Air Act, as amended, 42 USC 7401 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., Executive Order 11738, dated September 10, 1973, and the regulations of the Environmental Protection Agency at 40 CFR Part 50, as amended.

6.11.14.2. DEVELOPER shall cause or require to be inserted in full the clause set out in 48 CFR 52.223-2 in all contracts and subcontracts with respect to any nonexempt (exceed \$100,000, or involve a facility the subject of a conviction under the Clean Air Act, or the Federal Waste Pollution Control Act, and listed by the Environmental Protection Agency, or not otherwise exempt) transaction.

6.11.14.3. DEVELOPER shall also cause or require to be inserted in full, the certification set forth in 48 CFR 52.223-1, in each solicitation and resulting contract and contracts it awards without a solicitation.

6.11.14.4. DEVELOPER shall not use any funds under this Agreement for a facility which has a conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

6.11.15. Other Considerations

6.11.15.1. Throughout the period of affordability, seven (7) units will be designated as HOME units available for households earning less than or equal to fifty (50) percent AMI. Further, DEVELOPER agrees to lease all units at initial occupancy to households making 50% AMI or less. All HOME units will be rented as low-HOME units in accordance with 24 CFR 92.252(b)(2).

6.11.15.2. In accordance with the requirements of 24 CFR 92.214(b)(3), the DEVELOPER is prohibited from charging fees that are not customarily charged in rental housing including, but not limited to, laundry room access fees, and others. Additionally, the DEVELOPER may charge fees for services such as bus transportation or meals, as long as such services are voluntary and fees are charged for services provided.

6.11.15.3. Where rent or occupancy restrictions of other

financing sources, including Federal or State Tax Credits and sources from the Department of Housing and Community Development overlap HOME-assisted units, the stricter of the two programs' requirements shall apply.

6.12. California Law. DEVELOPER shall comply with all applicable provisions of California law applicable to public contracts.

6.13. HOME Regulations. DEVELOPER shall comply with all applicable provisions of the HOME Program regulations including, but not limited to, the following:

6.13.1. Housing Quality Standards as defined by 24 CFR 882.109, local code requirements, local zoning ordinances and the Model Energy Code.

6.13.2. The affordability requirements of 24 CFR 92.252, for a period of twenty (20) years after Project Completion. If the Project Property fail to meet the affordability requirements for twenty years, the HOME funds covered under this agreement shall repaid to the CITY. Compliance problems which impact the Project Property's ability to comply with the affordability shall be corrected in accordance with the terms more fully described in **Section 8** of this agreement.

6.13.3. Throughout the period of affordability, DEVELOPER will maintain seven (7) HOME floating units. All units will be maintained as follows: 7-1-bedroom Low HOME units reserved for low-income households as defined in the HOME program, which means 50% AMI or less. HOME units will be allowed to float throughout the period of affordability in terms of unit designation and compliance.

6.13.4. Initial rents shall be charged in accordance with **Exhibit "D"** of this agreement. Further, rent increases shall be approved when in accordance with the procedure identified in **Exhibit "D"**.

6.13.5. A Regulatory Agreement will be recorded on the Project Property requiring that the HOME-assisted rental units remain affordable for a period of twenty (20) years after Project Completion. A copy of the Regulatory Agreement is attached as **Exhibit "G."**

6.13.6. All leases for rental on Project shall comply with 24 CFR 92.253.

6.13.7. DEVELOPER must adopt tenant selection policies in conformance with 24 CFR 92.253(d).

6.13.8. To the extent allowed under the City of Bakersfield's Annual

Action Plan, DEVELOPER may provide preference to a particular segment of the population in accordance with 24 CFR 92.253(d)(3), as long as such preference is a requirement of an additional subsidy source invested in the Project and such preference does not violate nondiscrimination requirements in 24 CFR 92.350.

6.13.9. DEVELOPER shall make a good faith effort to solicit applications from throughout the City of Bakersfield. DEVELOPER shall comply with State and Federal fair housing laws and not deny access to the Project on the basis of age, race, ethnicity, marital or familial status, source of income, gender, or sexual orientation.

6.13.10. No later than initial occupancy, the DEVELOPER shall provide the address (including street address and unit number) of each HOME unit and its designation as a Low HOME unit.

6.13.11. The project requirements of 24 CFR Subpart F (24 CFR 92.250-92.258) to the extent required by law.

6.13.12. The applicable property standards requirements of 24 CFR 92.251 upon project completion. Further, compliance with these standards shall be maintained through the duration of the period of affordability.

6.13.13. As applicable, DEVELOPER shall comply with the requirements of 2 CFR 200.310-316 "Property Standards".

6.13.14. Affirmative marketing requirements pursuant to 24 CFR 92.351.

6.13.15. Initial income certification requirements as enumerated in 24 CFR 92.252(h). Further, tenants' incomes will be recertified for HOME-assisted units in accordance with the requirements of 24 CFR 92.203(a)(1)(i).

6.13.16. Over-income tenant rent procedures for HOME-assisted units in accordance with 24 CFR 92.252(i).

6.13.17. Federal requirements and nondiscrimination in accordance with 24 CFR 92.350.

6.13.18. As required by law, any displacement, relocation, and acquisition requirements imposed by the CITY and consistent with 24 CFR 92.353.

6.13.19. The labor requirements of 24 CFR 92.354.

6.13.20. The conflict of interest provision in 24 CFR 92.356(f) and other all applicable components of 24 CFR 92.356 to the fullest extent required by law.

6.13.21. The development of broadband infrastructure, as required for new construction projects and rehabilitation substantial rehabilitation (as defined in 24 CFR 5.100) in accordance with 24 CFR 251(a)(2)(vi).

6.13.22. DEVELOPER shall comply with all requirements of the Violence Against Women Act (VAWA) in accordance with 24 CFR 92.359, including, but not limited to:

6.13.22.1. Notification requirements as enumerated in 24 CFR 92.359(c).

6.13.22.2. All obligations required of the DEVELOPER under 24 CFR 92.359(g).

6.13.22.3. Bifurcation of lease requirements as defined in 24 CFR 92.359(d).

6.13.22.4. Carrying out all requirements of VAWA during the period of affordability in accordance with in 24 CFR 92.359(f).

6.13.23. Prior to and during the Period of Affordability DEVELOPER shall:

6.13.23.1. Before initially marketing available units for the Project property and taking any rental applications from any person, deliver to CITY, for review, comment, and approval or disapproval, a copy of the marketing plan DEVELOPER intends to use to market, and select occupants of, the Project ("Marketing Plan"); DEVELOPER shall change the Marketing Plan in response to CITY's comments, so long as such comments are commercially reasonable, will not have an adverse effect on leasing, and conform to all statutory requirements that pertain to the Property, and shall resubmit the Marketing Plan for CITY review and approval; DEVELOPER shall follow the Marketing Plan approved by CITY;

6.13.23.2. At all times, maintain the Property in a manner which meets this Agreement.

6.13.23.3. If DEVELOPER fails to comply with the provisions of this section, and upon written notice to DEVELOPER from CITY listing areas of noncompliance, fails to initiate corrective action within sixty (60) days from date of notice, such failure shall constitute a breach of this Agreement. CITY shall thereupon have the right to repayment from DEVELOPER for the full amount of the loan. Repayment of the CITY loan shall not affect the time period of

affordability set forth in the Regulatory Agreement, as shown in **Exhibit “G.”**

6.13.24. Conflict of Interest requirements as required under 24 CFR 570.611.

6.14. Records and Audits. DEVELOPER shall maintain records sufficient to show it has reasonably complied with all applicable provisions and requirements of this Agreement.

6.14.1. Records and Reports. DEVELOPER shall create and retain accurate records of DEVELOPER's efforts to market the Property and results of those efforts. At least annually, but more often if requested by CITY, DEVELOPER will deliver to CITY, a report which includes, at a minimum, the following:

6.14.1.1. A description of marketing and outreach DEVELOPER carried out during the reporting period, including such items as clipped notices, flyers, advertisements, and letters;

6.14.1.2. Identification of each applicant's referral source;

6.14.1.3. Race, ethnicity, gender and disability status of each applicant;

6.14.1.4. Family income, rent paid to DEVELOPER, family size, race or ethnicity, gender and disability status of each person who is a tenant during the reporting period in order to document compliance with 24 CFR 92.252.

6.14.1.5. For the project's HOME floating units, information on unit substitution and vacancies to ensure continued compliance with the HOME program.

6.14.1.6. Level of revenues, reserves, occupancy rates and operating and debt-service costs.

6.14.1.7. The amount, and proper allocation, of Residual Receipts, as described in Section 3.1.1. of this Agreement.

6.14.1.8. Financial reports showing the availability and/or payment of loan principal and interest out of Residual Receipts. Additionally, financial statements shall show the financial condition and continued financial viability of the project.

6.14.2. Audits. In accordance with the requirements of 2 CFR 200,

Subpart F, DEVELOPER shall arrange, at its own expense, for the performance of a "Single Audit" of its entire operations by an independent auditor in accordance with 2 CFR 200, Subpart 5, and OMB Circular A-133.

6.14.2.1. Delivery of Audit Results to CITY. The auditor shall deliver results said audit to CITY within 30 days of the audit's completion. CITY's acceptance of DEVELOPER's audit reports does not prohibit CITY from performing any additional audit work CITY deems to be necessary or as necessary for CITY to comply with any administrative or audit requirements imposed by the Federal or State government.

6.14.3. Record Retention. As a condition of receiving federal financial assistance under this Agreement, DEVELOPER shall comply with 2 CFR 200.335-337, "Record Retention and Access." and 24 CFR 570.506 "Records to be Maintained". Additionally, in order to assist CITY in complying with its obligations under 24 CFR 92.508(c), DEVELOPER shall maintain all records related to the development and financing of the Project for no less than five years after the project's completion. Additionally, all individual tenant income verifications, names, addresses, project rents and project inspections must be retained for the most recent five-year period, until five years after the affordability period terminates. (Any agreement between DEVELOPER and its independent auditor shall provide for access, during normal business hours, to the independent auditor's work papers, by Federal, State, and CITY auditors, or their authorized agents. DEVELOPER's independent auditor shall retain, for review purposes, audit work papers for five (5) years from date of audit completion, or until three years after all audit-related issues are resolved, whichever occurs later. DEVELOPER shall maintain all records related to this Agreement for five (5) years from Project Completion. The City reserves the right to review all records required under the Program. Further, DEVELOPER agrees to make documents available for review by the Department of Housing and Urban Development, the Office of the Inspector General, and any agency associated with the requirement of the Program involved in ensuring the projects compliance.

6.14.4. Financial-Management System. DEVELOPER shall maintain a financial-management system which complies with 2 CFR 200.302, "Financial Management," except paragraph (a) thereof. Additionally, DEVELOPER shall comply with 2 CFR 200.300-305, 309 "Standards for Financial Management and Program Management".

6.14.5. Payment Procedure. DEVELOPER shall comply with the methods and procedures for payment outlined in 2 CFR 300.305, "Payment" as modified by 24 CFR 92.502(c).

6.14.6. Procurement and Allowable Costs. DEVELOPER shall comply with the requirements and standards of 2 CFR 200.318-326, "Procurement", and all applicable components of 2 CFR Subpart E (200.400-200.475), "Cost Principles."

6.14.7. Subawards and Monitoring. DEVELOPER shall comply with the standards and requirements of 2 CFR 200.213, "Subawards to Debarred and Suspended Parties"; and 2 CFR 200.327-328, "Performance and Financial Monitoring and Reporting" [except paragraphs (b) through (d) and paragraph (f)]. CITY has the right, but not the obligation, to monitor and supervise the administration and implementation of the Property for a period of twenty (20) years following completion of the project to ensure compliance with the requirements of the Act as it now exists or hereinafter amended, the federal regulations as now exist or hereafter promulgated pursuant to the Act, or guidelines developed by the federal government for administering or implementing the project, or any other statute, rule, regulation, or guideline applicable to the administration or implementation of the HOME Program.

6.14.8. Enforcement. DEVELOPER shall comply with the standards and requirements of 2 CFR 215.62, "Enforcement," and 2 CFR 200.338-342, "Remedies for Noncompliance."

6.14.9. Disallowances and Adjustments. DEVELOPER shall account to CITY for any and all Program funds expended by DEVELOPER or its officer, employee, agent, or representative, whether or not such officer, employee, agent, or representative was acting within the scope of his or her employment. DEVELOPER shall repay CITY, on demand, the full amount of any improperly expended HOME Program funds, and shall comply with requirements of 2 CFR 200.344. CITY may retain any funds of DEVELOPER in CITY's possession to liquidate (in whole or in part) the debt resulting from any such improper expenditure.

6.14.10. Collections. DEVELOPER shall comply with the standards and requirements of 2 CFR 200.345, "Collection of Amounts Due."

6.14.11. Closeout. DEVELOPER shall comply with the requirements of 2 CFR 200.343 "Closeout".

6.14.12. Post-Closeout Adjustments and Continuing Responsibilities. DEVELOPER shall comply with the requirements of 2 CFR 200.344 "Post-Closeout Adjustments and Continuing Responsibilities".

