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City of Las Cruces[®]
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Council Action and Executive Summary

Item # 5 Ordinance/Resolution# 10-056 Council District: 1

For Meeting of August 17, 2009
 (Adoption Date)

TITLE: A RESOLUTION APPROVING A HOME INVESTMENT PARTNERHIPS PROGRAM (HOME) LOAN AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND TIERRA DEL SOL HOUSING CORPORATION AND ALTA TIERRA APARTMENTS LIMITED PARTNERHSIP FOR THE REHABILITATION OF ALTA TIERRA APARTMENTS, A FEDERAL LOW INCOME HOUSING TAX CREDIT PROJECT. THE RESOLUTION GRANTS AN EXCEPTION TO THE CITY'S MULTI-FAMILY RENTAL LOAN POLICY FOR THE PROJECT. THE RESOLUTION FURTHER APPROVES THE LENDER'S CONSENT AND AGREEMENT TO RECORDING OF AND SUBORDINATION TO LAND USE RESTRICTION AGREEMENT (LURA) FOR THE PROJECT.

PURPOSE(S) OF ACTION: Approve a Home Investment Partnerships Program (HOME) Loan Agreement and Land Use Restriction Agreement (LURA) between the City of Las Cruces and Tierra Del Sol Housing Corporation and Alta Tierra Apartments Limited Partnership for the rehabilitation of Alta Tierra Apartments, a Federal Low Income Housing Tax Credit project. The Resolution also grants an exception to the City's Multi-family Rental Loan policy.

Name of Drafter: Jan Lauterbach <i>SL</i>		Department: Community Development <i>DD</i>		Phone: 528-3134	
Department	Signature	Phone	Department	Signature	Phone
Community Development	<i>DW</i>	528-3066	Budget	<i>Richard Y. H. A.</i>	541-2300
			Assistant City Manager	<i>[Signature]</i>	541-2271
Legal	<i>ZMA/B</i>	541-2128	City Manager	<i>[Signature]</i>	541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: The Cranston-Gonzalez National Affordable Housing Act (NAHA) of 1990 created the HOME Investments Partnerships Program (HOME). The City of Las Cruces, as a recipient of HOME funding, desires to provide funds in accordance with the goals of the City's 2006-2010 Consolidated Plan which outlines affordable housing and community development needs.

The City Council approved through Resolution 09-165, referenced in Attachment "C," the commitment of Program Year 2009 (PY 2009) HOME funds in the amount of \$250,000.00 (\$85,934.00 CHDO, \$164,066.00 Non-CHDO) to the project, rehabilitation of Alta Tierra Apartments, a Federal Low Income Housing Tax Credit (LIHTC) project. The project sponsor, Tierra Del Sol Housing Corporation is rehabilitating the Alta Tierra Apartments, an existing 57 unit multi-family development located at 1500 E. Madrid Avenue. The rehabilitation will provide for significant renovations to the existing complex and make use of "Green Building"

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practices to provide a much healthier/efficient environment for residents. The HOME funds will be used for actual rehabilitation costs of the development.

The project was awarded Federal Low Income Housing Tax Credits (LIHTC) through New Mexico Mortgage Finance Authority (MFA) which requires the filing of a Lender's (i.e. the City's) Consent and Agreement to Recording of and Subordination to Land Use Restriction Agreement (LURA). It is the intent of the City to consent to the recording of the LURA which provides restrictions on the use of the land to benefit low income households.

In order to comply with the regulatory requirements of the HOME program and MFA's Low Income Housing Tax Credit Program, the City must execute the HOME Loan Agreement with Tierra Del Sol Housing Corporation and Alta Tierra Apartments Limited Partnership as shown in Exhibit "A" and the Lender's Consent and Agreement to Recording of and Subordination to Land Use Restriction Agreement and shown in Exhibit "B."

The Alta Tierra Apartments Limited Partnership and Tierra del Sol Housing Corporation has requested, due to financing limitations, that they be granted an exception to the City's CDBG and HOME Program Multi-family Rental Loan Policy. Rather than paying the full interest amount for the first 15 years of the 45-year loan, they request that they only pay one percent (1%) of the interest, with the remaining interest (currently 3.36%) accruing and compounding for the that first 15-year period and then be paid back over the last 30 years of the loan. This exception is reflected in the documents contained in Exhibit "A" and attached to the resolution. Additionally, the current Applicable Federal Rate (AFR), which determines the loan interest rate in accordance with the City's adopted policy, as of July 2009, is 4.36%. Staff is proposing to provide the project with a lower interest rate, if the AFR is lower for the month of August 2009 when the City Council will approve the Resolution and HOME Loan Agreement. Otherwise, the 4.36% interest rate for July will remain, should the August 2009 AFR increase.

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
HOME 2009 CHDO-Alta Tierra 2000-20184250-722190-11208	\$85,934.00	\$ 85,934.00
HOME 2009-Alta Tierra 2000-20184250-722190-11410	\$164,066.00	\$164,066.00

1. Resolution
2. Exhibit "A" - HOME Loan Agreement
3. Exhibit "B" - Lender's Consent and Agreement to Recording of and Subordination to Land Use Restriction Agreement
4. Attachment "C" - Resolution 09-165
5. Attachment "D" - Multi-family Rental Loan Policy

(Continued on Page 3)

OPTIONS / ALTERNATIVES:

1. Vote YES and approve the Resolution approving the HOME Loan Agreement between the City of Las Cruces and Tierra Del Sol Housing Corporation and Alta Tierra Apartments Limited Partnership and the Lenders consent for the LURA.
2. Vote NO and deny the Resolution approving the HOME Loan Agreement and the LURA. Such action would require an amendment to the 2009 Action Plan and may cause financial hardship to the project.
3. Modify the Resolution and vote YES to approve the modified Resolution.
4. Table/Postpone the Resolution and direct staff accordingly.

RESOLUTION NO. 10-056

A RESOLUTION APPROVING A HOME INVESTMENT PARTNERHIPS PROGRAM (HOME) LOAN AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND TIERRA DEL SOL HOUSING CORPORATION AND ALTA TIERRA APARTMENTS LIMITED PARTNERHSIP FOR THE REHABILITATION OF ALTA TIERRA APARTMENTS, A FEDERAL LOW INCOME HOUSING TAX CREDIT PROJECT. THE RESOLUTION GRANTS AN EXCEPTION TO THE CITY'S MULTI-FAMILY RENTAL LOAN POLICY FOR THE PROJECT. THE RESOLUTION FURTHER APPROVES THE LENDER'S CONSENT AND AGREEMENT TO RECORDING OF AND SUBORDINATION TO LAND USE RESTRICTION AGREEMENT (LURA) FOR THE PROJECT.

The City Council is informed that:

WHEREAS, the Cranston-Gonzalez National Affordable Housing Act (NAHA) of 1990 created the HOME Investments Partnerships Program (HOME); and

WHEREAS, the City of Las Cruces, as a recipient of HOME funding, desires to provide funding in accordance with the goals of the City's 2006-2010 Consolidated Plan which outlines affordable housing and community development needs; and

WHEREAS, the City Council approved though Resolution 09-165, referenced in Attachment "C," the commitment of Program Year 2009 HOME funds in the amount of \$250,000.00 (\$85,934.00 CHDO, \$164,066.00 Non-CHDO) for the rehabilitation of the Alta Tierra Apartments, a Federal Low Income Housing Tax Credit Project (LIHTC) sponsored by Tierra Del Sol Housing Corporation, a Community Housing Development Organization; and

WHEREAS, the project was also awarded Federal Tax Credits through the New Mexico Mortgage Finance Authority (MFA) which requires the filing of a Lender's Consent and Agreement to Recording of and Subordination to Land Use Restriction Agreement (LURA); and

WHEREAS, in order to comply with the regulatory requirements of the HOME Investment Partnerships Program (HOME), the City must execute a HOME Loan Agreement between the City of Las Cruces and Tierra Del Sol Housing Corporation and Alta Tierra Apartments Limited Partnership as owner; and

WHEREAS, the interest rate on the HOME loan note is determined by the Federal Rate at time of initial HOME Agreement commitment; and

WHEREAS, in order to comply with the requirement of the Federal Low Income Housing Tax Credit Program, the City must execute Lender's Consent and Agreement to Recording of and Subordination to Land Use Restriction Agreement (LURA) between the City of Las Cruces and New Mexico Mortgage Finance Authority.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the Agreement between the City of Las Cruces and Tierra Del Sol Housing Corporation and Alta Tierra Apartments Limited Partnership as shown in Exhibit "A," attached hereto and made part of this Resolution, is hereby approved.

(II)

THAT the Agreement between the City of Las Cruces and the New Mexico Mortgage Finance Authority as shown in Exhibit "B," attached hereto and made part of this Resolution, is hereby approved.

(III)

THAT staff has the authority to amend the HOME note and adjust the interest rate downward if only on the day City Council enacts the agreement, the Applicable Federal Rate is lower than the July 2009 Applicable Federal Rate.

(IV)

THAT the City Council hereby grants an exception to the City's CDBG and HOME Multi-Family Rental Loan Policy whereby the Alta Tierra Apartments Limited Partnership and Tierra del Sol Housing Corporation are required to pay only 1% interest for the first 15-years of the HOME Loan Agreement, with all other interest accruing and compounding, which is to be added to the principal amount, and to be paid over years 16 to 45 for the term of the loan.

(V)

THAT the City Council hereby grants authority to the City Manager to approve and execute any other substitute Attachment "E" Subordination Agreement to the Exhibit "A" between the City and the final permanent lender, subject to staff review and City Attorney approval.

(VI)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 2009.

(SEAL)

APPROVED:

Mayor

ATTEST:

City Clerk

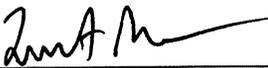
VOTE:

Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Connor: _____
Councillor Archuleta: _____
Councillor Small: _____
Councillor Jones: _____
Councillor Thomas: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

Exhibit "A"

HOME INVESTMENT PARTNERSHIPS PROGRAM
LOAN AGREEMENT BETWEEN
THE CITY OF LAS CRUCES
AND
TIERRA DEL SOL HOUSING CORPORATION
AND
ALTA TIERRA APARTMENTS LIMITED PARTNERSHIP

This **LOAN AGREEMENT** (hereinafter referred to as the "Agreement") is entered into by and between the **CITY OF LAS CRUCES**, a New Mexico municipal corporation with a principal address of P.O. Box 20000, Las Cruces, New Mexico 88004 (hereinafter referred to as "City" or "Lender") and **TIERRA DEL SOL HOUSING CORPORATION**, a New Mexico non-profit corporation whose address is PO Box 2626, Anthony, New Mexico 88021 (hereinafter referred to as "Sponsor" or "Maker") and **ALTA TIERRA APARTMENTS LIMITED PARTNERSHIP**, a New Mexico limited partnership, whose address is PO Box 2626, Anthony, New Mexico 88021 (hereinafter referred to as "Owner" or "Co-Maker").

WITNESSETH:

WHEREAS, the City is an entitlement recipient of the federal HOME Investment Partnerships Program (hereinafter referred to as "HOME") in furtherance of its goal of encouraging the production of decent, safe, sanitary affordable housing for the citizens of Las Cruces;

WHEREAS, the Sponsor has caused a separate limited partnership to be formed, Alta Tierra Apartments Limited Partnership ("Owner"), in which the Sponsor as manager, to the general partner, TDS Alta Tierra, LLC, a New Mexico limited liability company of the Owner, to own, manage, and operate 56 units of subsidized rental housing for low-income persons;

WHEREAS, the Owner submitted an application for Low Income Housing Tax Credits to the New Mexico Mortgage Finance Authority and received such credits;

WHEREAS, the Sponsor has submitted a proposal to utilize Two Hundred Fifty Thousand Dollars and No Cents (\$250,000.00) in 2009 HOME funds for the rehabilitation of Alta Tierra Apartments, a rental housing complex with a street address of 1500 E. Madrid Avenue, Las Cruces, New Mexico 88001, and located on the property more specifically described on the attached **Attachment "A"** (hereinafter referred to as "Property");

WHEREAS, the rehabilitation of an existing structure to affordable housing is an eligible activity under the HOME Program; and

WHEREAS, the parties desire to enter into this Agreement in order to ensure compliance with the requirements of the HOME Program and to secure other covenants and promises from the Sponsor and Owner regarding the use of funds to benefit low-income person, as defined under the standards of eligibility established by the United States Department of Housing and Urban Development (hereinafter referred to as "HUD"), a copy of which document for the current year is attached hereto as **Attachment "B"** and is incorporated herein by this reference.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the sufficiency and receipt whereof being hereby acknowledged, the City and the Sponsor and Owner agree as follows:

SECTION 1. DEFINITIONS

As used herein, the following words and terms, whether capitalized or not, shall have the following meanings, unless the context demands otherwise:

1. Adjusted for Family Size – means adjusted in manner which results in an income eligibility level that is lower for households having fewer than four people, or higher for households having more than four people, than the base income eligibility based upon a formula established by HUD for the Las Cruces Metropolitan Statistical Area (MSA).
2. Affordable or Affordability – means as defined in Section 3, Paragraph 3 of this Agreement.
3. Affordability Period – means Forty Five (45) years commencing from Project Completion.
4. Annual Gross Income – means the annual anticipated income for a household, or more specifically, the gross amount of wages, income from assets, regular cash or non-cash contributions, and any other resources and benefits determined to be income by HUD, as defined in 24 CFR §5.609.
5. Displaced Person – means a person (family or individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted with HOME funds, and as further defined in 24 CFR Part 92.
6. Eligible Person or Eligible Household – means one or more natural persons or a family who are determined by the City to be of Low Income or Moderate Income according to the income limits Adjusted to Family

Size published annually by HUD based upon the Annual Gross Income of the household.

7. HUD – means the United States Department of Housing and Urban Development, its successors or assigns.
8. Investor Limited Partner – means National Development Council (NDC), its affiliates, successors and assigns, as investment limited partner of the Owner.
9. Loan Documents – means this Agreement, the Note, the Mortgage, Declaration of Restrictive Covenant and all agreements, certificates, schedules, notes, statements and opinions, and exhibits or attachments to each of the foregoing, referenced therein or executed or delivered pursuant hereto or in connection with or arising under the loan contemplated hereby.
10. Low Income Housing – means housing that is Affordable to Low Income and Moderate Income Persons.
11. Low Income Person or Low Income Household – means one or more natural persons who have a total Annual Gross Income for the household that does not exceed fifty percent (50%) of the median annual income Adjusted for Family Size for households with the Las Cruces MSA, which includes the City of Las Cruces, as determined by HUD.
12. Moderate Income Person or Moderate Income Household – means one or more natural persons or a family who has a total Annual Gross Income for the household that does not exceed eighty percent (80%) of the median annual income Adjusted for Family Size for households within the Las Cruces MSA, which includes the City of Las Cruces, as determined by HUD.
13. Note – means that certain promissory note of even date herewith given by the Sponsor and Owner to the City evidencing the loan contemplated by this Agreement.
14. Project – means the development of property and the new construction of 56 units at Alta Tierra Apartments, i.e., the Property, in which 4 of the 56 units shall be exclusively occupied by and rented to Low Income or Moderate Income Persons at Affordable rents as established by HUD.
15. Project Completion – means that the rehabilitation work on all of the units contemplated under this Agreement has been completed, 4 units have met all HOME Program regulations, received the Certificate of Occupancy by the City, and the four units are occupied by qualified tenants, the final

drawdown has been disbursed for the Project, and Project Completion information has been entered in the Integrated Disbursement and Information System established by HUD.

Other terms herein which have not been defined shall have the definition, meaning, and intent given them in the HOME regulations, or 24 CFR Part 92, or as cross-referenced therein, or their ordinary dictionary meaning as the context so requires.

SECTION 2. LOAN AMOUNT AND USE OF FUNDS

1. Recitals: The recitals set forth are true and correct and are incorporated herein and made a part of this Agreement.
2. The Loan: Under the terms and conditions of this Agreement, the City agrees to loan the Sponsor and Owner Two Hundred Fifty Thousand Dollars and No Cents (\$250,000.00) for the rehabilitation of the Property. The loan to the Sponsor and Developer shall be in the form of a deferred loan on the terms set forth in this Agreement, the Promissory Note, the Mortgage, the Declaration of Restrictive Covenant, and other loan documents as required by the City. The Sponsor and Owner shall execute a promissory note in favor of the City substantially in the form attached hereto as **Attachment "C,"** (the "Note"), and incorporated herein by this reference. The Note shall be secured by a mortgage on the Property (the "Mortgage") substantially in the form attached hereto and incorporated herein by reference as **Attachment "D"** between the City and Owner. The City agrees to subordinate the Note and Mortgage to the Permanent Mortgage and Loan in the form attached hereto and incorporated herein by reference as **Attachment "E"**. The City also agrees to subordinate the Note and Mortgage to the Lender's consent and Agreement to Recording of and Subordination to Land Use Restriction Agreement (LURA) in the form of **Exhibit "B"** as referenced in the Council Action and Executive Summary document.
3. Disbursement: The City shall disburse the deferred loan proceeds only after receipt of invoices and certification from the Sponsor and Owner that the portion of work then being billed has been satisfactorily completed. Disbursement of loan proceeds will be to the Sponsor and Owner only after approval by the City of invoices submitted and verification of work completed in accordance with this Agreement and applicable HOME regulations. Notwithstanding anything to the contrary in this Agreement, the City also reserves the right to request and approve documentation supporting any requests for disbursement to verify reasonableness and validity of such costs and said Budget may be modified by the City accordingly. All HOME funds for the project must be disbursed within five years of the HUD Release of Funds date, which requires that all funds be disbursed by July 1, 2014.

4. Use of Loan Money: The Sponsor and Owner shall use the loan proceeds for eligible expenses permitted under applicable HOME regulations and as set forth in 24 CFR §92.206, as the same may from time to time be amended and in accordance with the Scope of Work, Project Schedule, and Budget attached hereto as **Attachment "F"** and incorporated herein by this reference. The Sponsor and Owner shall not use any HOME funds for prohibited purposes as set forth in 24 CFR §92.214 or other HOME regulations, as the same may from time to time be amended. The Sponsor and Owner acknowledge and agree that any funds not used in accordance with permitted HOME regulations must be repaid to the City. The Sponsor and Owner acknowledge and agree if this Project is terminated before completion, either voluntary or otherwise, the Sponsor and Owner must repay any HOME funds invested in the Project to the City. The Sponsor and Owner shall keep all financial records for the Project, including source documentation to support how HOME funds were expended, which includes, but is not limited to, cancelled checks, paid bills, payrolls, time and attendance records, invoices, schedules containing comparisons of budgeted amounts and actual expenditures, construction progress schedules signed by the general contractor, and other documentation as may be required by the City to support the expenditures for this Project.
5. Layering Review: It is the City's responsibility under HOME regulations, and more specifically 24 CFR §92.250, to evaluate the use of other local, state, or federal assistance in HOME-assisted projects to ensure that it does not invest any more HOME funds than are necessary to provide Low Income Housing.
6. Program Income: Any program income generated from the proceeds of the deferred HOME loan, said program income will be remitted to the City in accordance with 24 CFR §92.503.
7. Term: The term of this Agreement shall commence on the effective date of this Agreement which is the date of the last party to sign this Agreement (the "Effective Date"), and shall continue through the end of the forty five (45) year Affordability Period. Notwithstanding any of the foregoing, all record-keeping requirements, audit, and use and maintenance of the Property requirements set forth in this Agreement or any record-keeping or use requirements mandated by HOME regulations shall survive termination of this Agreement.
8. Payment Requests: It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed \$250,000.00. Payment requests are due by the fifteenth (15th) day of each month. If no payment request is needed for a particular month, the Sponsor and Owner must submit in writing that no payment request is

required for that particular month. The Sponsor and Owner agree to use the Payment Request form as referenced in **Attachment "G."** Payments may be contingent upon certification of the Sponsor's and Owner's financial management system in accordance with the standards specified in 24 CFR Part 84, Subpart C, "Financial and Program Management."

9. HOME Match Requirement: The use of HOME funds generally required a match of local monies; however, through CPD Notice 07-05, issued July 11, 2007, the City's HOME match percentage is reduced to 0% for the Fiscal Year 2007 and the subsequent Fiscal Year 2008. HUD recently published HOME match reductions for FY2009 and FY2010 with the City's HOME match percentage remained reduced to 0%.

SECTION 3. GENERAL TERMS AND CONDITIONS

1. Applicable Laws: The Sponsor and Owner shall comply with all applicable federal and state laws, rules, and regulations dealing with the Property, whether presently existing or hereafter promulgated. The Sponsor and Owner agree to comply with all of the HOME Program regulations, HUD regulations, 42 U.S.C. §§12701-12839, and 24 CFR Part 92, as amended from time to time, whether set forth herein or not, and agrees to execute or amend documents as necessary to be in compliance therewith. The Sponsor and Owner also shall comply with all other applicable federal, state, and local statutes, ordinances, rules and regulations, including, but not limited to, all applicable provisions of the City's Building Code.
2. Units to be Assisted: A total of 4 of the 56 units at Alta Tierra Apartments, initially identified as four two-bedroom units, will be assisted with HOME funds on a floating designation basis (the "HOME-assisted units"), as set forth in the HOME regulations.
3. HOME Program Rental Requirements: Every HOME-assisted unit is subject to rent controls designed to make sure that rents are Affordable to Low Income and Moderate Income Persons. The term "Affordable" means that at all times the four units listed on the attached **Attachment "A"**, on a floating designation basis, shall be occupied by Low Income and Moderate Income Persons and shall also meet the requirements set forth herein.

Initially, all HOME-assisted units shall be leased to Eligible Persons whose total Annual Gross Income for the household at the time of occupancy does not exceed sixty percent (60%) of the median income Adjusted for Family Size for households within the Las Cruces MSA, which includes the City limits, as determined by HUD.

The HOME regulations in 24 CFR §92.252 also set forth the maximum rents the Sponsor and Owner can charge for the HOME-assisted units.

The maximum HOME rents that the Sponsor and Owner can charge for the HOME-assisted units are subject to both the High HOME rent limits and Low HOME rent limits as established by HUD. HUD publishes the HOME rent limits annually. A copy of the rent chart reflecting this year's rents is attached hereto as **Attachment "H"** and incorporated herein by this reference. The City will provide the Sponsor and Owner with information on updated HOME rent limits, as they are made available by HUD so that rents may be adjusted, not to exceed the maximum HOME rent limits. In calculating allowable rents, the Sponsor and Owner shall subtract from the HOME rents any tenant paid utilities according to the utility allowances prepared by the Housing Authority of the City of Las Cruces, a current copy of which is attached hereto as **Attachment "I"**. The Sponsor and Owner acknowledge that the City must review and approve all rents proposed by the Sponsor and Owner to ensure compliance with HOME regulations. The designation of High HOME rent and Low HOME rent units is described in the Declaration of Restrictive Covenants attached hereto as **Attachment "J."**

In accordance with 24 CFR §92.252(f) regarding subsequent rents during the Affordability Period, the Sponsor and Owner shall annually provide the City with information on rents and occupancy of the HOME-assisted units to demonstrate compliance with HOME regulations. Any proposed increases in rents for HOME-assisted units must be submitted to the City for review and approval at least forty-five (45) days before the proposed effective date. The Sponsor and Owner can apply these rent increases to new leases and at the time of renewal of existing leases. However, before implementing any rent increase for a tenant renewing or extending an outstanding lease, the Sponsor and Owner shall provide written notice to such tenant of the proposed rent increase not less than 30 days before entering into any renewal or extension of such outstanding lease.

Notwithstanding anything herein to the contrary, the Sponsor and Owner shall at all times during the term of this Agreement comply with all relevant provisions of the HOME program regarding rent limitations and tenant protections, including, but not limited to, 42 U.S.C. §§12701-12839; 24 CFR §92.252 – "Qualification as Affordable Housing: Rental Housing" and 24 CFR §92.253 – "Tenant and Participant Protections," as these may from time to time be amended. The Sponsor and Owner shall keep records demonstrating that the HOME-assisted units meet the affordability and income targeting requirements of 24 CFR §92.252 and tenant protections of 24 CFR §92.253. Records must also be kept for each family assisted for the time periods as specified in 24 CFR §92.508(a) (7).

4. Tenant Selection and Re-Certification: The Sponsor and Owner shall undertake the initial review of income eligibility of prospective tenants for the HOME-assisted units. In determining income eligibility, the Sponsor

and Owner acknowledge that the City must examine the source documents evidencing the prospective tenant's Annual Gross Income, e.g., wage statements, asset statements, etc. In conducting such review, the income definition contained in 24 CFR §5.609 shall be used. The Sponsor and Owner shall also adopt written tenant selection policies consistent with 24 CFR §92.253(d). All documentation including, but not necessarily limited to, a tenant's application, verifications, proposed rent and lease terms shall be submitted to the City's Community Development Department – Neighborhood Service Section or successors or Assigns, for final approval before the Sponsor and Owner enter into a lease with a prospective tenant. The Sponsor and Owners acknowledge that the City must keep documentation verifying the income eligibility of tenants. The City shall use its best efforts to grant such approval within seven (7) business days after receipt of tenant application from the Sponsor and Owner.

During the Affordability Period, in accordance with 24 CFR §92.252(h), the Sponsor and Owner shall re-verify tenant eligibility annually with similar documentation as submitted at initial lease up. This information must be maintained in the tenants' files and made available for review by the City or HUD.

5. Period of Affordability/Restrictive Covenant: All HOME-assisted units shall be maintained as affordable housing for the forty five-year Affordability Period. In order to ensure compliance with this forty five-year Affordability Period, the Owner shall execute a Declaration of Restrictive Covenants, a copy of which is attached hereto as **Attachment "J"** and incorporated herein by this reference, which shall be recorded in the office of the County Clerk of Dona Aña County. The Affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. The Sponsor and Owner acknowledge that failure to meet the Affordability requirements stated herein is a breach of this Agreement and a default under the Note and Mortgage which requires repayment of the HOME proceeds, if the Project does not meet the Affordability requirements for the Affordability Period.
6. Property Standards: The Sponsor and Owner shall comply with the property standards requirements set forth in 24 CFR §92.251. The Sponsor and Owner shall keep records to document compliance with these property standards. At Project Completion, the Property must meet all applicable local codes, ordinances, zoning ordinances, and HUD's Section 8 Housing Quality Standards (HQS), as per 24 CFR §982.401. The Property must also meet the accessibility requirements in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973. Covered multi-family dwellings, as defined in 24 CFR §100.201, must meet the design and construction requirements set forth in 24 CFR

§100.205, which implements the Fair Housing Act. The Sponsor and Owner shall maintain the Property in compliance with state and local codes, as well as HQS as per 24 CFR §982.401 for the 45-year Affordability Period.

7. Monitoring: Pursuant to 24 CFR §92.504(d), the Sponsor and Owner shall assist the City in its obligation to conduct on-site inspections for compliance with property standard requirements listed herein and shall provide information as requested so that the City can verify tenant incomes, rents, and other HOME requirements pursuant to 24 CFR §92.252 on an annual basis. The Sponsor and Owner shall keep records to document compliance with these inspections and monitoring review and the resolutions of any findings of concern.

The City will monitor both the financial and programmatic performance of the Sponsor and Owner on an annual basis during the Affordability Period. Substandard performance, as determined by the City, will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Sponsor, Investor Limited Partner and/or Owner within 30-days of time after being notified by the City, Agreement suspension or termination procedures will be initiated.

The City will also conduct an on-site inspection of the Property in order to verify compliance with property standards. On-site inspection of the HOME-assisted units will be conducted in accordance with Section 8 Housing Quality Standards (HQS) as referenced in 24 CFR §982.401.

8. Records: The Sponsor and Owner shall comply with 24 CFR §92.508 regarding records that must be maintained for this Project. The Sponsor and Owner shall maintain all records pertaining to the Project at its principal place of business for a period of no less than five (5) years after Project Completion; except that records of individual tenant income verifications, Project rents, and Project inspections must be retained for the most recent 5-year period, until five years after the Affordability Period terminates. The Sponsor and Owner shall make all records available to the City, HUD, and to their respective representatives during normal business hours. The Sponsor and Owner shall maintain all leases and Project financial records, including source documentation to support how HOME funds were expended, which includes, but is not limited to invoices, schedules containing comparisons of budgeted amounts and actual expenditures, construction progress schedules signed by the general contractor, and other documentation as may be required by the City to support the expenditures for this Project. All supporting documents shall be maintained in accordance with the requirements of 24 CFR §85.20. If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of this required 5-year

period, the Sponsor and Owner must maintain the records until completion of the action and resolution of all issues which arise from it, or until the end of the 5-year period, whichever is later. This section shall survive the termination of this Agreement.

9. Reports: Upon issuance of the Certificate of Occupancy by the City of Las Cruces, the Sponsor and Owner shall submit annual reports at the end of the City's fiscal year (June 30th) with such reports due by the last business day of July. These reports shall include, but not be limited to, the financial statements for the Project, and, for the HOME assisted units, a certified rent roll showing household size, tenant's race and ethnicity, whether the occupant is a female head of household, date of execution of the occupants current lease, adjusted gross annual income, and rental rates.
10. Beneficiary Data: The Sponsor and Owner shall maintain beneficiary data demonstrating beneficiary eligibility for services provided. Such data shall include, but not be limited to, beneficiary name, address, and income level. The Sponsor and Owner will use 24 CFR Part 5 for determining income eligibility. Such information shall be maintained in a beneficiary file by the Sponsor and Owner and shall be made available to the City's monitors and/or their designees for review upon request.
11. Uniform Administrative Requirements: The Sponsor and Owner and the City shall comply with 24 CFR §92.505 regarding uniform administrative requirements. The Sponsor and Owner shall provide the City with such documentation and records to satisfy the City's requirements under these various provisions. The Sponsor and Owner also agree to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.
12. Audits: The Sponsor and Owner shall comply with the audit provisions contained in 24 CFR §85.26 and the Single Audit Act Amendments of 1996 (31 U.S.C. §§7501-7507) and OMB Circular A-133. Audits shall be conducted annually. The Sponsor and Owner agree to allow the City's Community Development Department, Financial Services Department, and Internal Auditor, or their Successors or Assigns, to conduct any audits the City feels necessary at any time during the term of this Agreement or pursuant to any HUD request. The Sponsor and Owner shall submit its annual audit to the City within one hundred twenty (120) days of the end of the Sponsor and Owner's fiscal year.
13. Compliance with Davis-Bacon Act: As applicable, the Sponsor and Owner shall comply with 24 CFR §92.354 and all applicable provisions of the Davis-Bacon Act (40 U.S.C. §276a, et seq.) and implementing labor regulations contained in 29 CFR Part 5. The Sponsor and Owner shall

also comply with the Contract Work and Hours and Safety Standards Act (40 U.S.C. §§327-332), and other federal laws and regulations pertaining to labor standards and HUD Handbook 1344.1, as applicable. The Sponsor and Owner shall maintain records demonstrating compliance with 24 CFR §92.354, including contract provisions and payroll records.