6.14.13. Collection of Amounts Due. DEVELOPER shall comply with the requirements of 2 CFR 200.345 "Collect of Amounts Due".

6.14.14. CITY Withholding of Funds. CITY may withhold funds from

DEVELOPER if DEVELOPER is not complying with the Act, federal regulations thereunder, terms of the HOME Program from the federal government to the CITY, regulations of CITY to facilitate the administration of the HOME Program, the terms of this Agreement, or any other statute or regulation applicable to the HOME Program or administration. Should CITY become subject to any penalties because failure by DEVELOPER, or DEVELOPER's agent, to comply with all applicable federal, state, and local laws and regulations, DEVELOPER shall be solely liable for any such penalties and shall fully reimburse CITY for any payments made or funding lost as a result.

7. USES OF THE PROJECT

7.1. DEVELOPER covenants and agrees for itself, its successors, its assigns and every successor in interest that during construction and thereafter, DEVELOPER, its successors and assigns shall devote the Complex to very-low and moderate-income households for a period of twenty (20) years from date of Project Completion as required in 24 CFR 92.

7.1.1. Landscaping and Maintenance of the Project. DEVELOPER shall maintain the Project, the parking facilities and landscaping in a good condition and shall keep the Project free from any accumulation of debris or waste materials prior to and after construction. Maintenance shall include, but is not limited to, programmed watering, consistent fertilizing, weed control, cleaning, pruning, trimming, pest control and cultivating. Landscape structural features shall be maintained in sound structural and attractive conditions. All plant material shall be serviced by a permanently installed, electrically automated sprinkler system. Replacement planting must conform to the original intent of the landscape design. Installation of landscape materials shall be in accordance with commonly accepted methods of installation. Trees shall be the equivalent to minimum fifteen-gallon container size or larger and shall be vigorous and healthy when planted. Shrubs shall be a minimum of five-gallon container size or larger and shall be vigorous and healthy when planted. Live vegetative matter shall cover no less than seventy-five percent (75%) of the required landscaped area at its maturity.

7.1.1.1. If, at any time, DEVELOPER fails to maintain the landscaping as required by this Agreement or CITY standards, and the condition is not corrected within a reasonable time from the date of written notice to correct from CITY, CITY may perform the necessary landscaping maintenance, and DEVELOPER shall pay all such costs as are reasonably incurred for such maintenance.

8. DEFAULTS, REMEDIES AND TERMINATION.

8.1. Defaults. Subject to the extensions of time for construction pursuant to the terms set forth in the Schedule of Performance, or otherwise pursuant to this Agreement, failure or delay by either party to perform any material term or provision of this Agreement constitutes an event of default under this Agreement. Except as may be otherwise provided herein, the party who so fails or delays must, upon discovering or receiving notice of such event of default, immediately commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence.

If DEVELOPER is not in full compliance with the terms of this Agreement at any time during the term of this Agreement after CITY has commenced to disburse Loan funds, CITY shall notify DEVELOPER of such noncompliance and DEVELOPER shall have sixty (60) days to cure provided however that if such default cannot reasonably be cured in such sixty (60) day period, DEVELOPER shall have such further time as necessary to cure such default provided that DEVELOPER commences the cure of same within such sixty (60) day period and thereafter diligently pursues cure of same. If DEVELOPER fails to cure the noncompliance, in addition to other rights and remedies permitted by the Loan documents or applicable law, CITY may proceed with any or all of the following remedies in any order or combination the CITY may choose in its sole discretion:

8.1.1. Terminate this Agreement, in which event the entire principal amount outstanding, as well as any other monies advanced to DEVELOPER by CITY under the Loan documents including administrative costs, shall immediately become due and payable at the option of CITY; and

8.1.2. Bring an action in equitable relief (1) seeking the specific performance by DEVELOPER of the terms and conditions of the Loan documents, and/or (2) enjoining, abating, or preventing any violation of said terms and conditions, and/or (3) seeking declaratory relief.

8.1.3. The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Additionally, CITY shall notify DEVELOPER's partners of any default by DEVELOPER. Except as required to protect against further damages, and except as otherwise expressly provided in this Agreement, the injured party may not institute proceedings against the party in default, nor shall the injured party be able to enforce any remedies or penalties provided hereunder, until sixty (60) days after giving such notice and only in the event such event of default is not cured as set forth in Section 6.1. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

8.1.4. Except as otherwise expressly provided in this Agreement, any failures or delays by either party in asserting any of its rights or remedies as to any event of default shall not operate as a waiver of any default or any such rights or remedies. Delays by either party in asserting any of its rights and remedies shall not deprive either party of its right to institute and maintain any actions or proceedings, which it may deem necessary to protect, assert or enforce any such rights or remedies.

8.1.5. Upon the occurrence of an event of default, and subject to Section 6 hereof, the defaulting party shall be liable to the non-defaulting party for damages caused by such default. Nothing in this Agreement precludes the instigation of an action for specific performance of the terms of this Agreement.

8.1.6. CITY hereby agrees that any cure of any default that is made or tendered by the investor limited partner of the DEVELOPER shall be deemed to be a cure by DEVELOPER and shall be accepted or rejected on the same basis as if made or tendered by DEVELOPER.

8.2. Limited Recourse. The Loans and obligations set forth in the loan documents are limited recourse obligations of DEVELOPER, its officers, employees, partners or agents. Neither DEVELOPER nor any other party shall have any personal liability for repayment of the Loans, except for losses or damages relating to (a) fraud or willful misrepresentation and (b) failure to deliver any insurance or condemnation proceeds received by DEVELOPER to CITY or to otherwise apply such sums as required under the Deed of Trust to the extent of the insurance or condemnation proceeds not delivered. Except as otherwise provided herein, the sole recourse of CITY for repayment of the principal and interest shall be the exercise of CITY's rights against the Project Property and Complex.

9. INSURANCE.

9.1. Types and Limits of Insurance. In addition to any other insurance or security required under this Agreement, CONTRACTOR must procure and maintain, for the duration of this Agreement, the types and limits of insurance below ("Basic Insurance Requirements").

9.1.1. Automobile liability insurance, providing coverage for owned, non-owned, and hired autos on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury, with limits of not less than \$1,000,000 per occurrence.

9.1.2. Commercial general liability insurance, unless otherwise approved by CITY's Risk Manager, providing coverage on an occurrence basis

for bodily injury, including death, of one or more persons, property damage, and personal injury, with limits of not less than \$1,000,000 per occurrence. The policy must:

9.1.2.1. Provide contractual liability coverage for the terms of this Agreement;

9.1.2.2. Provide products and completed operations coverage;

9.1.2.3. Provide premises, operations, and mobile equipment coverage; and

9.1.2.4. Contain an additional insured endorsement in favor of CITY and its mayor, council, officers, agents, employees, and designated volunteers.

9.1.3. Workers' compensation insurance with limits of not less than \$1,000,000 per occurrence. In accordance with the provisions of Labor Code Section 3700, every contractor will be required to secure the payment of compensation to his employees. Pursuant to Labor Code Section 1861, CONTRACTOR must submit to CITY the following certification before beginning any work on the Improvements:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

By executing this Agreement, CONTRACTOR is submitting the certification required above.

The policy must contain a waiver of subrogation in favor of CITY and its mayor, council, officers, agents, employees, and designated volunteers.

9.2. General Provisions Applying to All Insurance Types.

9.2.1. All policies required of CONTRACTOR must be written on a first-dollar coverage basis, or contain a deductible provision. Subject to CITY's

advance approval, CONTRACTOR may utilize a self-insured retention in any or all of the policies provided, but the policy or policies may not contain language, whether added by endorsement or contained in the policy conditions, that prohibits satisfaction of any self-insured provision or requirement by anyone other than the named insured or by any means including other insurance or which is intended to defeat the intent or protection of an additional insured.

9.2.2. All policies required of CONTRACTOR must be primary insurance as to CITY and its mayor, council, officers, agents, employees, or designated volunteers and any insurance or self-insurance maintained by CITY and its mayor, council, officers, agents, employees, and designated volunteers must be excess of CONTRACTOR's insurance and must not contribute with it.

9.2.3. The insurance required above, except for workers' compensation insurance, must be placed with insurers with a Best's rating as approved by CITY's Risk Manager, but in no event less than A-:VII. Any deductibles, self-insured retentions, or insurance in lesser amounts, or lack of certain types of insurance otherwise required by this Agreement, or insurance rated below Best's A-:VII, must be declared prior to execution of this Agreement and approved by CITY in writing.

9.2.4. The insurance required in this section must be maintained until the Scope of Work is satisfactorily completed as evidenced by CITY's written acceptance. All policies must provide that there will be continuing liability thereon, notwithstanding any recovery on any policy.

9.2.5. Full compensation for all premiums which the CONTRACTOR is required to pay to satisfy the Basic Insurance Requirements shall be considered as included in the prices paid for the performance of the Scope of Work, and no additional allowance will be made therefor or for additional premiums which may be required by extensions of the policies of insurance.

9.2.6. It is further understood and agreed by CONTRACTOR that its liability to CITY will not in any way be limited to or affected by the amount of insurance obtained and carried by CONTRACTOR in connection with this Agreement.

9.2.7. Unless otherwise approved by CITY, if any part of the Scope of Work is subcontracted, the Basic Insurance Requirements must be provided by, or on behalf of, all subcontractors even if CITY has approved lesser insurance requirements for CONTRACTOR, and all subcontractors must agree in writing to be bound by the provisions of this section.

9.3. Builder's risk policy: Projects for the construction of buildings or

structures with a value exceeding Two Million Dollars (\$2,000,000) shall carry the following builder's all risk insurance or other insurance as approved by CITY:

9.3.1. CONTRACTOR or DEVELOPER shall purchase and maintain property insurance on a builder's risk "all risk" or equivalent policy form naming CITY as a named insured. Builder's risk policy shall be in an amount equal to the actual cash value of the building on completion and the deductible shall be in an amount acceptable to CITY. The policy shall stay in force until completion of the project.

10. THIRD PARTY CLAIMS. CITY will timely notify DEVELOPER of third party claims relating to this contract. CITY shall be allowed to recover from DEVELOPER, and DEVELOPER shall pay on demand, all costs of notification.

11. INDEMNITY. DEVELOPER shall indemnify, defend, and hold harmless CITY, its officers, agents and employees against any and all liability, claims, actions, causes of action or demands whatsoever against them, or any of them, before administrative or judicial tribunals of any kind whatsoever, arising out of, connected with, or caused by DEVELOPER, DEVELOPER's employees, agents, independent contractors, companies, or subcontractors in the performance of, or in any way arising from, the terms and provisions of this Agreement whether or not caused in part by a party indemnified hereunder, except for CITY's sole active negligence or willful misconduct. This obligation to indemnify shall survive termination of this Agreement and repayment of the CITY loan.

12. ASSIGNMENT.

12.1. Prohibition. Except as provided herein, neither this Agreement, nor any interest in it, may be assigned or transferred by any party without the prior written consent of all the parties. Any such assignment will be subject to such terms and conditions as CITY may choose to impose.

12.2. Permitted Assignments and Transfers. Notwithstanding any other provision of this Agreement to the contrary, City approval of an assignment or transfer of this Agreement or conveyance of the Project or any part thereof shall not be required in connection with any of the following (the "Permitted Transfers"):

12.2.1. Assignment of this Agreement to a limited partnership whose general partner is an affiliate of Golden Empire Affordable Housing, Inc. II that has been formed for the purpose of developing, owning and operating the project.

12.2.2. A conveyance of a security interest in the Property in

connection with any senior loan and any transfer of title by foreclosure, deed or other conveyance in lieu of foreclosure in connection therewith.

12.2.3. The admission of limited partners and any transfer of limited partnership interests in the Developer's limited partnership in connection with the syndication of the Tax Credit equity.

12.2.4. The removal and replacement of DEVELOPER's general partner.

13. BINDING EFFECT. The rights and obligations of this Agreement shall inure to the benefit of, and be binding upon, the parties to the Agreement and their heirs, administrators, executors, personal representatives, successors and assigns.

14. REMEDIES. The remedies provided in this Agreement are cumulative and are in addition to any other remedies in law or equity, which may be available to CITY. The election of one or more remedies shall not bar the use of other remedies unless the circumstances make the remedies incompatible.

15. NO WAIVER OF DEFAULT. The failure of any party to enforce against another a provision of this Agreement shall not constitute a waiver of that party's right to enforce such a provision at a later time, and shall not serve to vary the terms of this Agreement.

16. MERGER AND MODIFICATION. This Agreement sets forth the entire Agreement between the parties and supersedes all other oral or written representations. With the exception of an assignment to DEVELOPER, this Agreement may be modified only in a writing approved by the CITY Council and signed by all the parties. If DEVELOPER requests an amendment to this agreement, a written request stating the proposed changes shall be submitted to the CITY for consideration prior to submitting an amendment to the CITY Council for consideration.