14. Copeland "Anti-Kickback" Act: The Sponsor and Owner shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. §874), as supplemented by the Department of Labor regulations contained in 29 CFR Part 3.
15. Debarment and Suspension: The Sponsor and Owner shall comply with the debarment and suspension requirements set forth in 24 CFR Part 5 and 24 CFR Part 24. The Sponsor and Owner shall not enter into a contract with any person, agency, or entity that is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 or 12689, "Debarment and Suspension," which is made a part of this Agreement by reference. In the event that the Sponsor and Owner have entered into a contract or subcontractor with a debarred or suspended party, no HOME funds will be provided as reimbursement for the work done by that debarred or suspended contractor or subcontractor. The Sponsor and Owner shall keep copies of the debarment and suspension certifications required by 24 CFR Parts 24 and 91.
16. Drug-Free Workplace: The Sponsor and Owner shall comply with the Drug Free Workplace Act of 1988 and implementing regulations in 24 CFR Part 24, Subpart F regarding maintenance of a drug-free workplace. The Sponsor and Owner agree to complete and comply with the "Certification Regarding Drug-Free Workplace Requirements" attached hereto as **Attachment "K"** and incorporated herein by reference. The Sponsor and Owner will complete this certification, and a copy will be kept in the files of each party.
17. Utilization of Minority/Women's Business Enterprises: The Sponsor and Owner shall, to the greatest extent feasible, ensure that Minority/Women's Business Enterprises are included for consideration for participation in all construction, supply or service contracts, if any. The Sponsor and Owner shall comply with Executive Order 11625, as amended by Executive Order 12007 (Minority Business Enterprises); Executive Order 12432 (Minority Business Enterprise Development), and Executive Order 12138, as amended by Executive Order 12608 (Women's Business Enterprise). The Sponsor and Owner shall keep such records necessary to comply with 24 CFR §92.508(a)(7).
18. Section 3 Economic Opportunity: The Sponsor and Owner shall comply with Section 3 of the Housing and Urban Development Act of 1968 (12

U.S.C. §1701u) and implementing regulations at 24 CFR Part 135 regarding economic development opportunities for Low Income and Moderate Income Persons. The Sponsor and Owner shall comply with the "Section 3" requirements attached hereto as **Attachment "L"** and incorporated herein by this reference. In essence, Section 3 provides that opportunities for training and employment arising from the use of HOME funds shall be provided to Low Income and Moderate Income Persons residing in the Project Area. Contracts for all types of work to be performed in connection with the Project shall be awarded to business concerns that are located in or owned by persons residing in the area. The Sponsor and Owner shall keep records documenting compliance with these requirements as required by 24 CFR §92.508 (a)(7).

19. Equal Employment Opportunity: The Sponsor and Owner shall comply with Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR Part 60, and the Equal Employment Opportunity Clause attached hereto as **Attachment "M"**, and incorporated herein by this reference. Any contracts entered into by the Sponsor and Owner shall include a provision requiring compliance with these regulations. The Sponsor and Owner shall keep records and documentation demonstrating compliance with these regulations.
20. Conflict of Interest: The Sponsor and Owner shall comply with the conflict of interest provisions in 24 CFR §92.356. No person who is any employee, agent, consultant, officer, or elected official or appointed official of the City or of the Sponsor and Owner who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who is in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME-assisted activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. The Sponsor and Owner shall also keep records supporting requests for waivers of conflicts prohibited in 24 CFR §92.356.
21. Anti-Lobbying Provision: The Sponsor and Owner shall comply with the disclosure requirements and prohibitions of 31 U.S.C. §1352 and implementing regulations at 24 CFR Part 87 and shall so certify to the City. The Sponsor and Owner shall complete and comply with the "Certification Regarding Lobbying," attached hereto as **Attachment "N"** and made a part hereof by this reference. A copy of this document will be kept in each of the party's files. The Sponsor and Owner shall also comply with the requirements for funding competition established by 42 U.S.C. §3531 et seq.

22. Displacement and Relocation: The Sponsor and Owner shall comply with the provisions of 24 CFR §92.353, "Displacement, relocation, and acquisition." The Sponsor and Owner shall keep records of its compliance with the requirements of 24 CFR §92.353, including occupancy lists identifying the name and address of all persons occupying the HOME-assisted units, moving into the units, and those occupying the Property upon Project Completion, as specified in 24 CFR §92.508.
23. Lead-Based Paint Prohibited: The Sponsor and Owner shall not use lead-based paint in the Project or anywhere on the Property and shall comply with 24 CFR §92.355, the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§4851-4856), and implementing regulations in 24 CFR Part 35, Subparts A, B, J, K, M, and R. The Sponsor and Owner shall keep records demonstrating compliance with these requirements including compliance with 24 CFR §92.508(a)(7).
24. Non-Discrimination and Equal Opportunity: The Sponsor and Owner shall not exclude any person from participation in, deny any person the benefits of, or subject any person to discrimination, with respect to the rehabilitation, rental, or operation of the Project, on the grounds of race, color, national origin, religion, ancestry, sex, sexual orientation, gender identity, familial status, spousal affiliation, or physical or mental handicap, provided that the physical or mental handicap is unrelated to a person's ability to acquire or rent and maintain particular real property or housing accommodation. The Sponsor and Owner shall fully comply with the requirements of 24 CFR §92.350, including the federal requirements set forth in 24 CFR Part 5, Subpart A, the nondiscrimination requirements at Section 282 of the HOME Investment Partnerships Act, and the unlawful discriminatory practice set forth in NMSA 1978 Section 28-1-7 (2003) of the New Mexico Human Rights Act and keep record of its compliance. The Sponsor and Owner shall at all times comply with the Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d, et seq.) and implementing regulations contained in 24 CFR Part 1. The Sponsor and Owner shall also not discriminate on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. §6101, et seq.) and implementing regulations in 24 CFR Part 146, or on the basis of disability as provided in Section 504 of the Rehabilitation Act of 1973 and implementing regulations contained in 24 CFR Part 8. The Sponsor and Owner shall also comply with Title II of the Americans with Disabilities Act (42 U.S.C. §12101, et seq.). Any contracts entered into by the Sponsor and Owner shall include a provision requiring compliance with these regulations. The Sponsor and Owner shall keep records demonstrating compliance with these requirements including compliance with 24 CFR §92.508(a)(7).

25. Fair Housing Act: The Sponsor and Owner shall comply with the Fair Housing Act (42 U.S.C. §§3601-3620) and implementing regulations at 24 CFR Part 100, et seq., Executive Order 11063, as amended by Executive Order 12259 (Equal Opportunity in Housing Programs) and implementing regulations in 24 CFR Part 107, the City's Municipal Code 13-65, et. seq., and shall keep all records demonstrating compliance.
26. Affirmative Fair Housing Marketing: The Sponsor and Owner and the City shall exercise affirmative fair housing marketing and shall comply with the provisions of 24 CFR §92.351. The Sponsor and Owner agree to complete HUD Form 935.2, as attached in **Attachment "O,"** and submit it to the City. The Sponsor and Owner shall keep records of its efforts to provide information and otherwise attract eligible persons from all racial, ethnic, and gender groups. At a minimum, the Sponsor and Owner shall: (a) indicate in its promotional material that the Property provides fair housing opportunities; (b) provide notice of the availability of the units to community groups and non-profit service organizations; and (c) publish the notice of the availability of the units in a community newspaper. The Sponsor and Owner shall keep records necessary to comply with 24 CFR §92.508(a)(7).
27. Miscellaneous Federal Requirements: The Sponsor and Owner shall comply with the federal requirements set forth in 24 CFR Part 5, Subpart A.
28. Religious Organizations: The Sponsor and Owner shall comply with 24 CFR §92.257 regarding religious organizations. The Program must be used exclusively for secular purposes, available to all persons regardless of religion, and there must be no religious or membership criteria for participants in the Program.
29. Financial Accountability: The Sponsor and Owner shall have financial accountability standards that conform to the requirements detailed in 24 CFR §84.21, "Standards for Financial Management Systems" and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
30. Environmental Review: The Project has been assessed in accordance with the National Environmental Policy Act of 1969 (NEPA) (U.S.C. §4321) and implementing regulations contained in 24 CFR Parts 50-58.
31. Reversion of Assets: Upon the Agreement's expiration, the Sponsor and Owner shall transfer to the City any HOME funds on hand and any accounts receivable attributable to the use of HOME funds.

32. Non-Recourse: Notwithstanding anything to the contrary in the Agreement or Loan Documents as defined below, the agreement shall be non-recourse to the Owner and its partners.

SECTION 4. DEFAULTS AND REMEDIES

1. Events of Default: The following shall constitute an Event of Default under this Agreement:
- a) If the Sponsor and Owner fails to rent the Property to Low Income and Moderate Income Persons at Affordable rents as set forth in this Agreement;
 - b) If the Sponsor and Owner fail to comply with any regulations governing HOME Program awards, including, but not limited to, 42 U.S.C. §§12701-12839, 24 CFR Part 92, or fails to comply with any of the terms contained in this Agreement and such failure continues for a period of thirty (30) days following written notice thereof given by the City to the Sponsor and Owner;
 - c) If the Sponsor and Owner is deemed in default under the terms of other financing or mortgages used for the Project and said defaults extends beyond the applicable cure period provided in said documents;
 - d) If at any time any material representation made by the Sponsor and Owner in any written certification or communication submitted by the Sponsor and Owner to the City in an effort to induce the making of this loan or the administration thereof is determined by the City to be false, misleading, or incorrect in any material manner;
 - e) If the Sponsor and Owner does not disclose to the City, upon demand, the names of all persons with whom the Sponsor and Owner has contracted or intends to contract with for the construction or management of any portion of the Project, including contracts for services and/or labor; and
 - f) If any default shall occur under the Note, Mortgage, Declaration of Restrictive Covenant, or any loan documents executed in connection with this loan by the City (herein in the "Loan Documents") which is not elsewhere specifically addressed herein and such default is not cured within the applicable cure period set forth in the Loan Documents, or if there is no cure period set forth, then within thirty (30) days following the date of written notice to the Sponsor and Owner thereof.

Notwithstanding any of the foregoing provisions to the contrary, if the Sponsor and Owner have failed to cure any default within five (5) days prior to the expiration of any applicable cure period, the City may, at its sole option, cure such default, provided, however, that the City shall be under no duty or obligation to do so.

2. No Waiver: Failure of the City to declare a default shall not constitute a waiver of any rights by the City. Furthermore, the waiver of any default by the City shall in no event be construed as a waiver of rights with respect to any other default, past or present.

3. Remedies: Upon the occurrence of any uncured Event of Default or any other breach of this Agreement, the City shall be free to terminate this Agreement, withhold all funding and/or exercise all rights and remedies available to it under the terms of this Agreement, or other Loan Documents, statutory law, equity, or under common law. The City may also exercise any one or more of the actions contained in 24 CFR §85.43(a)(1-5). All remedies shall be deemed cumulative and, to the extent permitted by law, the election of one or more remedies shall not be construed as a waiver of any other remedy the City may have available to it. Notwithstanding any of the foregoing provisions to the contrary, if an Event of Default occurs, prior to exercising any remedies hereunder, the Lender shall give Investor Limited Partner simultaneous written notice of such default. Investor Limited Partner shall have a period of ten (10) days after receipt of such notice, or such longer period of time as may be set forth herein, to cure the default prior to exercise of remedies by the Lender. The Lender hereby agrees that any cure of any default made or tendered by Investor Limited Partner shall be (a) deemed to be a cure by the Owner, and (b) accepted or rejected on the same basis as if made or tendered by Owner. Copies of all notices sent to Owner under the terms herein shall also be sent to Investor Limited Partner, NDC Corporate Equity Fund VIII. L.P., c/o NDC Housing and Economic Development Corporation, 708 Third Avenue, Suite 710 New York, NY 10017, Attn: Robert W. Davenport, Chairman. Any notice delivered to Owner under the terms herein shall be deemed ineffective and not delivered until a copy of the notice is delivered to the Investor Limited Partner. Notwithstanding any of the provisions contained herein or any of the Loan Documents, the withdrawal, removal, and/or replacement of Owner's general partner for cause in accordance with Owner's Amended and Restated Agreement of Limited Partnership shall not require the consent of Lender and shall not constitute a default under any of the Loan Documents or accelerate the maturity of the Loan. If the Investor Limited Partner exercises its right to remove the general partner, Lender will not unreasonably withhold its consent to the substitute general partner. The substitute general partner shall assume all of the rights and obligations of the removed general partner hereunder.

SECTION 5. INDEMNIFICATION

1. Environmental Indemnification: The Sponsor and Owner shall indemnify and hold the City harmless from any claim arising from, or in any way related to, the environmental condition of the Property, including, but not limited to, the cost of investigating, defending, and/or negotiating to a satisfactory conclusion claims made by environmental regulatory agencies, as well as all cleanup and property maintenance requirements imposed by any agency with lawful jurisdiction over the Property. This indemnification shall run from the time of initial discovery of any such adverse environmental condition and shall not be construed to commence only upon realization by the City of an actual pecuniary loss as a result of such adverse environmental condition. The existence of this indemnification agreement shall not be construed as indicia of ownership, management or control of the Property by the City, and the Sponsor and Owner hereby recognize and acknowledge that the City is not an owner or manager of the Property and does not exert any control thereupon. Notwithstanding anything herein, or in the Note, Mortgage, or other Loan Documents to the contrary, this indemnification provision shall survive closing.

SECTION 6. INSURANCE

1. Insurance: Without limiting the Sponsor and Owner's indemnification, the Sponsor and Owner shall maintain in force at all times during the performance of this Agreement all appropriate policies of insurance hereinafter described concerning its operations. Valid certificates and authorized endorsements evidencing the maintenance and renewal of such insurance coverage shall be delivered to the City thirty (30) days prior to commencement of construction. The City shall be given notice in writing at least thirty (30) calendar days in advance of cancellation or modification of any policy of insurance. The City, its officers and employees, shall be named as an additional named insured on all policies of liability insurance.
 - a) All policies of insurance shall be in a company or companies authorized by law to transact insurance business in the State of New Mexico. In addition, such policy shall provide that the coverage shall be primary for losses arising out of the Sponsor and Owner's performance of the Agreement. Neither the City nor any of its insurers shall be required to contribute to any such loss. The required certificate shall be furnished by the Participation prior to execution of this Agreement.
 - b) At least thirty (30) calendar days prior to the expiration of any of the above-referenced policies, the Sponsor and Owner shall provide

the City with evidence of the renewal of said insurance policies in a form satisfactory to the City.

- c) The Policies of Insurance which must be secured are:
- i. Commercial General Liability Insurance: The Sponsor and Owner must secure commercial property liability insurance to include, but not be limited to, bodily injury and property damage coverage. The policy's limit liability shall not be less than the limits of liability set forth in the New Mexico Tort Claims Act, which limits of liability are presently \$1,000,000.
 - ii. Worker's Compensation Coverage: All employees of the Sponsor and Owner must be included under such policy and with coverage to meet all requirements of the State of New Mexico.
 - iii. Flood Insurance: The Sponsor and Owner shall provide Flood Insurance as required under applicable HUD regulations.

SECTION 7. MISCELLANEOUS PROVISIONS

1. Assignment: This Agreement may not be assigned to any other entity without the prior written consent of the City. Notwithstanding anything to the contrary contained herein or any of the Loan Documents, the interest of the Investor Limited Partner in the Owner shall be transferable to any affiliate of the Investor Limited Partner without the consent of the Lender or the Sponsor. The interests of the Investor Limited Partner in the Owner shall be transferable to a non-affiliate of the Investor Limited Partner with the consent of Lender and the Sponsor, which consent shall not be unreasonably withheld. Ownership interests in the Investor Limited Partner shall be transferable without the consent of the Lender or the Sponsor.
2. No partnership or agency: The City shall not in any way or for any purpose be considered to be or to have become a partner of the Sponsor and Owner with respect to the Program. The Sponsor and Owner are not, and shall not be, the agent of the City for any purpose, nor shall the City be the agent of the Sponsor and Owner for any purpose.
3. Severability: If any court of competent jurisdiction finds any part of this Agreement invalid or unenforceable, such invalidity or unenforceability shall not affect the other parts of this Agreement. If the rights and obligation of the parties contained herein are not materially prejudiced and if the intentions of the parties can continue to be effected, this Agreement is declared severable.

4. Entire Agreement/Modification: This Agreement, together with **Attachments "A" through "O"** attached hereto, constitutes the entire agreement between the parties and supersedes all previous discussions, understandings, representations, and agreements as to the items herein contained. The City or the Sponsor and Owner may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, are executed in writing, signed by a duly authorized representative of both organizations, and approved by the City's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the City or the Sponsor and Owner from its obligations under this Agreement. The City may, in its discretion, amend this Agreement to conform with Federal, state, or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, scope of services, or schedule of activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the City and the Sponsor and Owner.
5. Notices: Whenever by the terms of this Agreement notice shall be given to either party, such notice shall be in writing and shall be hand delivered, sent by regular mail, or sent electronically to:
- A. Neighborhood Services Program Specialist (HOME)
Community Development Department
City of Las Cruces
P.O. Box 20000
Las Cruces, New Mexico 88004
 - B. Rose Garcia, Executive Director
Tierra Del Sol Housing Corporation
Po Box 2626
Anthony, New Mexico 88021
 - C. NDC Corporate Equity Fund VIII, L.P
c/o NDC Housing and Economic Development Corporation
708 Third Avenue, Suite 710
New York, NY 10017
6. Compliance with All Laws: Notwithstanding anything to the contrary, the Program shall be operated consistent with all applicable federal, state, and local laws and regulations.
7. Governing Law: This Agreement shall be construed in accordance with the laws of the State of New Mexico.

IN WITNESS WHEREOF the parties have executed this Agreement, each upon the date set forth next to his/her name.

PROJECT SPONSOR:

TIERRA DEL SOL HOUSING CORPORATION

Rose Garcia, Executive Director

Date

PROJECT OWNER:

ALTA TIERRA APARTMENTS LIMITED PARTNERSHIP, a New Mexico limited partnership

By: TDS Alta Tierra, LLC, A New Mexico limited liability company, its General Partner
By: Tierra Del Sol Housing Corporation, a New Mexico nonprofit corporation, its Manager
By: Rose Garcia, Executive Director

Date

CITY OF LAS CRUCES

Terrence Moore, City Manager
City of Las Cruces

Date

APPROVED AS TO FORM:

City Attorney

ATTACHMENT "A"

LEGAL DESCRIPTION

All that certain real property located in the County of Dona Aña, State of New Mexico, described as follows:

PURSUANT TO SECTION 14-11-10.1 NMSA 1978, THE SIMPLE DESCRIPTION OF THE PROPERTY IS 1500 E. MADRID AVENUE, LAS CRUCES, NEW MEXICO, WHICH PROPERTY IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A TRACT OF LAND SITUATE WITHIN THE CORPORATE LIMITS OF THE CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO, IN SECTIONS 6 AND 7, T.23S., R.2E., N.M.P.M. OF THE U.S.R.S. SURVEYS BEING PART OF BLOCK 10, BISHOPS TRACT, FILED NOVEMBER 15, 1946, IN PLAT BOOK 6M, PAGE 46, DONA ANA COUNTY RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS, IT WIT:

BEGINNING AT A CHISELED 'X' ON A SIDEWALK ON THE SOUTH LINE OF MADRID AVENUE FOR THE NORTHEAST CORNER OF THE TRACT HEREIN DESCRIBED, SAID CORNER BEING IDENTICAL TO THE NORTHEAST CORNER OF BLOCK 10, OF SAID BISHOPS TRACT;

THENCE FROM THE POINT OF BEGINNING AND ALONG THE EAST BOUNDARY OF BLOCK 10, BISHOPS TRACT, S.41 DEG. 05'38"E., 295.01 FEET TO A CHISELED 'X' ON A SIDEWALK FOR THE SOUTHEAST CORNER OF SAID BLOCK 10 AND THE SOUTHEAST CORNER OF THE TRACT HEREIN DESCRIBED;

THENCE ALONG THE SOUTH BOUNDARY OF BLOCK 10 AND THE NORTH LINE OF HERNANDEZ ROAD, S.63 DEG. 00'00"W., 451.11 FEET TO A CHISELED CROSS ON A SIDEWALK FOR THE SOUTHWEST CORNER OF THIS TRACT;

THENCE LEAVING HERNANDEZ ROAD, N.27 DEG. 24'36"W., 286.13 FEET TO A CONCRETE MONUMENT FOUND ON THE SOUTH LINE OF MADRID AVENUE FOR THE NORTHWEST CORNER OF THIS TRACT;

THENCE ALONG THE SOUTH LINE OF MADRID AVENUE, N.63 DEG. 00'00"E., 381.32 FEET TO THE POINT OF BEGINNING CONTAINING 2.7339 ACRES OF LAND, MORE OR LESS.

ATTACHMENT "B"

2009 HOUSING CREDIT INCOME LIMITS

Las Cruces MSA

# in Hshld	1	2	3	4	5	6	7	8
30%	9,270	10,590	11,910	13,230	14,280	15,360	16,410	17,460
40%	12,360	14,120	15,880	17,640	19,040	20,480	21,880	23,280
50%	15,450	17,650	19,850	22,050	23,800	25,600	27,350	29,100
60%	18,540	21,180	23,820	26,460	28,560	30,720	32,820	34,920
80%	24,720	28,240	31,760	35,280	38,080	40,960	43,760	46,560

ATTACHMENT "C"

PROMISSORY NOTE

\$250,000.00

Las Cruces, New Mexico
_____, 2009

FOR VALUE RECEIVED, the undersigned **TIERRA DEL SOL HOUSING CORPORATION** ("Maker"), a New Mexico non-profit agency, with its address at PO Box 2626, Anthony, New Mexico, 88021, and the undersigned **ALTA TIERRA APARTMENTS LIMITED PARTHERSHIP** ("Co-Maker"), a New Mexico limited partnership, with its address at PO Box 2626, Anthony, New Mexico, 88021, promise to pay to the order of the **CITY OF LAS CRUCES** ("Holder"), a New Mexico municipal corporation, organized and existing under the Constitution and laws of the State of New Mexico and its charter, and having a mailing address of PO Box 20000, Las Cruces, New Mexico, 88004, or its assigns, the principal sum of TWO HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS (\$250,000.00), or so much thereof as shall have been advanced to Maker and Co-Maker by Holder from time to time, together with all charges as provided herein and in the Mortgage (as hereinafter defined) and accrued interest on the principal balance thereof outstanding from time to time at the applicable rate of interest as hereinafter specified.

On the _____ day of _____, 2009, the Maker, Co-Maker, and the Holder entered into a certain HOME Loan Agreement, which provided for the loan by the Holder to the Maker of an amount not to exceed the Principal Sum of this Note. All capitalized terms used in this Note have the meaning provided in the Loan Agreement.

The loan authorized shall be for Forty Five (45) years or until the Maker and Co-Maker sells or refinances the Project, whichever occurs first. This Note shall bear interest at four and twenty six one-hundredths' percent (4.26%) per year, compounded annually, which is based on the Applicable Federal Rate for Low-Income Housing Tax Credits as of August 2009. The Maker and Co-Maker will make 180 monthly interest only payments at 1% of the principal balance compounded annually for the first fifteen years of the deferred loan. The amortization schedule as attached in **Attachment "C1"** contains payment details. At the end of year fifteen (15), the principal balance together with any and all unpaid accrued interest compounded thereon, shall be considered the adjusted principal balance. This principal balance will continue to accrue interest at the rate of four and twenty six one-hundredths' percent (4.26%) per annum and shall become due and payable in 360 monthly installments of \$1,992.28, principal and interest including any escrow payment and disbursement fees in effect through the City's designated Escrow Company, if any at the time. At the end of year forty five, all outstanding principal and balance and any accrued unpaid interest shall be paid in full.

The first payment due under this Note is due July 1, 2010 and will continue to be due on the 1st of each month for 540 consecutive months or until balance is paid in full, which ever occurs first.

The proceeds of the loan evidenced by this City Note may be assigned, upon written consent of the City, to any successors, assignees or purchasers of the Project who agree in writing to assume all of the obligations of Maker and Co-Maker, its successors and assigns under the Agreement, this City Note and the Mortgage and the Maker and Co-Maker shall thereupon be released from all future liability hereunder.

The entire principal balance and any accrued interest thereon shall become immediately due and payable upon: (1) the bankruptcy or reorganization of the Maker and Co-Maker under the Bankruptcy Code or the Internal Revenue Code of 1954, as amended; or (2) the dissolution or liquidation of the Maker and Co-Maker prior to the permitted assignment of Maker's and Co-Maker's rights and assumption of its obligation hereunder.

If at any time during the term of this City Note, any material portion of the improvements or equipment situated on the Project site shall be removed, demolished or materially altered without prior written consent of Holder, the entire principal balance of the loan, plus accrued and unpaid interest thereon, shall become immediately due and payable; provided, however, that Maker and Co-Maker shall have the right, without such consent to remove and dispose of (free from any lien of Holder) such equipment as from time to time has become worn out or obsolete, provided that simultaneously with or prior to such removal, any such equipment shall be replaced with other equipment of value at least equal to that of the replaced equipment and free from any title retention or other encumbrance not otherwise permitted herein or in the Mortgage. By such removal and replacement, Maker and Co-Maker shall be deemed to have subjected such equipment to the lien of Holder.

All cash payments hereunder shall be payable in lawful money of the United States, which shall be legal tender for public and private debts at the time of payment, at the office of the City Accountant, or at such other place as the Holder hereof may from time to time give notice in writing to the Maker and Co-Maker.

Prepayments of all or any part of the principal balance of this City Note may be made at any time and from time to time by Maker and Co-Maker. No premium or penalty shall be charged in connection with such prepayment. Notwithstanding any of the provisions contained herein or any of the Loan Documents, the Loan shall be non-recourse to the Owner and its partners.

Notwithstanding any of the provisions contained herein or any of the Loan Documents, the withdrawal, removal, and/or replacement of Owner's general

partner for cause in accordance with Owner's Amended and Restated Agreement of Limited Partnership shall not require the consent of Lender and shall not constitute a default under any of the Loan Documents or accelerate the maturity of the Loan. If the Investor Limited Partner exercises its right to remove the general partner, Lender will not unreasonably withhold its consent to the substitute general partner. The substitute general partner shall assume all of the rights and obligations of the removed general partner hereunder.

Notwithstanding anything to the contrary contained herein or any of the Loan Documents, the interest of the Investor Limited Partner in the Owner shall be transferable to any affiliate of the Investor Limited Partner without the consent of the Lender or the Sponsor. The interests of the Investor Limited Partner in the Owner shall be transferable to a non-affiliate of the Investor Limited Partner with the consent of Lender and the Sponsor, which consent shall not be unreasonably withheld. Ownership interests in the Investor Limited Partner shall be transferable without the consent of the Lender or the Sponsor.

This City Note is secured by a mortgage and security agreement of even date herewith between the City of Las Cruces and Alta Tierra Apartments Limited Partnership, granted by the Maker and Co-Maker to the Holder, conveying a mortgage and security interest in the Project and the real property constituting the site therefore, which Mortgage is to be filed for record in the Office of the County Clerk of Dona Aña County, New Mexico. All of the provisions of the Mortgage are incorporated herein by reference.

If (1) default be made in the payment when due of any installment of principal hereunder and the same shall not be paid in the manner provided in this City Note, or as provided in this agreement, after receipt of written notice at once or at any time thereafter during the continuance of such default, at the option of the Holder, thereof, become due and payable, and thereafter all of the unpaid principal shall bear interest at an annual interest rate of Nine and Twenty Six One Hundredths' percent (9.26%), the undersigned Maker and Co-Maker hereof shall pay on demand to the Holder of this Note all costs and expenses incurred by such Holder in pursuing remedies under this Note and the Mortgage to collect any sums due under this City Note, all of which shall include, without limitation, such reasonable attorney's fees incurred in taking any and all such actions.