17. INDEPENDENT CONTRACTOR. This Agreement calls for the performance of the services of DEVELOPER as an independent contractor. DEVELOPER is not an agent or employee of the CITY for any purpose and is not entitled to any of the benefits provided by CITY to its employees. This Agreement shall not be construed as forming a partnership or any other association with DEVELOPER other than that of an independent contractor.

18. GOVERNING LAW. The laws of the State of California will govern the validity of this Agreement, its interpretation and performance. Any litigation arising in any way from this Agreement shall be brought in Kern County, California.

19. CORPORATE AUTHORITY. Each individual signing this Agreement on behalf of entities represent and warrant that they are, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.

20. CONFLICTS OF INTEREST. DEVELOPER stipulates that corporately, or individually, the firm, its employees and subconsultants have no financial interest in either the success or failure of any project, which is dependent upon the result of the work prepared pursuant to this Agreement.

21. EXECUTION. This Agreement is effective upon approval and execution by CITY after approval and execution by DEVELOPER. It is the product of negotiation and all parties are equally responsible for authorship of this Agreement. Section 1654 of the California Civil Code shall not apply to the interpretation of this Agreement.

22. NOTICES. All notices relative to this Agreement shall be given in writing and shall be personally served or sent by certified or registered mail and be effective upon actual personal service or four calendar days after depositing in the United States mail. The parties shall be addressed as follows, or at any other address designated by notice:

CITY: CITY OF BAKERSFIELD
City Hall
1600 Truxtun Avenue
Bakersfield, California 93301

DEVELOPER: Golden Empire Affordable Housing, Inc. II
601 24th Street, Suite B
Bakersfield, CA 93301

Copies of all notices delivered by the City to the DEVELOPER after the Close of Escrow shall be delivered to the DEVELOPER's investor limited partner at a notice address to be provided to the CITY in writing.

23. EXHIBITS. In the event of a conflict between the terms, conditions or specifications set forth in this Agreement and those in exhibits attached hereto, the terms, conditions, or specifications set forth in this Agreement shall prevail. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached.

24. FURTHER ASSURANCES. Each party shall execute and deliver such

papers, documents, and instruments, and perform such acts as are necessary or appropriate, to implement the terms of this Agreement and the intent of the parties to this Agreement.

25. NEGATION OF PARTNERSHIP. CITY shall not become or be deemed a partner or joint venturer with DEVELOPER or associate in any such relationship with DEVELOPER by reason of the provisions of this Agreement. DEVELOPER shall not for any purpose be considered an agent, officer or employee of CITY.

26. NON-INTEREST. No officer or employee of the CITY shall hold any interest in this Agreement (California Government Code section 1090).

27. FORCE MAJEURE. In addition to specific provisions of this Agreement, a party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities, enactment of conflicting State or Federal laws or regulations, new or supplementary environmental regulations enacted by the State or Federal government, or litigation (any of the foregoing, "Force Majeure"). An extension of time for such cause may be mutually agreed upon by the parties hereunder for the period of the enforced delay or longer.

28. SUBORDINATION OF AFFORDABILITY RESTRICTIONS. CITY finds that an economically feasible method of financing for the construction and operation of the Project, without the subordination of the affordable housing covenants as may be set forth in this Agreement and the Regulatory Agreement, is not reasonably available. The CITY shall make affordable housing covenants set forth in this Agreement and the Regulatory Agreement junior and subordinate to the deeds of trusts and other documents required in connection with the construction and permanent financing for the Project approved by the CITY. Any subordination agreement entered into by the CITY shall contain written commitments, which the CITY finds are reasonably designed to protect Agency's investment in the event of default under such senior housing.

29. SEVERABILITY. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the day and year first-above written.

"CITY"
CITY OF BAKERSFIELD

"DEVELOPER"
GOLDEN EMPIRE AFFORDABLE

HOUSING , INC. II

By: _____
KAREN GOH
Mayor

By: 
DIANA ELLIOTT
Executive Director

APPROVED AS TO CONTENT:
**ECONOMIC AND COMMUNITY
DEVELOPMENT DEPARTMENT**

By: _____
JENNIFER M. BYERS
Economic and Community
Development Director

Insurance: _____

APPROVED AS TO FORM:
VIRGINIA GENNARO
City Attorney

By: _____
JOSHUA H. RUDNICK
Deputy City Attorney II

(Additional Signatures on Following Page)

COUNTERSIGNED:

By: _____
RANDY MCKEEGAN
Finance Director

JHR:ag
Attachment(s): Exhibit "A" – Legal Description
Exhibit "B" – Scope of Work
Exhibit "C" – Schedule of Performance

Exhibit "D" – Initial Rent Schedule and Rent Increases Procedure
Exhibit "E" – Promissory Note (With Interest)
Exhibit "F" – Deed of Trust
Exhibit "G" – Regulatory Agreement
Exhibit "H" – Certification Regarding Lobbying
Exhibit "I" – Equal Opportunity
Exhibit "J" – Nondiscrimination in Federally Assisted Programs of the Department of HUD
Exhibit "K" – Section 3 Clause, Training Employment and Business Opportunity
Exhibit "L" – Utilization of Women and Minority Business Enterprises
Exhibit "M" – Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era
Exhibit "N" – Guaranty Agreement

EXHIBIT "A"

Legal Description

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

PARCEL 1: (APN: 009-403-13-00-8)

BEGINNING AT A POINT ON THE SOUTH LINE OF LOT 2 IN BLOCK 3 OF UNION ADDITION TO THE CITY OF BAKERSFIELD, ACCORDING TO THAT CERTAIN MAP DATED MARCH 10, 1904 ENTITLED "SALES MAP OF THE KERN COUNTY LAND COMPANY SHOWING SUBDIVISIONS OF ITS ADDITIONS TO THE CITY OF BAKERSFIELD, KERN COUNTY, CALIFORNIA", WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID KERN COUNTY ON THE 19TH DAY OF APRIL, 1904, DISTANT THEREON 110 FEET EASTERLY FROM THE SW CORNER, THENCE 200 FEET EASTERLY ON AND ALONG THE SOUTH LINE OF BLOCK 3, THENCE NORTHERLY AND PARALLEL WITH THE WEST LINE OF SAID BLOCK, 108.99 FEET TO A POINT ON THE NORTH LINE OF BLOCK 3, THENCE WESTERLY ON AND ALONG SAID NORTH LINE 200 FEET TO A POINT WHICH LIES 110 FEET EASTERLY FROM THE NW CORNER OF BLOCK 3, MEASURED ALONG THE NORTH LINE OF SAID BLOCK, THENCE SOUTHERLY 109.45 FEET OR LESS TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION AS GRANTED TO THE CITY OF BAKERSFIELD, A MUNICIPAL CORPORATION, IN DEED RECORDED OCTOBER 21, 1982 IN BOOK 5498, PAGE 134 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

A PARCEL OF LAND SITUATED IN THE CITY OF BAKERSFIELD, COUNTY OF KERN, STATE OF CALIFORNIA, BEING A PORTION OF SECTION 31, TOWNSHIP 29 SOUTH, RANGE 28 EAST, M.D.B. & M, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 60 FEET OF THE WEST 310 FEET OF BLOCK 3 OF THE UNION ADDITION, AS PER MAP RECORDED APRIL 19, 1904 IN MAP BOOK 1, AT PAGE 23 IN THE OFFICE OF THE KERN COUNTY RECORDER.

EXCEPTING THEREFROM ALL OF THE MINERALS INCLUDING OIL, GAS, ASPHALTUM AND OTHER HYDROCARBONS IN AND UNDER SAID PREMISES. THE SAID FIRST PARTY, ITS SUCCESSORS AND ASSIGNS, SHALL NOT CONDUCT DRILLING OR OTHER OPERATIONS UPON THE SURFACE OF SAID LAND WITHOUT FIRST HAVING SECURED THE WRITTEN CONSENT OF SAID SECOND PARTY, ITS HEIRS AND ASSIGNS; BUT NOTHING HEREIN CONTAINED SHALL BE DEEMED TO PREVENT THE SAID FIRST PARTY, ITS SUCCESSORS AND ASSIGNS, FROM EXTRACTING OR CAPTURING SAID MINERALS BY DRILLING ON ADJACENT OR NEIGHBORING LANDS OR FROM

CONDUCTING SUBSURFACE DRILLING OPERATIONS UNDER THE SAID LANDS AT SUCH DEPTHS AS NOT TO DISTURB THE SURFACE THEREOF OR ANY IMPROVEMENTS THEREON, AS RESERVED BY KERN COUNTY LAND COMPANY, A CORPORATION, IN DEED RECORDED MARCH 16, 1950 IN BOOK 1668, PAGE 48 OF OFFICIAL RECORDS.

PARCEL 2: (APN: 009-403-14-00-1)

A PARCEL OF LAND SITUATED IN THE CITY OF BAKERSFIELD, COUNTY OF KERN, STATE OF CALIFORNIA, BEING A PORTION OF SECTION 31, TOWNSHIP 29 SOUTH, RANGE 28 EAST, M.B.D.&M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 60 FEET OF THE WEST 110 FEET OF BLOCK 3 OF THE UNION ADDITION, AS PER MAP RECORDED APRIL 19, 1904 IN MAP BOOK 1, AT PAGE 23 IN THE OFFICE OF THE KERN COUNTY RECORDER.

COMMENCING AT A POINT ON THE SOUTH LINE OF LOT 2, IN BLOCK 3 OF UNION ADDITION TO THE CITY OF BAKERSFIELD, ACCORDING TO THAT CERTAIN MAP DATED MARCH 10, 1904, ENTITLED "SALES MAP OF THE KERN COUNTY LAND COMPANY SHOWN SUBDIVISIONS OF ITS ADDITIONS TO THE CITY OF BAKERSFIELD, KERN COUNTY, CALIFORNIA", WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID KERN COUNTY, ON APRIL 19, 1904, WHICH SAID POINT OF BEGINNING LIES 50 FEET EASTERLY FROM THE SW CORNER OF SAID BLOCK 3; THENCE EASTERLY 60 FEET ALONG THE SOUTH LINE OF BLOCK 3; THENCE NORTHERLY 109.43 FEET ALONG A LINE PARALLEL TO AND DISTANT 110 FEET EASTERLY AT RIGHT ANGLES FROM THE WEST LINE OF BLOCK 3 TO A POINT IN THE NORTH LINE OF BLOCK 3; THENCE WESTERLY 60 FEET, MORE OR LESS, ALONG THE NORTH LINE OF BLOCK 3 TO A POINT WHICH LIES 50 FEET EASTERLY OF THE NW CORNER OF BLOCK 3 (MEASURED ALONG THE NORTH LINE OF BLOCK 3); THENCE SOUTHERLY 109.57 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THE MINERALS, INCLUDING OIL, GAS, ASPHALTUM AND OTHER HYDROCARBONS IN AND UNDER SAID PREMISES, AS RESERVED IN THE DEED FROM KERN COUNTY LAND CO., RECORDED OCTOBER 27, 1942 IN BOOK 1119, PAGE 48 OF OFFICIAL RECORDS.

EXHIBIT "B"

SCOPE OF PROJECT 4th Street Apartments

Purpose

Golden Empire Affordable Housing, Inc. II is proposing to construct 16 affordable senior housing units to create 4th Street Apartments for households with incomes less than 120% AMI in the City of Bakersfield. All units in 4th Street Apartments will be one-bedroom units at 610 4th Street (APN: 009-403-13-00-8 & 009-403-14-00-1). The City's contribution is no more than \$1,259,919 in HOME funds. The City will also provide approximately \$719,953 in PLHA funds and \$414,943 in REAP 2.0 funds to DEVELOPER by a separate agreement as part of the financing of the Project. Golden Empire Affordable Housing, Inc. II will oversee the site's construction and own the project once improved.

Description

The City's total contribution of approximately \$2,394,815, including funds from agreement number 2024-058, will be a loan to DEVELOPER at 3% simple interest, calculated from residual receipts, with a term of fifty-five (55) years. The Period of Affordability will be twenty (20) years.

Construction Costs: The HOME funds will be used for eligible soft and hard construction costs. Under this Agreement, costs which were incurred prior to the date of this Agreement will be eligible for payment under this Agreement. The following tables show the total sources for the project.