If (2) default be made, and not timely cured, under the terms of any mortgage loan to which the Mortgage is subordinate; (3) Maker and Co-Maker shall dissolve or otherwise fail to maintain its status as a New Mexico limited partnership; (4) Maker and Co-Maker sells or conveys the Project to a third party without the prior written consent of the Holder; (5) Maker and Co-Maker sells or conveys the Project to a third party who does not agree in writing to assume all of obligations of Maker and Co-Maker, its successors and assigns under the Agreement, this City Note and the Mortgage; or (6) default be made in the performance of any of the other covenants contained in this City Note, the Loan Agreement or in the Mortgage, and such default shall continue for a period in

excess of that time provided for remedy thereunder, then, in any such event, the whole unpaid principal balance together with all accrued interest hereof shall, upon ten (10) days written notice to the Maker and Co-Maker, at once or at any time thereafter during the continuance of such default, at the option of the Holder thereof, become due and payable, and thereafter all of the unpaid principal shall bear interest until paid at an annual interest rate of twelve percent (12%), and the undersigned Maker and Co-Maker hereof shall pay on demand to the Holder of this Note all costs and expenses incurred by such Holder in pursuing its remedies under this Note and the Mortgage to collect any and all sums due under this City Note, all of which shall include, without limitation, such reasonable attorney's fees incurred in taking any and all such actions. Notwithstanding any of the foregoing provisions to the contrary, if an Event of Default occurs, prior to exercising any remedies hereunder, the Lender shall give Investor Limited Partner simultaneous written notice of such default. Investor Limited Partner shall have a period of ten (10) days after receipt of such notice, or such longer period of time as may be set forth herein, to cure the default prior to exercise of remedies by the Lender. The Lender hereby agrees that any cure of any default made or tendered by Investor Limited Partner shall be (a) deemed to be a cure by the Owner, and (b) accepted or rejected on the same basis as if made or tendered by Owner. Copies of all notices sent to Owner under the terms herein shall also be sent to Investor Limited Partner NDC Corporate Equity Fund VIII, L.P., c/o NDC Housing and Economic Development Corporation, 708 Third Avenue, Suite 710, New York, NY 10017, attn: Robert W. Davenport, Chairman. Any notice delivered to Owner under the terms herein shall be deemed ineffective and not delivered until a copy of the notice is delivered to the Investor Limited Partner.

This Note is expressly non-recourse to Maker or Co-Maker (or its partners). Lender shall not have any recourse against the Maker or Co-Maker (or its partners) for obligations undertaken by or imposed upon maker or Co-maker by this Note.

The Maker and Co-Maker waive presentment for payment, protest, notice of protest and notice of dishonor. The Maker and Co-Maker consent to any number of renewals or extensions of the time of payment hereof. Any such renewals or extensions may be made without notice to Maker and Co-Maker and without affecting its liability.

Failure to accelerate the indebtedness evidenced hereby by reason of default in the payment of an installment of principal, interest, or principal and interest, or the acceptance of a past due installment of the same, shall not be construed as a novation of this City Note or as a waiver of the right of the Holder to thereafter insist upon strict compliance with the terms of this City Note without previous notice of such intention being given to the Maker and Co-Maker. This City Note shall not be changed orally, but only by an agreement in writing signed by the

party against whom enforcement of any waiver, change, modification or discharge is sought.

The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by a First Mortgage Note (as defined in the Subordination Agreement) of even date herewith in the original principal amount of \$2,300,000.00, and upon conversion, a Permanent Note (as defined in the Subordination Agreement) in the original principal amount of \$390,000.00, each issued by Alta Tierra Apartments Limited Partnership and payable to Bank of America, N.A. (the "Senior Lender"), or order, to the extent and in the manner provided in that certain Subordination Agreement of even date herewith between the payee of this Note, and the Senior Lender and the maker of this Note (the "Subordination Agreement"). The Mortgage securing this Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the First Mortgage and the Permanent Mortgage (as each term is defined in the Subordination Agreement) as more fully set forth in the Subordination Agreement. The rights and remedies of the payee and each subsequent holder of this Note under the Mortgage securing this Note are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of this Note shall be deemed, by virtue of such holder's acquisition of the Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the Subordinate Lender under the Subordination Agreement.

As used herein, the terms "Maker," "Co-Maker," and "Holder" shall be deemed to include their respective successors, legal representatives and assigns, whether voluntary by action of the parties or involuntary by operation of law. This City Note shall be construed according to the laws of the State of New Mexico.

Any and all references in the City Note to any other document or documents shall be references to such document or documents as the same may from time to time be modified, amended, renewed, consolidated or extended.

Subject to the qualification otherwise set forth herein, time is of the essence in the performance of this Note.

The representative of Maker and Co-Maker subscribing below represents that he has full power, authority and legal right to execute and deliver this Note and that the debt evidenced hereby constitutes a valid and binding obligation of Maker and Co-Maker.

This Note is executed in Las Cruces, New Mexico on the _____ day of _____, 2009.

ATTACHMENT "C-1"

AMORTIZATION SCHEDULE

Note: This Annual Percentage Rate is based on the Prevailing AFR on the date of the original HOME Agreement was signed by all parties, of August 1, 2009, between the City of Las Cruces and the Alta Tierra Apartments Limited Partnership.

Full Interest	Partial Interest	1.00%	
4.26%	Full Principal	\$250,000	3.26%

Year	Month	Payment		Prin. Amt	Interest Payment	New Principal Balance (End of Each Year)	unpaid accrued 3.26%
		No.	No.				
2010	July	1	1	1	\$250,000.00	\$208.33	\$679.17
2010	Aug.	1	2	2	\$250,000.00	\$208.33	\$679.17
2010	Sept.	1	3	3	\$250,000.00	\$208.33	\$679.17
2010	Oct.	1	4	4	\$250,000.00	\$208.33	\$679.17
2010	Nov.	1	5	5	\$250,000.00	\$208.33	\$679.17
2010	Dec.	1	6	6	\$250,000.00	\$208.33	\$679.17
2011	Jan.	1	7	7	\$250,000.00	\$208.33	\$679.17
2011	Feb.	1	8	8	\$250,000.00	\$208.33	\$679.17
2011	Mar.	1	9	9	\$250,000.00	\$208.33	\$679.17
2011	April	1	10	10	\$250,000.00	\$208.33	\$679.17
2011	May	1	11	11	\$250,000.00	\$208.33	\$679.17
2011	June	1	12	12	\$250,000.00	\$208.33	\$258,150.00
2011	July	2	1	13	\$258,150.00	\$215.13	\$701.31
2011	Aug.	2	2	14	\$258,150.00	\$215.13	\$701.31
2011	Sept.	2	3	15	\$258,150.00	\$215.13	\$701.31
2011	Oct.	2	4	16	\$258,150.00	\$215.13	\$701.31
2011	Nov.	2	5	17	\$258,150.00	\$215.13	\$701.31
2011	Dec.	2	6	18	\$258,150.00	\$215.13	\$701.31
2012	Jan.	2	7	19	\$258,150.00	\$215.13	\$701.31
2012	Feb.	2	8	20	\$258,150.00	\$215.13	\$701.31
2012	Mar.	2	9	21	\$258,150.00	\$215.13	\$701.31
2012	April	2	10	22	\$258,150.00	\$215.13	\$701.31
2012	May	2	11	23	\$258,150.00	\$215.13	\$701.31
2012	June	2	12	24	\$258,150.00	\$215.13	\$266,565.69
2012	July	3	1	25	\$266,565.69	\$222.14	\$724.17
2012	Aug.	3	2	26	\$266,565.69	\$222.14	\$724.17
2012	Sept.	3	3	27	\$266,565.69	\$222.14	\$724.17
2012	Oct.	3	4	28	\$266,565.69	\$222.14	\$724.17
2012	Nov.	3	5	29	\$266,565.69	\$222.14	\$724.17
2012	Dec.	3	6	30	\$266,565.69	\$222.14	\$724.17
2013	Jan.	3	7	31	\$266,565.69	\$222.14	\$724.17
2013	Feb.	3	8	32	\$266,565.69	\$222.14	\$724.17
2013	Mar.	3	9	33	\$266,565.69	\$222.14	\$724.17
2013	April	3	10	34	\$266,565.69	\$222.14	\$724.17
2013	May	3	11	35	\$266,565.69	\$222.14	\$724.17
2013	June	3	12	36	\$266,565.69	\$222.14	\$275,255.73
2013	July	4	1	37	\$275,255.73	\$229.38	\$747.78
2013	Aug.	4	2	38	\$275,255.73	\$229.38	\$747.78
2013	Sept.	4	3	39	\$275,255.73	\$229.38	\$747.78
2013	Oct.	4	4	40	\$275,255.73	\$229.38	\$747.78
2013	Nov.	4	5	41	\$275,255.73	\$229.38	\$747.78
2013	Dec.	4	6	42	\$275,255.73	\$229.38	\$747.78
2014	Jan.	4	7	43	\$275,255.73	\$229.38	\$747.78
2014	Feb.	4	8	44	\$275,255.73	\$229.38	\$747.78
2014	Mar.	4	9	45	\$275,255.73	\$229.38	\$747.78
2014	April	4	10	46	\$275,255.73	\$229.38	\$747.78
2014	May	4	11	47	\$275,255.73	\$229.38	\$747.78
2014	June	4	12	48	\$275,255.73	\$229.38	\$284,229.07
2014	July	5	1	49	\$284,229.07	\$236.86	\$772.16
2014	Aug.	5	2	50	\$284,229.07	\$236.86	\$772.16
2014	Sept.	5	3	51	\$284,229.07	\$236.86	\$772.16
2014	Oct.	5	4	52	\$284,229.07	\$236.86	\$772.16
2014	Nov.	5	5	53	\$284,229.07	\$236.86	\$772.16
2014	Dec.	5	6	54	\$284,229.07	\$236.86	\$772.16
2015	Jan.	5	7	55	\$284,229.07	\$236.86	\$772.16
2015	Feb.	5	8	56	\$284,229.07	\$236.86	\$772.16
2015	Mar.	5	9	57	\$284,229.07	\$236.86	\$772.16
2015	April	5	10	58	\$284,229.07	\$236.86	\$772.16
2015	May	5	11	59	\$284,229.07	\$236.86	\$772.16
2015	June	5	12	60	\$284,229.07	\$236.86	\$293,494.94
2015	July	6	1	61	\$293,494.94	\$244.58	\$797.33
2015	Aug.	6	2	62	\$293,494.94	\$244.58	\$797.33
2015	Sept.	6	3	63	\$293,494.94	\$244.58	\$797.33
2015	Oct.	6	4	64	\$293,494.94	\$244.58	\$797.33
2015	Nov.	6	5	65	\$293,494.94	\$244.58	\$797.33
2015	Dec.	6	6	66	\$293,494.94	\$244.58	\$797.33
2016	Jan.	6	7	67	\$293,494.94	\$244.58	\$797.33
2016	Feb.	6	8	68	\$293,494.94	\$244.58	\$797.33
2016	Mar.	6	9	69	\$293,494.94	\$244.58	\$797.33
2016	April	6	10	70	\$293,494.94	\$244.58	\$797.33
2016	May	6	11	71	\$293,494.94	\$244.58	\$797.33
2016	June	6	12	72	\$293,494.94	\$244.58	\$303,062.87
2016	July	7	1	73	\$303,062.87	\$252.55	\$823.32

Note: This Annual Percentage Rate is based on the Prevailing AFR on the date of the original HOME Agreement was signed by all parties, of August 1, 2009, between the City of Las Cruces and the Alta Tierra Apartments Limited Partnership.

Full Interest	Partial Interest	1.00%	
4.26%	Full Principal	\$250,000	3.26%

Year	Month	Payment		Prin. Amt	Interest Payment	New Principal Balance (End of Each Year)	unpaid accrued 3.26%
		No.	Month No.				
2016	Aug.	7	2	74	\$303,062.87	\$252.55	\$823.32
2016	Sept.	7	3	75	\$303,062.87	\$252.55	\$823.32
2016	Oct.	7	4	76	\$303,062.87	\$252.55	\$823.32
2016	Nov.	7	5	77	\$303,062.87	\$252.55	\$823.32
2016	Dec.	7	6	78	\$303,062.87	\$252.55	\$823.32
2017	Jan.	7	7	79	\$303,062.87	\$252.55	\$823.32
2017	Feb.	7	8	80	\$303,062.87	\$252.55	\$823.32
2017	Mar.	7	9	81	\$303,062.87	\$252.55	\$823.32
2017	April	7	10	82	\$303,062.87	\$252.55	\$823.32
2017	May	7	11	83	\$303,062.87	\$252.55	\$823.32
2017	June	7	12	84	\$303,062.87	\$252.55	\$823.32
2017	July	8	1	85	\$312,942.72	\$260.79	\$850.16
2017	Aug.	8	2	86	\$312,942.72	\$260.79	\$850.16
2017	Sept.	8	3	87	\$312,942.72	\$260.79	\$850.16
2017	Oct.	8	4	88	\$312,942.72	\$260.79	\$850.16
2017	Nov.	8	5	89	\$312,942.72	\$260.79	\$850.16
2017	Dec.	8	6	90	\$312,942.72	\$260.79	\$850.16
2018	Jan.	8	7	91	\$312,942.72	\$260.79	\$850.16
2018	Feb.	8	8	92	\$312,942.72	\$260.79	\$850.16
2018	Mar.	8	9	93	\$312,942.72	\$260.79	\$850.16
2018	April	8	10	94	\$312,942.72	\$260.79	\$850.16
2018	May	8	11	95	\$312,942.72	\$260.79	\$850.16
2018	June	8	12	96	\$312,942.72	\$260.79	\$850.16
2018	July	9	1	97	\$323,144.65	\$269.29	\$877.88
2018	Aug.	9	2	98	\$323,144.65	\$269.29	\$877.88
2018	Sept.	9	3	99	\$323,144.65	\$269.29	\$877.88
2018	Oct.	9	4	100	\$323,144.65	\$269.29	\$877.88
2018	Nov.	9	5	101	\$323,144.65	\$269.29	\$877.88
2018	Dec.	9	6	102	\$323,144.65	\$269.29	\$877.88
2019	Jan.	9	7	103	\$323,144.65	\$269.29	\$877.88
2019	Feb.	9	8	104	\$323,144.65	\$269.29	\$877.88
2019	Mar.	9	9	105	\$323,144.65	\$269.29	\$877.88
2019	April	9	10	106	\$323,144.65	\$269.29	\$877.88
2019	May	9	11	107	\$323,144.65	\$269.29	\$877.88
2019	June	9	12	108	\$323,144.65	\$269.29	\$877.88
2019	July	10	1	109	\$333,679.17	\$278.07	\$906.50
2019	Aug.	10	2	110	\$333,679.17	\$278.07	\$906.50
2019	Sept.	10	3	111	\$333,679.17	\$278.07	\$906.50
2019	Oct.	10	4	112	\$333,679.17	\$278.07	\$906.50
2019	Nov.	10	5	113	\$333,679.17	\$278.07	\$906.50
2019	Dec.	10	6	114	\$333,679.17	\$278.07	\$906.50
2020	Jan.	10	7	115	\$333,679.17	\$278.07	\$906.50
2020	Feb.	10	8	116	\$333,679.17	\$278.07	\$906.50
2020	Mar.	10	9	117	\$333,679.17	\$278.07	\$906.50
2020	April	10	10	118	\$333,679.17	\$278.07	\$906.50
2020	May	10	11	119	\$333,679.17	\$278.07	\$906.50
2020	June	10	12	120	\$333,679.17	\$278.07	\$906.50
2020	July	11	1	121	\$344,557.11	\$287.13	\$936.05
2020	Aug.	11	2	122	\$344,557.11	\$287.13	\$936.05
2020	Sept.	11	3	123	\$344,557.11	\$287.13	\$936.05
2020	Oct.	11	4	124	\$344,557.11	\$287.13	\$936.05
2020	Nov.	11	5	125	\$344,557.11	\$287.13	\$936.05
2020	Dec.	11	6	126	\$344,557.11	\$287.13	\$936.05
2021	Jan.	11	7	127	\$344,557.11	\$287.13	\$936.05
2021	Feb.	11	8	128	\$344,557.11	\$287.13	\$936.05
2021	Mar.	11	9	129	\$344,557.11	\$287.13	\$936.05
2021	April	11	10	130	\$344,557.11	\$287.13	\$936.05
2021	May	11	11	131	\$344,557.11	\$287.13	\$936.05
2021	June	11	12	132	\$344,557.11	\$287.13	\$936.05
2021	July	12	1	133	\$355,789.67	\$296.49	\$966.56
2021	Aug.	12	2	134	\$355,789.67	\$296.49	\$966.56
2021	Sept.	12	3	135	\$355,789.67	\$296.49	\$966.56
2021	Oct.	12	4	136	\$355,789.67	\$296.49	\$966.56
2021	Nov.	12	5	137	\$355,789.67	\$296.49	\$966.56
2021	Dec.	12	6	138	\$355,789.67	\$296.49	\$966.56
2022	Jan.	12	7	139	\$355,789.67	\$296.49	\$966.56
2022	Feb.	12	8	140	\$355,789.67	\$296.49	\$966.56
2022	Mar.	12	9	141	\$355,789.67	\$296.49	\$966.56
2022	April	12	10	142	\$355,789.67	\$296.49	\$966.56
2022	May	12	11	143	\$355,789.67	\$296.49	\$966.56
2022	June	12	12	144	\$355,789.67	\$296.49	\$966.56
2022	July	13	1	145	\$367,388.41	\$306.16	\$998.07
2022	Aug.	13	2	146	\$367,388.41	\$306.16	\$998.07

Note: This Annual Percentage Rate is based on the Prevailing AFR on the date of the original HOME Agreement was signed by all parties, of August 1, 2009, between the City of Las Cruces and the Alta Tierra Apartments Limited Partnership.