Source of Funds	Estimated Dollar Amount
City of Bakersfield PLHA	\$719,953
City of Bakersfield REAP 2.0	\$414,943
City of Bakersfield HOME	\$1,259,919
Construction Loan	\$565,000
Deferred Costs	\$69,650
TOTAL FUNDS	\$3,029,465

Uses	Estimated Dollar Amount
Land Costs/Acquisition	\$131,640
Construction Costs	\$1,900,000
Architectural/Engineering Fees	\$250,000
Construction Interest and Fees	\$81,325
Legal	\$15,000
Appraisal	\$2,500
Developer Overhead and Fees	\$200,000

Contingency	\$240,000
Other	\$209,000
TOTAL FUNDS	\$3,029,465

Reporting

DEVELOPER will be responsible for ensuring that the HOME assisted units remain affordable for a period of twenty (20) years from the date of the Notice of Completion. To ensure compliance, the City will monitor DEVELOPER's program on a yearly basis. DEVELOPER will submit yearly reports each April 1st, beginning after Project Completion, to the City to ensure that each housing unit is being utilized and occupied for an affordable housing recipient. These annual reports will also include financial statements showing the availability and/or payment of loan principal and interest out of Residual Receipts. Additionally, financial statements shall be submitted annually to show the financial condition and continued financial viability of the project. The information required by the City in these reports will be given to DEVELOPER within 60 days of Council approval. The City reserves the right to add reporting requirements.

Schedule of Performance

Activity	Estimated Completion
Financing Secured	April 2024
Property Acquisition	October 2023
Construction Starts	April 2024
Construction Completed	December 2024

EXHIBIT "C"

SCHEDULE OF PERFORMANCE

Assuming construction starts by April 2024, Loan funds in the amount of \$1,259,919.00 will be available to DEVELOPER for no more than twenty-four months from the date of City Council approval. The following schedule initiates from the date of City Council approval.

Activity	Estimated Completion
Committed Project Financing	April 2024
Property Acquisition	October 2023
Construction Begins	April 2024
Construction Completed	December 2024

DEVELOPER agrees to submit progress reports in the form, content, and frequency as required by CITY.

EXHIBIT "D"

Initial Rent Schedule and Rent Increases Procedure

Upon project completion and initial occupancy, the project rents shall be set no higher than at the following levels:

# of Bedrooms	Unit Designation	Unit Count	Gross Rent	Utility Allowance	Net Rent
1	Moderate	9	\$711	\$74	\$637
1	Very Low	7	\$495	\$74	\$421

In the event that minor modifications to the gross rent, net rent, or utility allowance are required due to program modifications for compliance, the City is authorized to modify said rent schedule prior to initial occupancy.

Subsequent Rent Increases: If, at any point after initial occupancy, the property owner desires to increase the rents level for project units, the project owner shall submit, in writing, the proposed increase. This documentation shall identify the current gross rent, utility allowance, and net rent for the unit while identifying the proposed increased rate. Additionally, the owners shall submit the project units (including street address and unit number) for the units in which the rent increase is being proposed.

The City of Bakersfield shall review the proposed increase in lieu of the project's current utility allowance and applicable rent levels. If the rents are within the allowable rents, the City shall approve the rent increases. However, if the rent increases are not within the allowable rent levels, the increase shall be denied.

When rent increases are proposed and approved/disapproved, both parties shall maintain documentation of the process.

EXHIBIT "E"

**PROMISSORY NOTE
(With Interest)**

Property located at 610 & 624 4th Street (legal description attached hereto)

(Date)

Bakersfield, California
("the Property")

1. PARTIES

"Borrower" means GOLDEN EMPIRE AFFORDABLE HOUSING, INC. II, a California nonprofit public benefit corporation. "Lender" means THE CITY OF BAKERSFIELD, and its successors and assigns.

2. BORROWER'S PROMISE TO PAY

In return for a loan received from Lender, Borrower promises to pay the sum of ONE MILLION TWO HUNDRED AND FIFTY-NINE THOUSAND NINE HUNDRED NINETEEN DOLLARS (\$1,259,919) (this amount is called "principal"), with interest, to the order of the Lender. Payment shall come out of the Residual Receipts from the Project.

3. INTEREST

The City Loan shall be due and payable as of the Maturity Date unless repaid sooner as set forth in this Agreement or the Note. In the event DEVELOPER prepays the City Loan before the Maturity Date, DEVELOPER shall pay accrued interest up to that point. Borrower shall pay simple interest at a rate of three percent (3%) per year. DEVELOPER shall begin making annual payments of principal and interest from Residual Receipts in the year following Project Completion, as defined herein, within 30 days. Interest shall begin accruing on July 1, 2024. Payments shall be made from 50% of available Residual Receipts and are allocated based on the proportionate size of the City Loans. Lender shall apply such payments first to pay current annual interest due, then the cumulative interest owed, and then to reduce the principal amount of the City Loan.

4. PROMISE TO PAY SECURED

Borrower's promise to pay is secured by a deed of trust that is dated the same date as this Note and called the "Security Instrument." That Security

Instrument protects the Lender from losses which might result if Borrower defaults under this Note.

This Note is a uniform instrument with limited variations in some jurisdictions. The Security Instrument describes how and under what conditions Borrower may be required to make immediate payment in full of all amounts owed under this Note. Some of those conditions are described as follows:

(a) Borrowers compliance; Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in the Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over the Security instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall be payable upon notice from Lender to Borrower requesting payment.

(b) Default. Lender may, require immediate payment in full of all sums due under this Note if:

(i) Borrower defaults by failing, for a period of sixty (60) days, to perform any obligations contained in the Security Instrument.

(ii) Borrower defaults by failing, for a period of sixty (60) days, to perform any obligations contained in City of Bakersfield Agreement _____ and any amendments thereto.

(c) Transfer of the Property or a Beneficial Interest in Borrower. Except as permitted in the Agreement, if all or any part of the Property or any interest in it is sold or transferred to an entity of which Borrower is not a partner, Lender may, at its option, require immediate payment of this Note. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of the Security Instrument.

If the Lender has required Borrower to pay immediately in full as described above, the Lender will have the right to be paid back by Borrower for all of its

costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

(d) The Note is evidence of the loan made pursuant to City of Bakersfield Agreement No. _____.

5. MANNER OF PAYMENT

The Borrower agrees to pay the entire unpaid principal amount advanced under the Loan Documents and this Note, together with all accrued but unpaid interest thereon, on the earlier of fifty-five (55) years from the date first set forth above (the "Maturity Date"), or upon sale or transfer of the Property without the consent of Lender unless demanded earlier pursuant hereto. Payments shall be made in accordance with the terms of City of Bakersfield Agreement No. _____.

6. BORROWER'S RIGHT TO PREPAY

Borrower has the right to make payments of principal at any time before the Maturity Date. Provided, however, that Borrower acknowledges that prepayment of this Note does not affect Borrower's obligation under the Regulatory Agreement and affordability covenants, which shall remain for a period of twenty (20) years from Project Completion.

Borrower may make a full prepayment or partial prepayments without paying any prepayment charge.

Lender will use all prepayments to reduce the amount of principal that is owed under this Note. If Borrower makes a partial prepayment, there will be no changes in the Maturity Date unless the Lender agrees in writing to those changes.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to Borrower under this Note will be given by delivering it or by mailing it by first class mail to Borrower at the following address: 601 24th Street Suite B, Bakersfield, CA 93301.

Any notice that must be given to the Lender under this Note will be given by mailing it by first class mail to 1600 Truxtun Avenue, Bakersfield, CA 93301 or a different address if Borrower is given a notice of that different address.

8. OBLIGATIONS OF BORROWER UNDER THIS NOTE

The Borrower is fully obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note.

9. NONRECOURSE

The obligations set forth herein are nonrecourse obligations of Borrower, its officers, employees, partners or agents. Neither Borrower nor any other party shall have any personal liability for repayment of the loan. The sole recourse of CITY for repayment of the principal and interest shall be the exercise of CITY's rights against the Project Property as that term is defined in Agreement No. _____.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Note.

Borrower:

By: GOLDEN EMPIRE AFFORDABLE HOUSING, INC. II

By: _____
DIANA ELLIOTT
Executive Director

Exhibit "A"

LEGAL DESCRIPTION:

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

PARCEL 1: (APN: 009-403-13-00-8)

BEGINNING AT A POINT ON THE SOUTH LINE OF LOT 2 IN BLOCK 3 OF UNION ADDITION TO THE CITY OF BAKERSFIELD, ACCORDING TO THAT CERTAIN MAP DATED MARCH 10, 1904 ENTITLED "SALES MAP OF THE KERN COUNTY LAND COMPANY SHOWING SUBDIVISIONS OF ITS ADDITIONS TO THE CITY OF BAKERSFIELD, KERN COUNTY, CALIFORNIA", WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID KERN COUNTY ON THE 19TH DAY OF APRIL, 1904, DISTANT THEREON 110 FEET EASTERLY FROM THE SW CORNER, THENCE 200 FEET EASTERLY ON AND ALONG THE SOUTH LINE OF BLOCK 3, THENCE NORTHERLY AND PARALLEL WITH THE WEST LINE OF SAID BLOCK, 108.99 FEET TO A POINT ON THE NORTH LINE OF BLOCK 3, THENCE WESTERLY ON AND ALONG SAID NORTH LINE 200 FEET TO A POINT WHICH LIES 110 FEET EASTERLY FROM THE NW CORNER OF BLOCK 3, MEASURED ALONG THE NORTH LINE OF SAID BLOCK, THENCE SOUTHERLY 109.45 FEET OR LESS TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION AS GRANTED TO THE CITY OF BAKERSFIELD, A MUNICIPAL CORPORATION, IN DEED RECORDED OCTOBER 21, 1982 IN BOOK 5498, PAGE 134 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

A PARCEL OF LAND SITUATED IN THE CITY OF BAKERSFIELD, COUNTY OF KERN, STATE OF CALIFORNIA, BEING A PORTION OF SECTION 31, TOWNSHIP 29 SOUTH, RANGE 28 EAST, M.D.B. & M, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 60 FEET OF THE WEST 310 FEET OF BLOCK 3 OF THE UNION ADDITION, AS PER MAP RECORDED APRIL 19, 1904 IN MAP BOOK 1, AT PAGE 23 IN THE OFFICE OF THE KERN COUNTY RECORDER.

EXCEPTING THEREFROM ALL OF THE MINERALS INCLUDING OIL, GAS, ASPHALTUM AND OTHER HYDROCARBONS IN AND UNDER SAID PREMISES. THE SAID FIRST PARTY, ITS SUCCESSORS AND ASSIGNS, SHALL NOT CONDUCT DRILLING OR OTHER OPERATIONS UPON THE SURFACE OF SAID LAND WITHOUT FIRST HAVING SECURED THE WRITTEN CONSENT OF SAID SECOND PARTY, ITS HEIRS AND ASSIGNS; BUT NOTHING HEREIN CONTAINED SHALL BE DEEMED TO PREVENT THE SAID FIRST PARTY, ITS SUCCESSORS AND ASSIGNS, FROM EXTRACTING OR CAPTURING SAID MINERALS BY DRILLING ON ADJACENT OR NEIGHBORING LANDS OR FROM

CONDUCTING SUBSURFACE DRILLING OPERATIONS UNDER THE SAID LANDS AT SUCH DEPTHS AS NOT TO DISTURB THE SURFACE THEREOF OR ANY IMPROVEMENTS THEREON, AS RESERVED BY KERN COUNTY LAND COMPANY, A CORPORATION, IN DEED RECORDED MARCH 16, 1950 IN BOOK 1668, PAGE 48 OF OFFICIAL RECORDS.

PARCEL 2: (APN: 009-403-14-00-1)

A PARCEL OF LAND SITUATED IN THE CITY OF BAKERSFIELD, COUNTY OF KERN, STATE OF CALIFORNIA, BEING A PORTION OF SECTION 31, TOWNSHIP 29 SOUTH, RANGE 28 EAST, M.B.D.&M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 60 FEET OF THE WEST 110 FEET OF BLOCK 3 OF THE UNION ADDITION, AS PER MAP RECORDED APRIL 19, 1904 IN MAP BOOK 1, AT PAGE 23 IN THE OFFICE OF THE KERN COUNTY RECORDER.

COMMENCING AT A POINT ON THE SOUTH LINE OF LOT 2, IN BLOCK 3 OF UNION ADDITION TO THE CITY OF BAKERSFIELD, ACCORDING TO THAT CERTAIN MAP DATED MARCH 10, 1904, ENTITLED "SALES MAP OF THE KERN COUNTY LAND COMPANY SHOWN SUBDIVISIONS OF ITS ADDITIONS TO THE CITY OF BAKERSFIELD, KERN COUNTY, CALIFORNIA", WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID KERN COUNTY, ON APRIL 19, 1904, WHICH SAID POINT OF BEGINNING LIES 50 FEET EASTERLY FROM THE SW CORNER OF SAID BLOCK 3; THENCE EASTERLY 60 FEET ALONG THE SOUTH LINE OF BLOCK 3; THENCE NORTHERLY 109.43 FEET ALONG A LINE PARALLEL TO AND DISTANT 110 FEET EASTERLY AT RIGHT ANGLES FROM THE WEST LINE OF BLOCK 3 TO A POINT IN THE NORTH LINE OF BLOCK 3; THENCE WESTERLY 60 FEET, MORE OR LESS, ALONG THE NORTH LINE OF BLOCK 3 TO A POINT WHICH LIES 50 FEET EASTERLY OF THE NW CORNER OF BLOCK 3 (MEASURED ALONG THE NORTH LINE OF BLOCK 3); THENCE SOUTHERLY 109.57 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THE MINERALS, INCLUDING OIL, GAS, ASPHALTUM AND OTHER HYDROCARBONS IN AND UNDER SAID PREMISES, AS RESERVED IN THE DEED FROM KERN COUNTY LAND CO., RECORDED OCTOBER 27, 1942 IN BOOK 1119, PAGE 48 OF OFFICIAL RECORDS.

EXHIBIT "F"

RECORDING REQUESTED BY, AND
WHEN RECORDED, RETURN TO:

City Clerk
City of Bakersfield
1600 Truxtun Avenue
Bakersfield, CA 93301

Free Recording in Accordance
With Section 6103 of the
California Government Code

DEED OF TRUST

This **Deed of Trust** made this _____ day of _____, 2024 between **GOLDEN EMPIRE AFFORDABLE HOUSING, INC. II**, a California nonprofit public benefit agency, herein called TRUSTOR, whose address is 601 24th Street, Suite B, Bakersfield, CA 93301, _____, a California corporation, herein called TRUSTEE, and **CITY OF BAKERSFIELD**, a Municipal Corporation, herein called BENEFICIARY.

Witnessed: That Trustor irrevocably GRANTS, TRANSFERS AND ASSIGNS to TRUSTEE IN TRUST WITH POWER OF SALE, that real property in the City of Bakersfield, County of Kern, State of California, described as:

SEE ATTACHED LEGAL DESCRIPTION

TOGETHER WITH the rents, issues and profits thereof, SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Beneficiary by Paragraph 5 of Part B of the provisions of the Corporation Deed of Trust incorporated herein by reference to collect and apply such rents, issues and profits, FOR THE PURPOSE OF SECURING the sum of ONE MILLION TWO HUNDRED AND FIFTY-NINE THOUSAND NINE HUNDRED NINETEEN DOLLARS (\$1,259,919), to Trustor, as provided in City of Bakersfield Agreement No. _____, in sub-paragraph 3.1.2, executed by Trustor on or about _____, 2024, any additional sums which may hereafter be granted to the Trustor or his successors or assigns by the Beneficiary, and securing the performance of each obligation contained in CITY of Bakersfield Agreement No. _____ and herein contained, including the obligations set forth in the

regulatory agreement recorded concurrently herewith. Additional grants hereafter made shall be secured by this Deed of Trust only if made to the Trustor while he is the owner of record of his present interest in said property, or to his successors or assigns while they are the owners of record thereof, and shall be evidenced by an amendment to Agreement No. _____ in writing reciting that it is secured by this Deed of Trust.

BY THE EXECUTION AND DELIVERY OF THIS DEED OF TRUST the parties hereto agree as follows:

A. To protect the Security of this Deed of Trust, Trustor agrees:

1. To keep said property in good condition and repair; not to remove or demolish any buildings thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.
2. To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any obligation secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
3. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary, or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed.
4. To pay, at least ten days before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.
5. To pay immediately and without demand all sums expended by Beneficiary

or Trustee pursuant to the provisions hereof.

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

B. It is mutually agreed that:

1. Any award of damages in connection with any such taking or condemnation, or for injury to the property by reason of public use, or for damages for private trespass or injury thereto, is assigned and shall be paid to Beneficiary as further security for all obligations secured hereby (reserving unto the Trustor, however, the right to sue therefor and the ownership thereof subject to this deed of trust), and upon receipt of such moneys Beneficiary may hold the same as such further security, or apply or release the same in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

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

3. At any time or from time to time, and without notice, upon written request of Beneficiary and presentation of this Deed of Trust, and without liability therefor, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, and without affecting the security hereof for the full amount secured hereby on all property remaining subject hereto, and without the necessity that any sum representing the value or any portion thereof of the property affected by the Trustee's action be credited on the indebtedness, the Trustee may: (i) reconvey all or any part of said property; (ii) consent to the making and recording, or either, of any map or plat of the property or any part thereof; (iii) join in granting any easement thereon; (iv) join in or consent to any extension agreement or any agreement subordinating the lien, encumbrance or charge hereof.

4. Upon written request of the Beneficiary, and upon surrender of this Deed of

Trust to the Trustee for reconveyance, and upon payment of its fees and charges, the Trustee shall reconvey, without warranty, the property then subject hereto. Any reconveyance, whether full or partial may be made in terms to "the person or persons legally entitled thereto."

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

6. Upon failure, breach, or default of Trustor in performing any obligation contained in CITY of Bakersfield Agreement No. _____ secured hereby or in the performance of any agreement hereunder, repayment of the Amount of HOME funds granted to Trustor pursuant to the terms of CITY of Bakersfield Agreement No. _____ shall immediately become due and payable at the option of Beneficiary after notice to the Trustor as provided in the Agreement. In such event and upon written request of Beneficiary, the Trustee shall sell, for lawful money of the United States, the property then subject to this deed of trust, as a whole or in separate parcels, at Beneficiary's option, in accordance with the provisions of the laws of the State of California in force at the time of such sale, and if in separate parcels, in such order as Beneficiary may direct, at public auction to the highest bidder for cash in lawful money of the United States, payable at the time of sale. Trustee may postpone the sale of all or any portion of said property by public oral announcement at the time and place of sale, and from time to time thereafter may postpone such sale by public oral announcement at the time fixed by the preceding postponement. After deducting all costs, fees and expenses of Trustee and of this trust, including cost of evidence of title and reasonable counsel fees in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at seven per cent per annum; the Amount then secured hereby, and the remainder, if any, to the person or persons legally entitled hereto.

7. This Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall name CITY OF BAKERSFIELD, a Municipal Corporation, a party to Agreement No. _____ or its assignee secured hereby, whether or not named as a beneficiary herein. In this Deed, whenever the context so requires, the masculine gender includes the feminine and/or neutral, and the singular number includes the plural.

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

9. Beneficiary may from time to time, by a writing signed and acknowledged by Beneficiary and recorded in the office of the County Recorder of the County or respective Counties in which the property subject hereto is, or the respective parcels thereof are, situated, appoint another trustee in place and stead of Trustee herein named, and thereupon the Trustee herein named shall be discharged and the trustee so appointed shall be substituted as Trustee hereunder with the same force and effect as if originally named Trustee herein.

10. No power or remedy herein conferred is exclusive of, or shall prejudice any other power or remedy of the Trustee or beneficiary given by law. Each such power or remedy may be exercised from time to time as often as deemed necessary.

11. The recitals contained in any reconveyance, trustee's deed, or any other instrument executed by the Trustee from time to time under the authority hereof or in the exercise of its powers or the performance of its duties under this deed of trust, shall be conclusive evidence of their truth, and binding and conclusive upon the Trustor, his heirs, executors, administrators, successors and assigns, and all other persons; whether stated as specific and particular facts, or in general statements or conclusions.

12. If any action be brought for the foreclosure of this deed of trust, Trustor agrees to pay to Beneficiary or Trustee (whichever may be the plaintiff in the foreclosure action), such reasonable sum as counsel fees as the Court may fix and award in such action, together with a reasonable fee to the Trustee, to be fixed by the Court, and all sums paid or incurred for procuring a search or searches of title to any property covered hereby subsequent to the execution hereof; and all such sums shall be secured hereby.

13. If two or more persons be designated as Trustee herein, any, or all, power granted herein to Trustee may be exercised by any of such persons, if the other person or persons are unable, for any reason, to act and any recital of such inability in any instrument executed by any of such persons shall be conclusive against Trustor, his heirs and assigns.

14. The Beneficiary hereunder shall be entitled to a fee for any statement, regarding the obligation, requested by the Trustor or requested at Trustor's direction which fee shall not exceed the amount provided for in Civil Code Section 2954 at the date of such request.

[Signatures on following page]

THE UNDERSIGNED TRUSTOR REQUESTS THAT A COPY OF ANY NOTICE OF DEFAULT AND OF ANY NOTICE OF SALE HEREUNDER BE MAILED TO HIM AT THIS ADDRESS HEREINBEFORE SET FORTH.

Signature of Trustor

By: Golden Empire Affordable Housing Inc. II,
a California nonprofit public benefit
corporation,

By: _____ Date: _____
Diana Elliott
Executive Director

NOTARY SEAL

REQUEST FOR NOTICE OF DEFAULT AND FORECLOSURE UNDER SUPERIOR MORTGAGES OR DEEDS OF TRUST

Trustor requests the holder of any mortgage, deed or trust or other encumbrance with a lien which has priority over this Deed of Trust to give Notice to BENEFICIARY, at 1600 Truxtun Avenue, Bakersfield, CA 93301 of any default under the superior encumbrance and of any sale or other foreclosure action.

TRUSTOR:

By: Golden Empire Affordable Housing Inc. II,
a California nonprofit public benefit
corporation,

By: _____ Date: _____
Diana Elliott
Executive Director

Exhibit "A"

LEGAL DESCRIPTION:

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

PARCEL 1: (APN: 009-403-13-00-8)

BEGINNING AT A POINT ON THE SOUTH LINE OF LOT 2 IN BLOCK 3 OF UNION ADDITION TO THE CITY OF BAKERSFIELD, ACCORDING TO THAT CERTAIN MAP DATED MARCH 10, 1904 ENTITLED "SALES MAP OF THE KERN COUNTY LAND COMPANY SHOWING SUBDIVISIONS OF ITS ADDITIONS TO THE CITY OF BAKERSFIELD, KERN COUNTY, CALIFORNIA", WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID KERN COUNTY ON THE 19TH DAY OF APRIL, 1904, DISTANT THEREON 110 FEET EASTERLY FROM THE SW CORNER, THENCE 200 FEET EASTERLY ON AND ALONG THE SOUTH LINE OF BLOCK 3, THENCE NORTHERLY AND PARALLEL WITH THE WEST LINE OF SAID BLOCK, 108.99 FEET TO A POINT ON THE NORTH LINE OF BLOCK 3, THENCE WESTERLY ON AND ALONG SAID NORTH LINE 200 FEET TO A POINT WHICH LIES 110 FEET EASTERLY FROM THE NW CORNER OF BLOCK 3, MEASURED ALONG THE NORTH LINE OF SAID BLOCK, THENCE SOUTHERLY 109.45 FEET OR LESS TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION AS GRANTED TO THE CITY OF BAKERSFIELD, A MUNICIPAL CORPORATION, IN DEED RECORDED OCTOBER 21, 1982 IN BOOK 5498, PAGE 134 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

A PARCEL OF LAND SITUATED IN THE CITY OF BAKERSFIELD, COUNTY OF KERN, STATE OF CALIFORNIA, BEING A PORTION OF SECTION 31, TOWNSHIP 29 SOUTH, RANGE 28 EAST, M.D.B. & M, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 60 FEET OF THE WEST 310 FEET OF BLOCK 3 OF THE UNION ADDITION, AS PER MAP RECORDED APRIL 19, 1904 IN MAP BOOK 1, AT PAGE 23 IN THE OFFICE OF THE KERN COUNTY RECORDER.

EXCEPTING THEREFROM ALL OF THE MINERALS INCLUDING OIL, GAS, ASPHALTUM AND OTHER HYDROCARBONS IN AND UNDER SAID PREMISES. THE SAID FIRST PARTY, ITS SUCCESSORS AND ASSIGNS, SHALL NOT CONDUCT DRILLING OR OTHER OPERATIONS UPON THE SURFACE OF SAID LAND WITHOUT FIRST HAVING SECURED THE WRITTEN CONSENT OF SAID SECOND PARTY, ITS HEIRS AND ASSIGNS; BUT NOTHING HEREIN CONTAINED SHALL BE DEEMED TO PREVENT THE SAID FIRST PARTY, ITS SUCCESSORS AND ASSIGNS, FROM EXTRACTING OR CAPTURING SAID MINERALS BY DRILLING ON ADJACENT OR NEIGHBORING LANDS OR FROM

CONDUCTING SUBSURFACE DRILLING OPERATIONS UNDER THE SAID LANDS AT SUCH DEPTHS AS NOT TO DISTURB THE SURFACE THEREOF OR ANY IMPROVEMENTS THEREON, AS RESERVED BY KERN COUNTY LAND COMPANY, A CORPORATION, IN DEED RECORDED MARCH 16, 1950 IN BOOK 1668, PAGE 48 OF OFFICIAL RECORDS.

PARCEL 2: (APN: 009-403-14-00-1)

A PARCEL OF LAND SITUATED IN THE CITY OF BAKERSFIELD, COUNTY OF KERN, STATE OF CALIFORNIA, BEING A PORTION OF SECTION 31, TOWNSHIP 29 SOUTH, RANGE 28 EAST, M.B.D.&M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 60 FEET OF THE WEST 110 FEET OF BLOCK 3 OF THE UNION ADDITION, AS PER MAP RECORDED APRIL 19, 1904 IN MAP BOOK 1, AT PAGE 23 IN THE OFFICE OF THE KERN COUNTY RECORDER.