Full Interest	Partial Interest	1.00%	
4.26%	Full Principal	\$250,000	3.26%

Year	Month	Year No.	Month No.	Payment No.	Prin. Amt	Interest Payment	New Principal Balance (End of Each Year)	unpaid accrued 3.26%
2022	Sept.	13	3	147	\$367,388.41	\$306.16		\$998.07
2022	Oct.	13	4	148	\$367,388.41	\$306.16		\$998.07
2022	Nov.	13	5	149	\$367,388.41	\$306.16		\$998.07
2022	Dec.	13	6	150	\$367,388.41	\$306.16		\$998.07
2023	Jan.	13	7	151	\$367,388.41	\$306.16		\$998.07
2023	Feb.	13	8	152	\$367,388.41	\$306.16		\$998.07
2023	Mar.	13	9	153	\$367,388.41	\$306.16		\$998.07
2023	April	13	10	154	\$367,388.41	\$306.16		\$998.07
2023	May	13	11	155	\$367,388.41	\$306.16		\$998.07
2023	June	13	12	156	\$367,388.41	\$306.16	\$379,365.28	\$998.07
2023	July	14	1	157	\$379,365.28	\$316.14		\$1,030.61
2023	Aug.	14	2	158	\$379,365.28	\$316.14		\$1,030.61
2023	Sept.	14	3	159	\$379,365.28	\$316.14		\$1,030.61
2023	Oct.	14	4	160	\$379,365.28	\$316.14		\$1,030.61
2023	Nov.	14	5	161	\$379,365.28	\$316.14		\$1,030.61
2023	Dec.	14	6	162	\$379,365.28	\$316.14		\$1,030.61
2024	Jan.	14	7	163	\$379,365.28	\$316.14		\$1,030.61
2024	Feb.	14	8	164	\$379,365.28	\$316.14		\$1,030.61
2024	Mar.	14	9	165	\$379,365.28	\$316.14		\$1,030.61
2024	April	14	10	166	\$379,365.28	\$316.14		\$1,030.61
2024	May	14	11	167	\$379,365.28	\$316.14		\$1,030.61
2024	June	14	12	168	\$379,365.28	\$316.14	\$391,732.59	\$1,030.61
2024	July	15	1	169	\$391,732.59	\$326.44		\$1,064.21
2024	Aug.	15	2	170	\$391,732.59	\$326.44		\$1,064.21
2024	Sept.	15	3	171	\$391,732.59	\$326.44		\$1,064.21
2024	Oct.	15	4	172	\$391,732.59	\$326.44		\$1,064.21
2024	Nov.	15	5	173	\$391,732.59	\$326.44		\$1,064.21
2024	Dec.	15	6	174	\$391,732.59	\$326.44		\$1,064.21
2025	Jan.	15	7	175	\$391,732.59	\$326.44		\$1,064.21
2025	Feb.	15	8	176	\$391,732.59	\$326.44		\$1,064.21
2025	Mar.	15	9	177	\$391,732.59	\$326.44		\$1,064.21
2025	April	15	10	178	\$391,732.59	\$326.44		\$1,064.21
2025	May	15	11	179	\$391,732.59	\$326.44		\$1,064.21
2025	June	15	12	180	\$391,732.59	\$326.44	\$404,503.07	\$1,064.21

NOTE: The Annual Percentage Rate is set based on the AFR of August 2009 in the original note signed by all parties, of August 2009, between the City of Las Cruces and the Alta Tierra Apartments Limited Partnership	
Loan Principal Amount	\$404,503.07
Annual Percentage Rate	4.26%
Principal Payment Per Period	\$0.00
Number of Payments per Year	12
Total Number of Payments	360
Timing of Payment:	

Year	Month	Year No.	Month No.	Payment No.	Payment	Interest	Principal Reduction	Remaining Balance
2025	June	15		12				\$404,503.07
2025	July	16	1	1	\$1,992.28	\$1,435.99	\$556.29	\$403,946.78
2025	Aug.	16	2	2	\$1,992.28	\$1,434.01	\$558.27	\$403,388.51
2025	Sept.	16	3	3	\$1,992.28	\$1,432.03	\$560.25	\$402,828.25
2025	Oct.	16	4	4	\$1,992.28	\$1,430.04	\$562.24	\$402,266.01
2025	Nov.	16	5	5	\$1,992.28	\$1,428.04	\$564.24	\$401,701.78
2025	Dec.	16	6	6	\$1,992.28	\$1,426.04	\$566.24	\$401,135.54
2026	Jan.	16	7	7	\$1,992.28	\$1,424.03	\$568.25	\$400,567.29
2026	Feb.	16	8	8	\$1,992.28	\$1,422.01	\$570.27	\$399,997.02
2026	Mar.	16	9	9	\$1,992.28	\$1,419.99	\$572.29	\$399,424.73
2026	April	16	10	10	\$1,992.28	\$1,417.96	\$574.32	\$398,850.41
2026	May	16	11	11	\$1,992.28	\$1,415.92	\$576.36	\$398,274.05
2026	June	16	12	12	\$1,992.28	\$1,413.87	\$578.41	\$397,695.64
2026	July	17	1	13	\$1,992.28	\$1,411.82	\$580.46	\$397,115.18
2026	Aug.	17	2	14	\$1,992.28	\$1,409.76	\$582.52	\$396,532.65
2026	Sept.	17	3	15	\$1,992.28	\$1,407.69	\$584.59	\$395,948.06
2026	Oct.	17	4	16	\$1,992.28	\$1,405.62	\$586.67	\$395,361.40
2026	Nov.	17	5	17	\$1,992.28	\$1,403.53	\$588.75	\$394,772.65
2026	Dec.	17	6	18	\$1,992.28	\$1,401.44	\$590.84	\$394,181.81
2027	Jan.	17	7	19	\$1,992.28	\$1,399.35	\$592.94	\$393,588.88
2027	Feb.	17	8	20	\$1,992.28	\$1,397.24	\$595.04	\$392,993.84
2027	Mar.	17	9	21	\$1,992.28	\$1,395.13	\$597.15	\$392,396.69
2027	April	17	10	22	\$1,992.28	\$1,393.01	\$599.27	\$391,797.41
2027	May	17	11	23	\$1,992.28	\$1,390.88	\$601.40	\$391,196.01
2027	June	17	12	24	\$1,992.28	\$1,388.75	\$603.53	\$390,592.48
2027	July	18	1	25	\$1,992.28	\$1,386.60	\$605.68	\$389,986.80
2027	Aug.	18	2	26	\$1,992.28	\$1,384.45	\$607.83	\$389,378.97
2027	Sept.	18	3	27	\$1,992.28	\$1,382.30	\$609.99	\$388,768.99
2027	Oct.	18	4	28	\$1,992.28	\$1,380.13	\$612.15	\$388,156.84
2027	Nov.	18	5	29	\$1,992.28	\$1,377.96	\$614.32	\$387,542.51
2027	Dec.	18	6	30	\$1,992.28	\$1,375.78	\$616.50	\$386,926.01
2028	Jan.	18	7	31	\$1,992.28	\$1,373.59	\$618.69	\$386,307.31
2028	Feb.	18	8	32	\$1,992.28	\$1,371.39	\$620.89	\$385,686.42
2028	Mar.	18	9	33	\$1,992.28	\$1,369.19	\$623.09	\$385,063.33
2028	April	18	10	34	\$1,992.28	\$1,366.97	\$625.31	\$384,438.02
2028	May	18	11	35	\$1,992.28	\$1,364.75	\$627.53	\$383,810.50
2028	June	18	12	36	\$1,992.28	\$1,362.53	\$629.75	\$383,180.75
2028	July	19	1	37	\$1,992.28	\$1,360.29	\$631.99	\$382,548.76
2028	Aug.	19	2	38	\$1,992.28	\$1,358.05	\$634.23	\$381,914.52
2028	Sept.	19	3	39	\$1,992.28	\$1,355.80	\$636.48	\$381,278.04
2028	Oct.	19	4	40	\$1,992.28	\$1,353.54	\$638.74	\$380,639.30
2028	Nov.	19	5	41	\$1,992.28	\$1,351.27	\$641.01	\$379,998.28
2028	Dec.	19	6	42	\$1,992.28	\$1,348.99	\$643.29	\$379,355.00
2029	Jan.	19	7	43	\$1,992.28	\$1,346.71	\$645.57	\$378,709.43
2029	Feb.	19	8	44	\$1,992.28	\$1,344.42	\$647.86	\$378,061.56
2029	Mar.	19	9	45	\$1,992.28	\$1,342.12	\$650.16	\$377,411.40
2029	April	19	10	46	\$1,992.28	\$1,339.81	\$652.47	\$376,758.93
2029	May	19	11	47	\$1,992.28	\$1,337.49	\$654.79	\$376,104.15
2029	June	19	12	48	\$1,992.28	\$1,335.17	\$657.11	\$375,447.03
2029	July	20	1	49	\$1,992.28	\$1,332.84	\$659.44	\$374,787.59
2029	Aug.	20	2	50	\$1,992.28	\$1,330.50	\$661.78	\$374,125.81
2029	Sept.	20	3	51	\$1,992.28	\$1,328.15	\$664.13	\$373,461.67
2029	Oct.	20	4	52	\$1,992.28	\$1,325.79	\$666.49	\$372,795.18
2029	Nov.	20	5	53	\$1,992.28	\$1,323.42	\$668.86	\$372,126.32
2029	Dec.	20	6	54	\$1,992.28	\$1,321.05	\$671.23	\$371,455.09
2030	Jan.	20	7	55	\$1,992.28	\$1,318.67	\$673.62	\$370,781.48
2030	Feb.	20	8	56	\$1,992.28	\$1,316.27	\$676.01	\$370,105.47
2030	Mar.	20	9	57	\$1,992.28	\$1,313.87	\$678.41	\$369,427.06
2030	April	20	10	58	\$1,992.28	\$1,311.47	\$680.81	\$368,746.25
2030	May	20	11	59	\$1,992.28	\$1,309.05	\$683.23	\$368,063.02
2030	June	20	12	60	\$1,992.28	\$1,306.62	\$685.66	\$367,377.36
2030	July	21	1	61	\$1,992.28	\$1,304.19	\$688.09	\$366,689.27
2030	Aug.	21	2	62	\$1,992.28	\$1,301.75	\$690.53	\$365,998.73
2030	Sept.	21	3	63	\$1,992.28	\$1,299.30	\$692.99	\$365,305.75
2030	Oct.	21	4	64	\$1,992.28	\$1,296.84	\$695.45	\$364,610.30
2030	Nov.	21	5	65	\$1,992.28	\$1,294.37	\$697.91	\$363,912.39
2030	Dec.	21	6	66	\$1,992.28	\$1,291.89	\$700.39	\$363,212.00
2031	Jan.	21	7	67	\$1,992.28	\$1,289.40	\$702.88	\$362,509.12
2031	Feb.	21	8	68	\$1,992.28	\$1,286.91	\$705.37	\$361,803.75
2031	Mar.	21	9	69	\$1,992.28	\$1,284.40	\$707.88	\$361,095.87
2031	April	21	10	70	\$1,992.28	\$1,281.89	\$710.39	\$360,385.48
2031	May	21	11	71	\$1,992.28	\$1,279.37	\$712.91	\$359,672.57
2031	June	21	12	72	\$1,992.28	\$1,276.84	\$715.44	\$358,957.12
2031	July	22	1	73	\$1,992.28	\$1,274.30	\$717.98	\$358,239.14
2031	Aug.	22	2	74	\$1,992.28	\$1,271.75	\$720.53	\$357,518.61
2031	Sept.	22	3	75	\$1,992.28	\$1,269.19	\$723.09	\$356,795.52
2031	Oct.	22	4	76	\$1,992.28	\$1,266.62	\$725.66	\$356,069.86
2031	Nov.	22	5	77	\$1,992.28	\$1,264.05	\$728.23	\$355,341.63
2031	Dec.	22	6	78	\$1,992.28	\$1,261.46	\$730.82	\$354,610.81
2032	Jan.	22	7	79	\$1,992.28	\$1,258.87	\$733.41	\$353,877.40
2032	Feb.	22	8	80	\$1,992.28	\$1,256.26	\$736.02	\$353,141.38
2032	Mar.	22	9	81	\$1,992.28	\$1,253.65	\$738.63	\$352,402.75
2032	April	22	10	82	\$1,992.28	\$1,251.03	\$741.25	\$351,661.50
2032	May	22	11	83	\$1,992.28	\$1,248.40	\$743.88	\$350,917.62