COMMENCING AT A POINT ON THE SOUTH LINE OF LOT 2, IN BLOCK 3 OF UNION ADDITION TO THE CITY OF BAKERSFIELD, ACCORDING TO THAT CERTAIN MAP DATED MARCH 10, 1904, ENTITLED "SALES MAP OF THE KERN COUNTY LAND COMPANY SHOWN SUBDIVISIONS OF ITS ADDITIONS TO THE CITY OF BAKERSFIELD, KERN COUNTY, CALIFORNIA", WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID KERN COUNTY, ON APRIL 19, 1904, WHICH SAID POINT OF BEGINNING LIES 50 FEET EASTERLY FROM THE SW CORNER OF SAID BLOCK 3; THENCE EASTERLY 60 FEET ALONG THE SOUTH LINE OF BLOCK 3; THENCE NORTHERLY 109.43 FEET ALONG A LINE PARALLEL TO AND DISTANT 110 FEET EASTERLY AT RIGHT ANGLES FROM THE WEST LINE OF BLOCK 3 TO A POINT IN THE NORTH LINE OF BLOCK 3; THENCE WESTERLY 60 FEET, MORE OR LESS, ALONG THE NORTH LINE OF BLOCK 3 TO A POINT WHICH LIES 50 FEET EASTERLY OF THE NW CORNER OF BLOCK 3 (MEASURED ALONG THE NORTH LINE OF BLOCK 3); THENCE SOUTHERLY 109.57 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THE MINERALS, INCLUDING OIL, GAS, ASPHALTUM AND OTHER HYDROCARBONS IN AND UNDER SAID PREMISES, AS RESERVED IN THE DEED FROM KERN COUNTY LAND CO., RECORDED OCTOBER 27, 1942 IN BOOK 1119, PAGE 48 OF OFFICIAL RECORDS.

EXHIBIT "G"

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Bakersfield
1600 Truxtun Avenue
Bakersfield, California 93301
Attention: Executive Director

This document is exempt from the payment of a recording fee pursuant to Government Code Section 27383

REGULATORY AGREEMENT

This **REGULATORY AGREEMENT** (the "Agreement") is entered into as of _____, 2024, by and between the **CITY OF BAKERSFIELD**, a charter city and municipal corporation (the "City"), and **GOLDEN EMPIRE AFFORDABLE HOUSING, INC. II**, a California nonprofit public benefit corporation (the "DEVELOPER").

RECITALS

A. DEVELOPER has acquired certain real property located within the City of Bakersfield, as particularly described in the Legal Description attached hereto as Exhibit A, which is incorporated herein by reference (the "Site").

B. DEVELOPER desires to develop a multi-family housing complex consisting of sixteen units of affordable housing development on the Site (the "Project Property"), and to make available and rent the apartment units within the Project Property (the "Housing Units") for low- and moderate-income persons at an affordable rent.

C. DEVELOPER and City have entered into a HOME Agreement No. _____ (the "CITY Agreement") dated as of _____ and any amendments thereafter. Subject to the terms and conditions therein, the DEVELOPER has agreed to acquire the Site and construct and operate the Project Property, the City has agreed to provide financial assistance to DEVELOPER, and the DEVELOPER has agreed to make available and lease all seven (7) of the HOME-assisted Floating Housing Units to 50% AMI Households at an Affordable Rent (as those terms are defined herein). The execution and recording of this Agreement is a requirement of the CITY Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

1. Number of Affordable Units. DEVELOPER agrees to make available, restrict occupancy to, and rent all seven (7) of the HOME-assisted floating Housing Units to 50% AMI Households at an Affordable Rent (as those terms are defined herein).

2. Duration of Affordability Requirements. The Housing Units shall be subject to the requirements of this Agreement for twenty (20) years from the date of project completion, which shall occur on the date a certificate of occupancy is issued for the project site in accordance with the definition of Project Completion as adopted in 24 CFR 92.2. The duration of this requirement shall be known as the "Affordability Period."

3. Selection of Tenants. DEVELOPER shall be responsible for the selection of tenants for the Housing Units in compliance with lawful and reasonable criteria, as set forth in the Management Plan which is required to be submitted and approved by the City pursuant to Section 9 hereof.

4. Household Income Requirements. Following the initial lease-up of the Housing Units, and annually thereafter, the DEVELOPER shall submit to City, at DEVELOPER 's expense, a summary of the income, household size and rent payable by each of the tenants of the Housing Units. At the request of City, the DEVELOPER shall also provide to the City completed income computation and certification forms, in a form reasonably acceptable to the City, for any such tenant or tenants. DEVELOPER shall obtain, or shall cause to be obtained by the Property Manager, a certification from each household leasing an Affordable Unit demonstrating that such household is a Low-Income Household, as applicable, and meets the eligibility requirements established for the Housing Unit. DEVELOPER shall verify, or shall cause to be verified by the Property Manager, the income certification of the household.

For purposes of this Agreement, the "Kern County Median Income" shall be determined pursuant to the regulations published by the United States Department of Housing and Urban Development ("HUD"), or its successor.

For the purposes of this Agreement, "household income" means the calculated annual income of the household in accordance with 24 CFR 5.609, in compliance with 24 CFR 92.203(b)(1).

5. Affordable Rent. The maximum Monthly Rent chargeable for the Affordable Units including a reasonable utility allowance, shall not exceed (as applicable, the "Affordable Rent"): For very low-income households restricted under the HOME program rules, the rent does not exceed 30 percent of the

family's adjusted income. If the unit receives Federal or State project-based rental subsidy and the very low-income family pays as a contribution toward rent not more than 30 percent of the family's adjusted income, then the maximum rent (i.e., tenant contribution plus project-based rental subsidy) is the rent allowable under the Federal or State project-based rental subsidy program. However, if the rent determined under this paragraph is higher than the applicable rent under paragraph (a) of 24 CFR 92.252, then the maximum rent for units under this paragraph is that calculated under paragraph (a) of this section. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.

For purposes of this Agreement, "Monthly Rent" means the total of monthly payments for (a) use and occupancy of each Affordable Unit and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by the DEVELOPER which are required of all tenants, other than security deposits, (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone service, and (d) possessory interest, taxes or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than DEVELOPER. In the event that all utility charges are paid by the landlord rather than the tenant, no utility allowance shall be deducted from the rent.

For purposes of this Agreement, the "Kern County Median Income" shall be determined pursuant to the regulations published by the United States Department of Housing and Urban Development ("HUD"), or its successor.

For the purposes of this Agreement, "household income" means the calculated annual income of the household in accordance with 24 CFR 5.609, in compliance with 24 CFR 92.203(b)(1).

6. Compliance with Other Programs. Where rent or occupancy restrictions of other financing sources, including Federal or State Tax Credits and sources from the Department of Housing and Community Development overlap HOME-assisted units, the stricter of the two programs requirements shall apply.

7. Marketing Program. Each Affordable Unit shall be leased to tenants selected by the DEVELOPER who meet all of the requirements provided herein. DEVELOPER shall prepare and obtain City's approval, which approval shall not be unreasonably withheld, of a marketing program for the leasing of the Affordable Units at the Housing Project (the "Marketing Program"). The leasing of the Affordable Units shall thereafter be marketed in accordance with the Marketing Program as the same may be amended from time to time with City's prior written

approval, which approval shall not unreasonably be withheld. The City agrees to exercise reasonable efforts to assist DEVELOPER in connection with the implementation of the Marketing Program; provided, however, City shall not be under any obligation to incur any out-of-pocket expenses in connection therewith.

8. Maintenance. DEVELOPER, for itself and its successors and assigns, hereby covenants and agrees to maintain and repair or cause to be maintained and repaired the Site and all related on-site improvements and landscaping thereon, including, without limitation, buildings, parking areas, lighting, signs and walls in a first class condition and repair, free of rubbish, debris and other hazards to persons using the same, and in accordance with all applicable laws, rules, ordinances and regulations of all federal, state, and local bodies and agencies having jurisdiction, at DEVELOPER sole cost and expense. Such maintenance and repair shall include, but not be limited to, the following: (i) sweeping and trash removal; (ii) the care and replacement of all shrubbery, plantings, and other landscaping in a healthy condition; and (iii) the repair, replacement and restriping of asphalt or concrete paving using the same type of material originally installed, to the end that such savings at all times be kept in a level and smooth condition. In addition, DEVELOPER shall be required to maintain the Property in such a manner as to avoid the reasonable determination of a duly authorized official of the City that a public nuisance has been created by the absence of adequate maintenance such as to be detrimental to the public health, safety or general welfare or that such a condition of deterioration or disrepair causes appreciable harm or is materially detrimental to property or improvements within one thousand (1,000) feet of such portion of the Site.

(a) Maintenance of Improvements. DEVELOPER covenants and agrees for itself, its successors and assigns, and every successor in interest to the Site, or any part thereof, that DEVELOPER shall be responsible for maintaining all improvements that may exist on the Site or that may be constructed on the Site and any off-site improvements in accordance with the terms and conditions of the Regulatory Agreement. The foregoing maintenance shall run with the land in accordance with and for the term of the Regulatory Agreement. DEVELOPER's further obligations to maintain the Site, and Agency's remedies in the event of DEVELOPER's default in performing such obligations, are set forth in the Regulatory Agreement. DEVELOPER hereby waives any notice, public hearing, and other requirements of the public nuisance laws and ordinances of the City that would otherwise apply, except as specified in said Regulatory Agreement. Upon the sale of any portion of the Site, DEVELOPER (but not DEVELOPER's successor) shall be released from the requirements imposed by this Section 6.5, and the financial liability therefor, as to the portion of the Site conveyed.

9. Management Plan; Property Management. The DEVELOPER shall

submit for the reasonable approval of the City a "Management Plan" which sets forth in detail the DEVELOPER's property management duties, a tenant selection process in accordance with Section 6 hereof, a security system and crime prevention program, the procedures for the collection of rent, the procedures for eviction of tenants, the rules and regulations of the Housing Project and manner of enforcement, a standard lease form, an operating budget, the identity of the manager of the Housing Project (the "Property Manager"), and other matters relevant to the management of the Housing Project. The management of the Housing Project shall be in compliance with the Management Plan which is approved by the City.

If the City determines that the performance of the Property Manager is deficient based upon the standards set forth in the Management Plan and in this Agreement, it shall provide notice to the DEVELOPER of such deficiencies, and the DEVELOPER shall use its best efforts to correct such deficiencies. In the event that such deficiencies have not been cured within the time set forth in the CITY AGREEMENT, the City shall have the right to require the DEVELOPER to immediately remove and replace the Property Manager with another property manager or property management company which is reasonably acceptable to the City, which is not related to or affiliated with the DEVELOPER, and which has not less than five (5) years experience in property management, including significant experience managing housing facilities of the size, quality and scope of the Housing Project.

10. Capital Reserve Requirements. The DEVELOPER shall also, or cause the Property Manager to, annually set aside such amount as may be required by the Housing Project lenders into a separate interest-bearing trust account in the name of the DEVELOPER (the "Capital Replacement Reserve"). Funds in the Capital Replacement Reserve shall be used for capital replacements to the Housing Project fixtures and equipment, which are normally capitalized under generally accepted accounting principles. The non-availability of funds in the Capital Replacement Reserve does not in any manner relieve the DEVELOPER of the obligation to undertake necessary capital repairs and improvements and to continue to maintain the Housing Project in the manner prescribed herein. Capital repairs to and replacement of the Housing Project shall include only those items with a long useful life, including without limitation the following: carpet and drape replacement; appliance replacement; exterior painting, including exterior trim; hot water heater replacement; plumbing fixtures replacement, including tubs and showers, toilets, lavatories, sinks, faucets; air conditioning and heating replacement; asphalt repair and replacement, and seal coating; roofing repair and replacement; landscape tree replacement; irrigation pipe and controls replacement; gas line pipe replacement; lighting fixture replacement; elevator replacement and upgrade work; miscellaneous motors and blowers; common area furniture replacement; common area repainting, and uninsured losses due

to casualties such as earthquakes.

11. Non Discrimination Covenants. DEVELOPER herein covenants by and for itself, its successors and assigns, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Site and the Housing Project. The foregoing covenants shall run with the land.

Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph.

All deeds, leases or contracts entered into by DEVELOPER relating to the Site and the Housing Project shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds: “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

“Notwithstanding the immediately preceding paragraph, with respect to

familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph."

(b) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

"That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.

"Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph."

(c) In contracts: "There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises which are the subject of this Agreement, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of

discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

“Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph.”

The covenants established in this Section 11 shall, without regard to technical classification and designation, be binding for the benefit and in favor of the City and its successors and assigns, and shall remain in effect in perpetuity.