Calendar Yearly Int Tot Calendar Yearly Prin Tot

\$8,586.15 \$3,367.53

\$16,953.64 \$6,953.72

\$16,651.56 \$7,255.81

\$16,336.36 \$7,571.01

\$16,007.46 \$7,899.91

\$15,664.28 \$8,243.09

\$15,306.18 \$8,601.19

2032 June	22	12	84	\$1,992.28	\$1,245.76	\$746.52	\$350,171.10		
2032 July	23	1	85	\$1,992.28	\$1,243.11	\$749.17	\$349,421.92		
2032 Aug.	23	2	86	\$1,992.28	\$1,240.45	\$751.83	\$348,670.09		
2032 Sept	23	3	87	\$1,992.28	\$1,237.78	\$754.50	\$347,915.59		
2032 Oct.	23	4	88	\$1,992.28	\$1,235.10	\$757.18	\$347,158.41		
2032 Nov.	23	5	89	\$1,992.28	\$1,232.41	\$759.87	\$346,398.54		
2032 Dec.	23	6	90	\$1,992.28	\$1,229.71	\$762.57	\$345,635.97	\$14,932.53	\$8,974.84
2033 Jan.	23	7	91	\$1,992.28	\$1,227.01	\$765.27	\$344,870.70		
2033 Feb.	23	8	92	\$1,992.28	\$1,224.29	\$767.99	\$344,102.71		
2033 Mar.	23	9	93	\$1,992.28	\$1,221.56	\$770.72	\$343,332.00		
2033 April	23	10	94	\$1,992.28	\$1,218.83	\$773.45	\$342,558.54		
2033 May	23	11	95	\$1,992.28	\$1,216.08	\$776.20	\$341,782.34		
2033 June	23	12	96	\$1,992.28	\$1,213.33	\$778.95	\$341,003.39		
2033 July	24	1	97	\$1,992.28	\$1,210.56	\$781.72	\$340,221.67		
2033 Aug.	24	2	98	\$1,992.28	\$1,207.79	\$784.49	\$339,437.18		
2033 Sept.	24	3	99	\$1,992.28	\$1,205.00	\$787.28	\$338,649.90		
2033 Oct.	24	4	100	\$1,992.28	\$1,202.21	\$790.07	\$337,859.83		
2033 Nov.	24	5	101	\$1,992.28	\$1,199.40	\$792.88	\$337,066.95		
2033 Dec.	24	6	102	\$1,992.28	\$1,196.59	\$795.69	\$336,271.26	\$14,542.65	\$9,364.72
2034 Jan.	24	7	103	\$1,992.28	\$1,193.76	\$798.52	\$335,472.74		
2034 Feb.	24	8	104	\$1,992.28	\$1,190.93	\$801.35	\$334,671.38		
2034 Mar.	24	9	105	\$1,992.28	\$1,188.08	\$804.20	\$333,867.19		
2034 April	24	10	106	\$1,992.28	\$1,185.23	\$807.05	\$333,060.14		
2034 May	24	11	107	\$1,992.28	\$1,182.36	\$809.92	\$332,250.22		
2034 June	24	12	108	\$1,992.28	\$1,179.49	\$812.79	\$331,437.43		
2034 July	25	1	109	\$1,992.28	\$1,176.60	\$815.68	\$330,621.75		
2034 Aug.	25	2	110	\$1,992.28	\$1,173.71	\$818.57	\$329,803.17		
2034 Sept.	25	3	111	\$1,992.28	\$1,170.80	\$821.48	\$328,981.69		
2034 Oct.	25	4	112	\$1,992.28	\$1,167.89	\$824.40	\$328,157.30		
2034 Nov.	25	5	113	\$1,992.28	\$1,164.96	\$827.32	\$327,329.98		
2034 Dec.	25	6	114	\$1,992.28	\$1,162.02	\$830.26	\$326,499.72	\$14,135.83	\$9,771.54
2035 Jan.	25	7	115	\$1,992.28	\$1,159.07	\$833.21	\$325,666.51		
2035 Feb.	25	8	116	\$1,992.28	\$1,156.12	\$836.16	\$324,830.35		
2035 Mar.	25	9	117	\$1,992.28	\$1,153.15	\$839.13	\$323,991.21		
2035 April	25	10	118	\$1,992.28	\$1,150.17	\$842.11	\$323,149.10		
2035 May	25	11	119	\$1,992.28	\$1,147.18	\$845.10	\$322,304.00		
2035 June	25	12	120	\$1,992.28	\$1,144.18	\$848.10	\$321,455.90		
2035 July	26	1	121	\$1,992.28	\$1,141.17	\$851.11	\$320,604.79		
2035 Aug.	26	2	122	\$1,992.28	\$1,138.15	\$854.13	\$319,750.65		
2035 Sept.	26	3	123	\$1,992.28	\$1,135.11	\$857.17	\$318,893.49		
2035 Oct.	26	4	124	\$1,992.28	\$1,132.07	\$860.21	\$318,033.28		
2035 Nov.	26	5	125	\$1,992.28	\$1,129.02	\$863.26	\$317,170.01	\$13,711.34	\$10,196.03
2035 Dec.	26	6	126	\$1,992.28	\$1,125.95	\$866.33	\$316,303.69		
2036 Jan.	26	7	127	\$1,992.28	\$1,122.88	\$869.40	\$315,434.28		
2036 Feb.	26	8	128	\$1,992.28	\$1,119.79	\$872.49	\$314,561.80		
2036 Mar.	26	9	129	\$1,992.28	\$1,116.69	\$875.59	\$313,686.21		
2036 April	26	10	130	\$1,992.28	\$1,113.59	\$878.69	\$312,807.51		
2036 May	26	11	131	\$1,992.28	\$1,110.47	\$881.81	\$311,925.70		
2036 June	26	12	132	\$1,992.28	\$1,107.34	\$884.94	\$311,040.76		
2036 July	27	1	133	\$1,992.28	\$1,104.19	\$888.09	\$310,152.67		
2036 Aug.	27	2	134	\$1,992.28	\$1,101.04	\$891.24	\$309,261.43		
2036 Sept.	27	3	135	\$1,992.28	\$1,097.88	\$894.40	\$308,367.03		
2036 Oct.	27	4	136	\$1,992.28	\$1,094.70	\$897.58	\$307,469.45		
2036 Nov.	27	5	137	\$1,992.28	\$1,091.52	\$900.76	\$306,568.69		
2036 Dec.	27	6	138	\$1,992.28	\$1,088.32	\$903.96	\$305,664.72	\$13,268.41	\$10,638.96
2037 Jan.	27	7	139	\$1,992.28	\$1,085.11	\$907.17	\$304,757.55		
2037 Feb.	27	8	140	\$1,992.28	\$1,081.89	\$910.39	\$303,847.16		
2037 Mar.	27	9	141	\$1,992.28	\$1,078.66	\$913.62	\$302,933.54		
2037 April	27	10	142	\$1,992.28	\$1,075.41	\$916.87	\$302,016.67		
2037 May	27	11	143	\$1,992.28	\$1,072.16	\$920.12	\$301,096.55		
2037 June	27	12	144	\$1,992.28	\$1,068.89	\$923.39	\$300,173.16		
2037 July	28	1	145	\$1,992.28	\$1,065.61	\$926.67	\$299,246.50		
2037 Aug.	28	2	146	\$1,992.28	\$1,062.33	\$929.96	\$298,316.54		
2037 Sept.	28	3	147	\$1,992.28	\$1,059.02	\$933.26	\$297,383.28		
2037 Oct.	28	4	148	\$1,992.28	\$1,055.71	\$936.57	\$296,446.71		
2037 Nov.	28	5	149	\$1,992.28	\$1,052.39	\$939.89	\$295,506.82		
2037 Dec.	28	6	150	\$1,992.28	\$1,049.05	\$943.23	\$294,563.59	\$12,806.23	\$11,101.14
2038 Jan.	28	7	151	\$1,992.28	\$1,045.70	\$946.58	\$293,617.01		
2038 Feb.	28	8	152	\$1,992.28	\$1,042.34	\$949.94	\$292,667.07		
2038 Mar.	28	9	153	\$1,992.28	\$1,038.97	\$953.31	\$291,713.75		
2038 April	28	10	154	\$1,992.28	\$1,035.58	\$956.70	\$290,757.06		
2038 May	28	11	155	\$1,992.28	\$1,032.19	\$960.09	\$289,796.96		
2038 June	28	12	156	\$1,992.28	\$1,028.78	\$963.50	\$288,833.46		
2038 July	29	1	157	\$1,992.28	\$1,025.36	\$966.92	\$287,866.54		
2038 Aug.	29	2	158	\$1,992.28	\$1,021.93	\$970.35	\$286,896.19		
2038 Sept.	29	3	159	\$1,992.28	\$1,018.48	\$973.80	\$285,922.39		
2038 Oct.	29	4	160	\$1,992.28	\$1,015.02	\$977.26	\$284,945.13		
2038 Nov.	29	5	161	\$1,992.28	\$1,011.56	\$980.73	\$283,964.40		
2038 Dec.	29	6	162	\$1,992.28	\$1,008.07	\$984.21	\$282,980.20	\$12,323.98	\$11,583.39
2039 Jan.	29	7	163	\$1,992.28	\$1,004.58	\$987.70	\$281,992.50		
2039 Feb.	29	8	164	\$1,992.28	\$1,001.07	\$991.21	\$281,001.29		
2039 Mar.	29	9	165	\$1,992.28	\$997.55	\$994.73	\$280,006.56		
2039 April	29	10	166	\$1,992.28	\$994.02	\$998.26	\$279,008.31		
2039 May	29	11	167	\$1,992.28	\$990.48	\$1,001.80	\$278,006.50		
2039 June	29	12	168	\$1,992.28	\$986.92	\$1,005.36	\$277,001.15		
2039 July	30	1	169	\$1,992.28	\$983.35	\$1,008.93	\$275,992.22		
2039 Aug.	30	2	170	\$1,992.28	\$979.77	\$1,012.51	\$274,979.71		
2039 Sept.	30	3	171	\$1,992.28	\$976.18	\$1,016.10	\$273,963.61		
2039 Oct.	30	4	172	\$1,992.28	\$972.57	\$1,019.71	\$272,943.90		
2039 Nov.	30	5	173	\$1,992.28	\$968.95	\$1,023.33	\$271,920.57		
2039 Dec.	30	6	174	\$1,992.28	\$965.32	\$1,026.96	\$270,893.61	\$11,820.78	\$12,086.59
2040 Jan.	30	7	175	\$1,992.28	\$961.67	\$1,030.61	\$269,863.00		
2040 Feb.	30	8	176	\$1,992.28	\$958.01	\$1,034.27	\$268,828.73		
2040 Mar.	30	9	177	\$1,992.28	\$954.34	\$1,037.94	\$267,790.79		
2040 April	30	10	178	\$1,992.28	\$950.66	\$1,041.62	\$266,749.17		
2040 May	30	11	179	\$1,992.28	\$946.96	\$1,045.32	\$265,703.85		
2040 June	30	12	180	\$1,992.28	\$943.25	\$1,049.03	\$264,654.82		
2040 July	31	1	181	\$1,992.28	\$939.52	\$1,052.76	\$263,602.06		