12. Monitoring and Recordkeeping. Throughout the Affordability Period, DEVELOPER shall comply with all applicable recordkeeping and monitoring requirements set forth in 24 CFR 92, 24 CFR 570, and 2 CFR 200.333-337 and shall annually complete and submit to City a report, prior to April 15 of each year, which includes the name, address, income and age of each occupant of an Affordable Unit, identifying the bedroom count and Monthly Rent for such Affordable Unit. Representatives of the City shall be entitled to enter the Housing Project, upon at least seventy-two (72) hours prior written notice, to monitor compliance with this Agreement, to inspect the records of the Housing Project, and to conduct an independent audit or inspection of such records. The DEVELOPER agrees to cooperate with the City in making the Housing Project available for such inspection or audit. DEVELOPER agrees to maintain records in businesslike manner, and to maintain such records for the term of this Agreement.

13. Compliance With Laws and CITY AGREEMENT. The DEVELOPER shall carry out the design, development and operation of the Housing Project in conformity with the CITY AGREEMENT and all applicable laws, including all applicable state labor standards, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.*

14. Duty to Prevent Hazardous Material Contamination. During the

development and operation of the Housing Project, the DEVELOPER shall take all necessary precautions to prevent the release of any Hazardous Materials into the environment on or under the Site. Such precautions shall include compliance with all Governmental Requirements with respect to Hazardous Materials. The DEVELOPER shall notify the City, and provide to the City a copy or copies, of any notices of violation, notices to comply, citations, inquiries, clean-up or abatement orders, cease and desist orders, reports filed pursuant to self-reporting requirements and reports filed or applications made pursuant to any Governmental Requirement relating to Hazardous Materials and underground tanks, and the DEVELOPER shall report to the City, as soon as possible after each incident, any unusual, potentially important incidents in the event of a release of any Hazardous Materials into the environment.

For purposes of this Section 14, "Governmental Requirements" shall mean all laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the state, the county, the City, or any other political subdivision in which the Housing Project is located, and of any other political subdivision, City or instrumentality exercising jurisdiction over the City, the DEVELOPER or the Housing Project.

For purposes of this Section 14, "Hazardous Materials" means any substance, material, or waste which is or becomes, regulated by any local governmental authority, the State of California, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law)), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) friable asbestos, (vii) polychlorinated byphenyls, (viii) methyl tertiary butyl ether, (ix) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Code of Regulations, Division 4, Chapter 20, (x) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317), (xi) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §§6901, et seq. (42 U.S.C. §6903) or (xii) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§9601, et

seq. Notwithstanding the foregoing, "Hazardous Materials" shall not include such products in quantities as are customarily used in the construction, maintenance, Rehabilitation or management of residential developments or associated buildings and grounds, or typically used in residential activities in a manner typical of other comparable residential developments, or substances commonly ingested by a significant population living within the Housing Project, including without limitation alcohol, aspirin, tobacco and saccharine.

15. Successors and Assigns. This Agreement shall run with the land, and all of the terms, covenants and conditions of this Agreement shall be binding upon the DEVELOPER and the City and the permitted successors and assigns of the DEVELOPER and the City. Whenever the term "DEVELOPER" or "City" is used in this Agreement, such term shall include any other successors and assigns as herein provided.

16. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the City and their successors and assigns, and DEVELOPER and its successors and assigns, and no other person or persons shall have any right of action hereon.

17. Partial Invalidity. If any provision of this Agreement shall be declared invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

18. Governing Law. This Agreement and the documents and other instruments given pursuant hereto shall be construed in accordance with and be governed by the laws of the State of California. Any references herein to particular statutes or regulations shall be deemed to refer to successor statutes or regulations, or amendments thereto.

19. Amendment. This Agreement may not be changed orally, but only by agreement in writing signed by DEVELOPER and the City.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Regulatory Agreement effective as of the date and year set forth above.

“CITY”
CITY OF BAKERSFIELD

“DEVELOPER”
GOLDEN EMPIRE AFFORDABLE HOUSING, INC. II

By: _____
KAREN GOH
Mayor

By: _____
DIANA ELLIOTT
Executive Director

APPROVED AS TO CONTENT:
ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

By: _____
JENNIFER M. BYERS
Economic and Community Development Director

APPROVED AS TO FORM:
VIRGINIA GENNARO
City Attorney

By: _____
JOSHUA H. RUDNICK
Deputy City Attorney II

COUNTERSIGNED:

By: _____
RANDY MCKEEGAN
Finance Director

Exhibit "A"
LEGAL DESCRIPTION OF PROPERTY

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

PARCEL 1: (APN: 009-403-13-00-8)

BEGINNING AT A POINT ON THE SOUTH LINE OF LOT 2 IN BLOCK 3 OF UNION ADDITION TO THE CITY OF BAKERSFIELD, ACCORDING TO THAT CERTAIN MAP DATED MARCH 10, 1904 ENTITLED "SALES MAP OF THE KERN COUNTY LAND COMPANY SHOWING SUBDIVISIONS OF ITS ADDITIONS TO THE CITY OF BAKERSFIELD, KERN COUNTY, CALIFORNIA", WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID KERN COUNTY ON THE 19TH DAY OF APRIL, 1904, DISTANT THEREON 110 FEET EASTERLY FROM THE SW CORNER, THENCE 200 FEET EASTERLY ON AND ALONG THE SOUTH LINE OF BLOCK 3, THENCE NORTHERLY AND PARALLEL WITH THE WEST LINE OF SAID BLOCK, 108.99 FEET TO A POINT ON THE NORTH LINE OF BLOCK 3, THENCE WESTERLY ON AND ALONG SAID NORTH LINE 200 FEET TO A POINT WHICH LIES 110 FEET EASTERLY FROM THE NW CORNER OF BLOCK 3, MEASURED ALONG THE NORTH LINE OF SAID BLOCK, THENCE SOUTHERLY 109.45 FEET OR LESS TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION AS GRANTED TO THE CITY OF BAKERSFIELD, A MUNICIPAL CORPORATION, IN DEED RECORDED OCTOBER 21, 1982 IN BOOK 5498, PAGE 134 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

A PARCEL OF LAND SITUATED IN THE CITY OF BAKERSFIELD, COUNTY OF KERN, STATE OF CALIFORNIA, BEING A PORTION OF SECTION 31, TOWNSHIP 29 SOUTH, RANGE 28 EAST, M.D.B. & M, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 60 FEET OF THE WEST 310 FEET OF BLOCK 3 OF THE UNION ADDITION, AS PER MAP RECORDED APRIL 19, 1904 IN MAP BOOK 1, AT PAGE 23 IN THE OFFICE OF THE KERN COUNTY RECORDER.

EXCEPTING THEREFROM ALL OF THE MINERALS INCLUDING OIL, GAS, ASPHALTUM AND OTHER HYDROCARBONS IN AND UNDER SAID PREMISES. THE SAID FIRST PARTY, ITS SUCCESSORS AND ASSIGNS, SHALL NOT CONDUCT DRILLING OR OTHER OPERATIONS UPON THE SURFACE OF SAID LAND WITHOUT FIRST HAVING SECURED THE WRITTEN CONSENT OF SAID SECOND PARTY, ITS HEIRS AND ASSIGNS; BUT NOTHING HEREIN CONTAINED SHALL BE DEEMED TO PREVENT THE SAID FIRST PARTY, ITS SUCCESSORS AND ASSIGNS, FROM EXTRACTING OR CAPTURING SAID MINERALS BY DRILLING ON ADJACENT OR NEIGHBORING LANDS OR FROM CONDUCTING SUBSURFACE DRILLING OPERATIONS UNDER THE SAID LANDS AT SUCH DEPTHS AS NOT TO DISTURB THE SURFACE THEREOF OR ANY IMPROVEMENTS THEREON, AS RESERVED BY KERN COUNTY LAND COMPANY, A CORPORATION, IN DEED RECORDED MARCH 16, 1950 IN BOOK 1668, PAGE 48 OF OFFICIAL RECORDS.

PARCEL 2: (APN: 009-403-14-00-1)

A PARCEL OF LAND SITUATED IN THE CITY OF BAKERSFIELD, COUNTY OF KERN, STATE OF CALIFORNIA, BEING A PORTION OF SECTION 31, TOWNSHIP 29 SOUTH, RANGE 28 EAST, M.B.D.&M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 60 FEET OF THE WEST 110 FEET OF BLOCK 3 OF THE UNION ADDITION, AS PER MAP RECORDED APRIL 19, 1904 IN MAP BOOK 1, AT PAGE 23 IN THE OFFICE OF THE KERN COUNTY RECORDER.

COMMENCING AT A POINT ON THE SOUTH LINE OF LOT 2, IN BLOCK 3 OF UNION ADDITION TO THE CITY OF BAKERSFIELD, ACCORDING TO THAT CERTAIN MAP DATED MARCH 10, 1904, ENTITLED "SALES MAP OF THE KERN COUNTY LAND COMPANY SHOWN SUBDIVISIONS OF ITS ADDITIONS TO THE CITY OF BAKERSFIELD, KERN COUNTY, CALIFORNIA", WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID KERN COUNTY, ON APRIL 19, 1904, WHICH SAID POINT OF BEGINNING LIES 50 FEET EASTERLY FROM THE SW CORNER OF SAID BLOCK 3; THENCE EASTERLY 60 FEET ALONG THE SOUTH LINE OF BLOCK 3; THENCE NORTHERLY 109.43 FEET ALONG A LINE PARALLEL TO AND DISTANT 110 FEET EASTERLY AT RIGHT ANGLES FROM THE WEST LINE OF BLOCK 3 TO A POINT IN THE NORTH LINE OF BLOCK 3; THENCE WESTERLY 60 FEET, MORE OR LESS, ALONG THE NORTH LINE OF BLOCK 3 TO A POINT WHICH LIES 50 FEET EASTERLY OF THE NW CORNER OF BLOCK 3 (MEASURED ALONG THE NORTH LINE OF BLOCK 3); THENCE SOUTHERLY 109.57 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THE MINERALS, INCLUDING OIL, GAS, ASPHALTUM AND OTHER HYDROCARBONS IN AND UNDER SAID PREMISES, AS RESERVED IN THE DEED FROM KERN COUNTY LAND CO., RECORDED OCTOBER 27, 1942 IN BOCK 1119, PAGE 48 OF OFFICIAL RECORDS

EXHIBIT "H"

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontractors, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By: Golden Empire Affordable Housing Inc. II,
a California nonprofit public benefit
corporation,

By: _____ Date: _____

DIANA ELLIOTT
Executive Director

EXHIBIT "I"

EQUAL OPPORTUNITY

(48 CFR 52.222-26)

(February 1999)

(a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs (b)(1) through (11) of this clause. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(b) During performing this contract, the Contractor agrees as follows:

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, sexual orientation, or gender identity. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisement for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information

required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 70-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of subparagraph (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

EXHIBIT "J"

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT 24 CFR, Subtitle A, Part 1, Section 1.5 Assurances Required

1.5 Assurances Required

- (a) **General.** (1) Every contract for Federal financial assistance to carry out a program or activity to which this Part 1 applies, executed on or after January 3, 1965, and every application for such Federal financial assistance submitted on or after January 3, 1965, shall, as a condition to this approval and the extension of any Federal financial assistance pursuant to such contract or application, contain or be accompanied by an assurance that the program or activity will be conducted and the housing, accommodations, facilities, services, financial aid, or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to this Part 1. In the case of a contract or application where the Federal financial assistance is to provide or is in the form of personal property or real property or interest therein or structures thereon, the assurance shall obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases, the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the contract or application. The responsible Department official shall specify the form of the foregoing assurance for such program or activity, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program or activity. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.
- (2) In the case of real property, structures or improvements thereon, or interests therein, acquired through a program of Federal financial assistance, the instrument effecting any disposition by the recipient of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In the case where Federal financial assistance is provided in the form of a transfer of real property or interests therein from the Federal Government, the instrument effecting or recording the transfer shall contain such a covenant.
- (3) In program receiving Federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, to the extent that rights to space on, over, or under any such property are included as part of the program

receiving such assistance, the nondiscrimination requirements of this Part 1 shall extend to any facility located wholly or in part in space.

- (b) **Preexisting contracts - funds not disbursed.** In any case where a contract for Federal financial assistance, to carry out a program or activity to which this Part 1 applies, has been executed prior to January 3, 1965, and the funds have not been fully disbursed by the Department, the responsible Department official shall, where necessary to effectuate the purposes of this Part 1, require an assurance similar to that provided in paragraph (a) of this section as a condition to the disbursement of further funds.
- (c) **Preexisting contract - periodic payments.** In any case where a contract for Federal financial assistance, to carry out a program or activity to which this Part 1 applies, has been executed prior to January 3, 1965, and provides for periodic payments for the continuation of the program or activity, the recipient shall, in connection with the first application for such periodic payments on or after January 3, 1965: (1) Submit a statement that the program or activity is being conducted in compliance with all requirements imposed by or pursuant to this Part 1; and (2) Provide such methods of administration for the program or activity as are found by the responsible Department official to give reasonable assurance that the recipient will comply with all requirements imposed by or pursuant to this Part 1.
- (d) **Assurances from institutions.** (1) In the case of any application for Federal financial assistance to an institution of higher education, the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.
- (2) The assurance required with respect to an institution of higher education, hospital, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of persons as students, patients, or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such persons, shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the responsible Department official, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participants in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.
- (e) **Elementary and secondary schools.** The requirements of this section with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (2) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health

and Human Services determines is adequate to accomplish the purposes of the Act and this Part 1 within the earliest practicable time, and provides reasonable assurance that it will carry out such plan.

[38 FR 17949, July 5, 1973, as amended at 50 FR 9269, March 7, 1985]

EXHIBIT "K"

Section 3 Clause TRAINING EMPLOYMENT AND BUSINESS OPPORTUNITY

All Section 3 covered contracts shall include the following clause (referred to as the Section 3 Clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the

contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

EXHIBIT "L"

UTILIZATION OF WOMEN AND MINORITY BUSINESS ENTERPRISES

(a) It is the policy of the City of Bakersfield that women and minority owned business enterprises shall have the maximum practicable opportunity to participate in the performance of City of Bakersfield Economic and Community Development Department contracts.

(b) The Contractor agrees to use his best efforts to carry out this policy in the award of his subcontractors to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "Minority or Women's Business Enterprise" means a business, at least 51% of which is owned by minority group members or women; in the case of publicly-owned businesses, at least 51% of the stock is owned by minority group members or women. For the purpose of this definition, minority group members are Hispanic/Latino, Black/African American, Asian, American Indian or Alaska Native, and Native Hawaiian or Other Pacific Islander. Contractors may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

EXHIBIT "M"

AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA 48 CFR 52.222-35 - April 1998

(A) Definitions.

As used in this clause -- All employment openings includes all positions except executive and top management, those positions that will be filled from within the contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. Appropriate office of the State employment service system means the local office of the Federal-State national system of public employment offices with assigned responsibility to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands. Positions that will be filled from within the Contractor's organization means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings that the Contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization.

Veteran of the Vietnam era means a person who --

(1) Served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge; or

(2) Was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975.

(B) General.

(1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against the individual because the individual is a disabled veteran or a veteran of the Vietnam era. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans' status in all employment practices such as -- (i) Employment; (ii) Upgrading; (iii) Demotion or

transfer; (iv) Recruitment; (v) Advertising; (vi) Layoff or termination; (vii) Rates of pay or other forms of compensation; and (viii) Selection for training, including apprenticeship.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended.

(C) Listing openings.

(1) The Contractor agrees to list all employment openings existing at contract award or occurring during contract performance, at an appropriate office of the State employment service system in the locality where the opening occurs. These openings include those occurring at any Contractor facility, including one not connected with performing this contract. An independent corporate affiliate is exempt from this requirement.

(2) State and local government agencies holding Federal contracts of \$10,000 or more shall also list all employment openings with the appropriate office of the State employment service.

(3) The listing of employment openings with the State employment service system is [[Page 138]] required at least concurrently with using any other recruitment source or effort and involves the obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(4) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State employment service system, in each State where it has establishments, of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State system, it need not advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(D) Applicability.

This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, the Commonwealth of

Puerto Rico, Guam, and the Virgin Islands.

(E) Postings.

(1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era, and (ii) the rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary), and provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Act, and is committed to take affirmative action to employ, and advance in employment, qualified disabled veterans and veterans of the Vietnam Era.

(F) Noncompliance.

If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(G) Subcontracts.

The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

Alternate I (APR 1984). As prescribed in 22.1308(a)(2), add the following as a preamble to the clause: Notice: The following term(s) of this clause are waived for this contract: [List term(s)]. [48 FR 42478, Sept. 19, 1983, as amended at 55 FR 38518, Sept. 18, 1990; 63 FR 9059, Feb. 23, 1998]

EXHIBIT "N"

GUARANTY AGREEMENT

This GUARANTY AGREEMENT (the "Guaranty") is made and entered into as of _____, 2024 by GOLDEN EMPIRE AFFORDABLE HOUSING, INC. II, a nonprofit public benefit corporation ("Guarantor") in favor of the City of Bakersfield, a charter city and municipal corporation ("City").

WHEREAS, the City and Guarantor have entered into that certain Project Agreement No. _____ dated as of _____, 2024 ("Agreement") under which DEVELOPER has agreed to develop sixteen (16) affordable housing units at 610 & 624 4th Street, Bakersfield, CA as more specifically defined in the Agreement ("Project").

NOW, THEREFORE, for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, Guarantor hereby covenants and agrees as follows:

1. Guarantor hereby unconditionally guarantees that DEVELOPER shall construct and complete the Project in accordance with the Agreement on or before the date specified in the Schedule of Performance attached to the Agreement (subject to applicable notice, cure and force majeure extensions as contained in the Agreement) and shall pay all costs and expenses with respect to the construction and completion of the Project.

2. If DEVELOPER does not perform as specified in Section 1 hereof, Guarantor unconditionally and irrevocably covenants and agrees that Guarantor shall construct and complete the Project on or before the times required by, and otherwise in accordance with, the Agreement and pay all costs and expenses and discharge all liabilities, with respect to such construction and completion. Subject to all Agreement terms, limitations and conditions with respect thereto, City shall make available to Guarantor such monetary and non-monetary assistance as City is obligated to provide DEVELOPER under the terms of the Agreement.

3. This Guaranty shall remain in full force and effect until such time as a Certificate of Completion (as defined in the Agreement) has been issued for the entirety of the Project.

4. In the event DEVELOPER does not perform its obligations set forth in Section 1 of the Guaranty on or prior to the time such performance (or any portion thereof) is required, City may, at its option, proceed to enforce this Guaranty against Guarantor in the first instance without first proceeding against

DEVELOPER or any other person and without first resorting to any security held by or on behalf of City as security or to any other remedies, and the liability of Guarantor hereunder shall be in no manner affected or impaired by any failure, delay, neglect, omission or election by City not to realize upon or pursue any persons or security liable for obligations of DEVELOPER under the Agreement.

5. City, from time to time and before or after any events of default by DEVELOPER under the Agreement and with or without further notice to or assent from Guarantor and without in any manner affecting the liability of Guarantor and upon such terms and conditions as it may deem advisable, may: (a) extend in whole or in part (by renewal or otherwise), modify, accelerate, change or release (or consent to any of the foregoing) any other agreements, documents or instruments in any way related to the obligations hereby guaranteed and any other indebtedness, liability or obligation of DEVELOPER or of any other person secondarily or otherwise liable for any such indebtedness, liability or obligation of DEVELOPER, or waive any default with respect thereto; (b) sell, release, surrender, modify, impair, exchange, substitute or extend any and all security at any time held by City as security for the payment or performance of the obligations of DEVELOPER under the Agreement and any other indebtedness, liability or obligation of DEVELOPER to Agreement; and (c) settle, adjust or compromise any claim of City against DEVELOPER or any other person secondarily or otherwise liable (including, but not limited to, Guarantor) for the obligations of DEVELOPER under the Agreement or any other indebtedness, liability or obligation of DEVELOPER. Guarantor hereby ratifies and confirms any such extension, renewal, change, release, waiver, surrender, exchange, modification, impairment, substitution, settlement, adjustment, compromise or consent and agrees that the same shall be binding upon Guarantor, and Guarantor hereby expressly waives any and all defenses, counterclaims or offsets which Guarantor might or could have by reason thereof, it being understood that Guarantor shall at all times be bound by this Guaranty and remain liable to City hereunder until all of the obligations hereunder shall have been performed in full. Guarantor agrees that its obligations hereunder shall not be discharged, limited or otherwise affected by any circumstances which otherwise would constitute a legal or equitable discharge of Guarantor as surety or guarantor.

6. City may without the consent of or notice to Guarantor at any time and from time to time: (a) amend any provisions of the Agreement, and any other agreements, instruments or documents relating in any way to the obligations hereby guaranteed and any change in the obligations to be performed thereunder; (b) make any agreement with DEVELOPER for the extension, renewal, modification, payment, compounding, compromise, discharge, exchange, settlement, waiver or release of any provision of the Agreement, and any other agreements, documents or instruments relating in any way to the obligations hereby guaranteed, or of any person liable for or any

security for the performance of any of the obligations hereby guaranteed, without notice to or the consent of Guarantor; and (c) without limiting the generality of the foregoing, surrender to DEVELOPER, or to deal with or modify the form of, any security which City may at any time hold or which is held on its behalf to secure the performance of any obligation hereby guaranteed, and the obligations herein undertaken by Guarantor shall not be impaired or affected by any of the foregoing but shall include any other obligations thereby undertaken by the DEVELOPER.

7. (a) Guarantor hereby waives all requirements that City shall institute any action or proceedings at law or in equity against DEVELOPER or anyone else or with respect to any security held by City as a condition precedent to bringing an action against Guarantor upon this Guaranty, and Guarantor further agrees to make and perform its obligations hereunder whether or not any one or more of the following events have occurred: (a) City has made any demand on DEVELOPER; (b) City has taken any action of any nature against or has pursued any rights which City has against any other person, partnership, corporation, association, company or entity who may be liable for performance of the obligations with respect to the completion of the Project; (c) City holds or has resorted to any security for the obligations of DEVELOPER under the Agreement or any other liabilities or obligations hereby guaranteed; or (d) Agency has invoked any other remedies or rights City has available with respect to the obligations of DEVELOPER under the Agreement or the liabilities or obligations hereby guaranteed.

(b) Guarantor shall not be released by any act or thing which might, but for this provision of this Guaranty, be deemed a legal or equitable discharge of a surety or guarantor, or by reason of any waiver, extension, modification, forbearance or delay of City or its failure to proceed promptly or otherwise in the enforcement of the Agreement or any other agreement, document or instrument relating in any way to the obligations hereby guaranteed, and Guarantor hereby expressly waives and surrenders any defense to its liability under this Guaranty based upon any of the foregoing acts, things, agreements or waivers, including without limitation, any benefits it may have under California Civil Code § 2815 (or any similar law in any jurisdiction).

8. Guarantor hereby waives presentment for payment, demand, protest, notice of protest and of dishonor, notice of acceptance hereof, notices of default and all other notices now or hereafter provided by law.

9. Guarantor hereby agrees that this instrument contains the entire agreement between the parties and there is and can be no other oral or written agreement or understanding whereby the provisions of this instrument have been or can be affected, varied, waived or modified in any manner unless

the same be set forth in writing and signed by City, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

10. This Guaranty is and shall be deemed to be a contract entered into and to be fully performed in the City of Bakersfield, California, under and pursuant to the procedural and substantive laws of the State of California without regard to the choice of law principles thereof.

11. Guarantor shall not, by reason of the performance of the terms and provisions of this Guaranty, succeed to or be subrogated to the rights and privileges of City against DEVELOPER or any other party or be deemed to be the successor or assign of either City, unless and until each and every indebtedness, liability and obligation of any kind of DEVELOPER to City shall have been performed and discharged. In addition and

without the foregoing or any other waiver herein, Guarantor hereby waives, in accordance with California Civil Code § 2856(a)(1), if applicable, all rights, benefits and defenses including, without limitation, all rights of subrogation, reimbursement, indemnification and contribution, under California Civil Code §§ 2787 to 2855, inclusive, 2899 and 3433, and under, or based upon, directly or indirectly, California Code of Civil Procedure §§ 580a, 580b, 580d and 726, if applicable (or any similar law in any other jurisdiction) and no other provision of this Guaranty shall be constructed as the limiting the generality of any covenants and waivers set forth in this Section 11.

12. No delay on the part of City in exercising any rights hereunder or failure to exercise the same shall operate as a waiver of such rights. All of the rights, powers and remedies hereunder and under any other agreement entered into between Guarantor and City, shall be cumulative and not alternative, and such rights, powers and remedies shall be in addition to all of such City's rights, powers and remedies provided by law.

13. Guarantor agrees to pay all costs and expenses which may be incurred by City, their successors and assigns, in the enforcement of this Guaranty or otherwise relating to this Guaranty, including, but not limited to, reasonable attorneys' fees.

14. This Guaranty shall not be deemed to affect, limit, modify or otherwise have any impact or effect upon, or be affected, limited or modified by, any other agreement of guaranty or suretyship given by Guarantor with respect to the Agreement. Notwithstanding anything to the contrary herein contained, this Guaranty shall be deemed supplemental to, and not in derogation of, any such agreement of guaranty or suretyship or any other instrument now or hereafter executed by Guarantor in favor of City.

15. In case any one or more of the provisions of this Guaranty shall be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions shall be in no way affected, prejudiced or disturbed thereby.

16. In the event any party is added to become an additional guarantor under this Guaranty, all obligations of Guarantor hereunder shall be joint and several with any such other party or parties, and, under such circumstances, all references to Guarantor herein shall thereafter be deemed to refer to each of such parties comprising Guarantor both individually and collectively with the other such party or parties.

IN WITNESS WHEREOF, Guarantor has duly executed this Guaranty as of the day and year first above written.

GUARANTOR:

GOLDEN EMPIRE AFFORDABLE HOUSING, INC. II,

By: _____ Date: _____
Name: Diana Elliott
Title: Executive Director