2040 Aug.	31	2	182	\$1,992.28	\$935.79	\$1,056.49	\$262,545.57		
2040 Sept.	31	3	183	\$1,992.28	\$932.04	\$1,060.24	\$261,485.32		
2040 Oct.	31	4	184	\$1,992.28	\$928.27	\$1,064.01	\$260,421.31		
2040 Nov.	31	5	185	\$1,992.28	\$924.50	\$1,067.79	\$259,353.53		
2040 Dec.	31	6	186	\$1,992.28	\$920.71	\$1,071.58	\$258,281.95	\$11,295.72	\$12,611.65
2041 Jan.	31	7	187	\$1,992.28	\$916.90	\$1,075.38	\$257,206.57		
2041 Feb.	31	8	188	\$1,992.28	\$913.08	\$1,079.20	\$256,127.38		
2041 Mar.	31	9	189	\$1,992.28	\$909.25	\$1,083.03	\$255,044.35		
2041 April	31	10	190	\$1,992.28	\$905.41	\$1,086.87	\$253,957.47		
2041 May	31	11	191	\$1,992.28	\$901.55	\$1,090.73	\$252,866.74		
2041 June	31	12	192	\$1,992.28	\$897.68	\$1,094.60	\$251,772.14		
2041 July	32	1	193	\$1,992.28	\$893.79	\$1,098.49	\$250,673.65		
2041 Aug.	32	2	194	\$1,992.28	\$889.89	\$1,102.39	\$249,571.26		
2041 Sept.	32	3	195	\$1,992.28	\$885.98	\$1,106.30	\$248,464.96		
2041 Oct.	32	4	196	\$1,992.28	\$882.05	\$1,110.23	\$247,354.73		
2041 Nov.	32	5	197	\$1,992.28	\$878.11	\$1,114.17	\$246,240.55		
2041 Dec.	32	6	198	\$1,992.28	\$874.15	\$1,118.13	\$245,122.43	\$10,747.84	\$13,159.52
2042 Jan.	32	7	199	\$1,992.28	\$870.18	\$1,122.10	\$244,000.33		
2042 Feb.	32	8	200	\$1,992.28	\$866.20	\$1,126.08	\$242,874.25		
2042 Mar.	32	9	201	\$1,992.28	\$862.20	\$1,130.08	\$241,744.18		
2042 April	32	10	202	\$1,992.28	\$858.19	\$1,134.09	\$240,610.09		
2042 May	32	11	203	\$1,992.28	\$854.17	\$1,138.11	\$239,471.97		
2042 June	32	12	204	\$1,992.28	\$850.13	\$1,142.16	\$238,329.82		
2042 July	33	1	205	\$1,992.28	\$846.07	\$1,146.21	\$237,183.61		
2042 Aug.	33	2	206	\$1,992.28	\$842.00	\$1,150.28	\$236,033.33		
2042 Sept.	33	3	207	\$1,992.28	\$837.92	\$1,154.36	\$234,878.96		
2042 Oct.	33	4	208	\$1,992.28	\$833.82	\$1,158.46	\$233,720.50		
2042 Nov.	33	5	209	\$1,992.28	\$829.71	\$1,162.57	\$232,557.93	\$10,176.17	\$13,731.20
2042 Dec.	33	6	210	\$1,992.28	\$825.58	\$1,166.70	\$231,391.23		
2043 Jan.	33	7	211	\$1,992.28	\$821.44	\$1,170.84	\$230,220.39		
2043 Feb.	33	8	212	\$1,992.28	\$817.28	\$1,175.00	\$229,045.39		
2043 Mar.	33	9	213	\$1,992.28	\$813.11	\$1,179.17	\$227,866.22		
2043 April	33	10	214	\$1,992.28	\$808.93	\$1,183.36	\$226,682.87		
2043 May	33	11	215	\$1,992.28	\$804.72	\$1,187.56	\$225,495.31		
2043 June	33	12	216	\$1,992.28	\$800.51	\$1,191.77	\$224,303.54		
2043 July	34	1	217	\$1,992.28	\$796.28	\$1,196.00	\$223,107.53		
2043 Aug.	34	2	218	\$1,992.28	\$792.03	\$1,200.25	\$221,907.28		
2043 Sept.	34	3	219	\$1,992.28	\$787.77	\$1,204.51	\$220,702.77		
2043 Oct.	34	4	220	\$1,992.28	\$783.49	\$1,208.79	\$219,493.99		
2043 Nov.	34	5	221	\$1,992.28	\$779.20	\$1,213.08	\$218,280.91	\$9,579.67	\$14,327.70
2043 Dec.	34	6	222	\$1,992.28	\$774.90	\$1,217.38	\$217,063.53		
2044 Jan.	34	7	223	\$1,992.28	\$770.58	\$1,221.71	\$215,841.82		
2044 Feb.	34	8	224	\$1,992.28	\$766.24	\$1,226.04	\$214,615.78		
2044 Mar.	34	9	225	\$1,992.28	\$761.89	\$1,230.39	\$213,385.39		
2044 April	34	10	226	\$1,992.28	\$757.52	\$1,234.76	\$212,150.62		
2044 May	34	11	227	\$1,992.28	\$753.13	\$1,239.15	\$210,911.48		
2044 June	34	12	228	\$1,992.28	\$748.74	\$1,243.55	\$209,667.93		
2044 July	35	1	229	\$1,992.28	\$744.32	\$1,247.96	\$208,419.97		
2044 Aug.	35	2	230	\$1,992.28	\$739.89	\$1,252.39	\$207,167.58		
2044 Sept.	35	3	231	\$1,992.28	\$735.44	\$1,256.84	\$205,910.75		
2044 Oct.	35	4	232	\$1,992.28	\$730.98	\$1,261.30	\$204,649.45		
2044 Nov.	35	5	233	\$1,992.28	\$726.51	\$1,265.78	\$203,383.67	\$8,957.25	\$14,950.12
2044 Dec.	35	6	234	\$1,992.28	\$722.01	\$1,270.27	\$202,113.41		
2045 Jan.	35	7	235	\$1,992.28	\$717.50	\$1,274.78	\$200,838.63		
2045 Feb.	35	8	236	\$1,992.28	\$712.98	\$1,279.30	\$199,559.32		
2045 Mar.	35	9	237	\$1,992.28	\$708.44	\$1,283.85	\$198,275.48		
2045 April	35	10	238	\$1,992.28	\$703.88	\$1,288.40	\$196,987.08		
2045 May	35	11	239	\$1,992.28	\$699.30	\$1,292.98	\$195,694.10		
2045 June	35	12	240	\$1,992.28	\$694.71	\$1,297.57	\$194,396.53		
2045 July	36	1	241	\$1,992.28	\$690.11	\$1,302.17	\$193,094.36		
2045 Aug.	36	2	242	\$1,992.28	\$685.48	\$1,306.80	\$191,787.56		
2045 Sept.	36	3	243	\$1,992.28	\$680.85	\$1,311.43	\$190,476.13		
2045 Oct.	36	4	244	\$1,992.28	\$676.19	\$1,316.09	\$189,160.04		
2045 Nov.	36	5	245	\$1,992.28	\$671.52	\$1,320.76	\$187,839.28		
2045 Dec.	36	6	246	\$1,992.28	\$666.83	\$1,325.45	\$186,513.82	\$8,307.79	\$15,599.58
2046 Jan.	36	7	247	\$1,992.28	\$662.12	\$1,330.16	\$185,183.67		
2046 Feb.	36	8	248	\$1,992.28	\$657.40	\$1,334.88	\$183,848.79		
2046 Mar.	36	9	249	\$1,992.28	\$652.66	\$1,339.62	\$182,509.17		
2046 April	36	10	250	\$1,992.28	\$647.91	\$1,344.37	\$181,164.80		
2046 May	36	11	251	\$1,992.28	\$643.14	\$1,349.15	\$179,815.65		
2046 June	36	12	252	\$1,992.28	\$638.35	\$1,353.94	\$178,461.72		
2046 July	37	1	253	\$1,992.28	\$633.54	\$1,358.74	\$177,102.98		
2046 Aug.	37	2	254	\$1,992.28	\$628.72	\$1,363.57	\$175,739.41		
2046 Sept.	37	3	255	\$1,992.28	\$623.87	\$1,368.41	\$174,371.00		
2046 Oct.	37	4	256	\$1,992.28	\$619.02	\$1,373.26	\$172,997.74		
2046 Nov.	37	5	257	\$1,992.28	\$614.14	\$1,378.14	\$171,619.60		
2046 Dec.	37	6	258	\$1,992.28	\$609.25	\$1,383.03	\$170,236.57	\$7,630.12	\$16,277.25
2047 Jan.	37	7	259	\$1,992.28	\$604.34	\$1,387.94	\$168,848.63		
2047 Feb.	37	8	260	\$1,992.28	\$599.41	\$1,392.87	\$167,455.76		
2047 Mar.	37	9	261	\$1,992.28	\$594.47	\$1,397.81	\$166,057.95		
2047 April	37	10	262	\$1,992.28	\$589.51	\$1,402.78	\$164,655.17		
2047 May	37	11	263	\$1,992.28	\$584.53	\$1,407.75	\$163,247.42		
2047 June	37	12	264	\$1,992.28	\$579.53	\$1,412.75	\$161,834.67		
2047 July	38	1	265	\$1,992.28	\$574.51	\$1,417.77	\$160,416.90		
2047 Aug.	38	2	266	\$1,992.28	\$569.48	\$1,422.80	\$158,994.10		
2047 Sept.	38	3	267	\$1,992.28	\$564.43	\$1,427.85	\$157,566.25		
2047 Oct.	38	4	268	\$1,992.28	\$559.36	\$1,432.92	\$156,133.33		
2047 Nov.	38	5	269	\$1,992.28	\$554.27	\$1,438.01	\$154,695.32		
2047 Dec.	38	6	270	\$1,992.28	\$549.17	\$1,443.11	\$153,252.21	\$6,923.00	\$16,984.36
2048 Jan.	38	7	271	\$1,992.28	\$544.05	\$1,448.24	\$151,803.97		
2048 Feb.	38	8	272	\$1,992.28	\$538.90	\$1,453.38	\$150,350.59		
2048 Mar.	38	9	273	\$1,992.28	\$533.74	\$1,458.54	\$148,892.06		
2048 April	38	10	274	\$1,992.28	\$528.57	\$1,463.71	\$147,428.34		
2048 May	38	11	275	\$1,992.28	\$523.37	\$1,468.91	\$145,959.43		
2048 June	38	12	276	\$1,992.28	\$518.16	\$1,474.12	\$144,485.31		
2048 July	39	1	277	\$1,992.28	\$512.92	\$1,479.36	\$143,005.95		
2048 Aug.	39	2	278	\$1,992.28	\$507.67	\$1,484.61	\$141,521.34		
2048 Sept.	39	3	279	\$1,992.28	\$502.40	\$1,489.88	\$140,031.46		

2048 Oct.	39	4	280	\$1,992.28	\$497.11	\$1,495.17	\$138,536.29		
2048 Nov.	39	5	281	\$1,992.28	\$491.80	\$1,500.48	\$137,035.82		
2048 Dec.	39	6	282	\$1,992.28	\$486.48	\$1,505.80	\$135,530.01	\$6,185.17	\$17,722.19
2049 Jan.	39	7	283	\$1,992.28	\$481.13	\$1,511.15	\$134,018.86		
2049 Feb.	39	8	284	\$1,992.28	\$475.77	\$1,516.51	\$132,502.35		
2049 Mar.	39	9	285	\$1,992.28	\$470.38	\$1,521.90	\$130,980.45		
2049 April	39	10	286	\$1,992.28	\$464.98	\$1,527.30	\$129,453.15		
2049 May	39	11	287	\$1,992.28	\$459.56	\$1,532.72	\$127,920.43		
2049 June	39	12	288	\$1,992.28	\$454.12	\$1,538.16	\$126,382.27		
2049 July	40	1	289	\$1,992.28	\$448.68	\$1,543.62	\$124,838.64		
2049 Aug.	40	2	290	\$1,992.28	\$443.18	\$1,549.10	\$123,289.54		
2049 Sept.	40	3	291	\$1,992.28	\$437.68	\$1,554.60	\$121,734.94		
2049 Oct.	40	4	292	\$1,992.28	\$432.16	\$1,560.12	\$120,174.81		
2049 Nov.	40	5	293	\$1,992.28	\$426.62	\$1,565.66	\$118,609.15		
2049 Dec.	40	6	294	\$1,992.28	\$421.06	\$1,571.22	\$117,037.94	\$5,415.29	\$18,492.08
2050 Jan.	40	7	295	\$1,992.28	\$415.48	\$1,576.80	\$115,461.14		
2050 Feb.	40	8	296	\$1,992.28	\$409.89	\$1,582.39	\$113,878.75		
2050 Mar.	40	9	297	\$1,992.28	\$404.27	\$1,588.01	\$112,290.74		
2050 April	40	10	298	\$1,992.28	\$398.63	\$1,593.65	\$110,697.09		
2050 May	40	11	299	\$1,992.28	\$392.97	\$1,599.31	\$109,097.78		
2050 June	40	12	300	\$1,992.28	\$387.30	\$1,604.98	\$107,492.80		
2050 July	41	1	301	\$1,992.28	\$381.60	\$1,610.68	\$105,882.12		
2050 Aug.	41	2	302	\$1,992.28	\$375.88	\$1,616.40	\$104,265.72		
2050 Sept.	41	3	303	\$1,992.28	\$370.14	\$1,622.14	\$102,643.58		
2050 Oct.	41	4	304	\$1,992.28	\$364.38	\$1,627.90	\$101,015.68		
2050 Nov.	41	5	305	\$1,992.28	\$358.61	\$1,633.68	\$99,382.01		
2050 Dec.	41	6	306	\$1,992.28	\$352.81	\$1,639.47	\$97,742.53	\$4,611.97	\$19,295.40
2051 Jan.	41	7	307	\$1,992.28	\$346.99	\$1,645.29	\$96,097.24		
2051 Feb.	41	8	308	\$1,992.28	\$341.15	\$1,651.14	\$94,446.10		
2051 Mar.	41	9	309	\$1,992.28	\$335.28	\$1,657.00	\$92,789.11		
2051 April	41	10	310	\$1,992.28	\$329.40	\$1,662.88	\$91,126.23		
2051 May	41	11	311	\$1,992.28	\$323.50	\$1,668.78	\$89,457.44		
2051 June	41	12	312	\$1,992.28	\$317.57	\$1,674.71	\$87,782.74		
2051 July	42	1	313	\$1,992.28	\$311.63	\$1,680.65	\$86,102.08		
2051 Aug.	42	2	314	\$1,992.28	\$305.66	\$1,686.62	\$84,415.47		
2051 Sept.	42	3	315	\$1,992.28	\$299.67	\$1,692.61	\$82,722.86		
2051 Oct.	42	4	316	\$1,992.28	\$293.67	\$1,698.61	\$81,024.25		
2051 Nov.	42	5	317	\$1,992.28	\$287.64	\$1,704.64	\$79,319.60		
2051 Dec.	42	6	318	\$1,992.28	\$281.58	\$1,710.70	\$77,608.91	\$3,773.74	\$20,133.63
2052 Jan.	42	7	319	\$1,992.28	\$275.51	\$1,716.77	\$75,892.14		
2052 Feb.	42	8	320	\$1,992.28	\$269.42	\$1,722.86	\$74,169.27		
2052 Mar.	42	9	321	\$1,992.28	\$263.30	\$1,728.98	\$72,440.29		
2052 April	42	10	322	\$1,992.28	\$257.16	\$1,735.12	\$70,705.17		
2052 May	42	11	323	\$1,992.28	\$251.00	\$1,741.28	\$68,963.90		
2052 June	42	12	324	\$1,992.28	\$244.82	\$1,747.46	\$67,216.44		
2052 July	43	1	325	\$1,992.28	\$238.62	\$1,753.66	\$65,462.78		
2052 Aug.	43	2	326	\$1,992.28	\$232.39	\$1,759.89	\$63,702.89		
2052 Sept.	43	3	327	\$1,992.28	\$226.15	\$1,766.14	\$61,936.75		
2052 Oct.	43	4	328	\$1,992.28	\$219.88	\$1,772.41	\$60,164.35		
2052 Nov.	43	5	329	\$1,992.28	\$213.58	\$1,778.70	\$58,385.65		
2052 Dec.	43	6	330	\$1,992.28	\$207.27	\$1,785.01	\$56,600.64	\$2,899.10	\$21,008.27
2053 Jan.	43	7	331	\$1,992.28	\$200.93	\$1,791.35	\$54,809.29		
2053 Feb.	43	8	332	\$1,992.28	\$194.57	\$1,797.71	\$53,011.58		
2053 Mar.	43	9	333	\$1,992.28	\$188.19	\$1,804.09	\$51,207.49		
2053 April	43	10	334	\$1,992.28	\$181.79	\$1,810.49	\$49,397.00		
2053 May	43	11	335	\$1,992.28	\$175.36	\$1,816.92	\$47,580.08		
2053 June	43	12	336	\$1,992.28	\$168.91	\$1,823.37	\$45,756.71		
2053 July	44	1	337	\$1,992.28	\$162.44	\$1,829.84	\$43,926.86		
2053 Aug.	44	2	338	\$1,992.28	\$155.94	\$1,836.34	\$42,090.52		
2053 Sept.	44	3	339	\$1,992.28	\$149.42	\$1,842.86	\$40,247.66		
2053 Oct.	44	4	340	\$1,992.28	\$142.88	\$1,849.40	\$38,398.26		
2053 Nov.	44	5	341	\$1,992.28	\$136.31	\$1,855.97	\$36,542.29		
2053 Dec.	44	6	342	\$1,992.28	\$129.73	\$1,862.56	\$34,679.74	\$1,986.47	\$21,920.90
2054 Jan.	44	7	343	\$1,992.28	\$123.11	\$1,869.17	\$32,810.57		
2054 Feb.	44	8	344	\$1,992.28	\$116.48	\$1,875.80	\$30,934.77		
2054 Mar.	44	9	345	\$1,992.28	\$109.82	\$1,882.46	\$29,052.30		
2054 April	44	10	346	\$1,992.28	\$103.14	\$1,889.15	\$27,163.16		
2054 May	44	11	347	\$1,992.28	\$96.43	\$1,895.85	\$25,267.31		
2054 June	44	12	348	\$1,992.28	\$89.70	\$1,902.58	\$23,364.73		
2054 July	45	1	349	\$1,992.28	\$82.94	\$1,909.34	\$21,455.39		
2054 Aug.	45	2	350	\$1,992.28	\$76.17	\$1,916.11	\$19,539.28		
2054 Sept.	45	3	351	\$1,992.28	\$69.36	\$1,922.92	\$17,616.36		
2054 Oct.	45	4	352	\$1,992.28	\$62.54	\$1,929.74	\$15,686.62		
2054 Nov.	45	5	353	\$1,992.28	\$55.69	\$1,936.59	\$13,750.02		
2054 Dec.	45	6	354	\$1,992.28	\$48.81	\$1,943.47	\$11,806.55	\$1,034.19	\$22,873.18
2055 Jan.	45	7	355	\$1,992.28	\$41.91	\$1,950.37	\$9,856.19		
2055 Feb.	45	8	356	\$1,992.28	\$34.99	\$1,957.29	\$7,898.90		
2055 Mar.	45	9	357	\$1,992.28	\$28.04	\$1,964.24	\$5,934.66		
2055 April	45	10	358	\$1,992.28	\$21.07	\$1,971.21	\$3,963.44		
2055 May	45	11	359	\$1,992.28	\$14.07	\$1,978.21	\$1,985.23		
2055 June	45	12	360	\$1,992.28	\$7.05	\$1,985.23	(\$0.00)	\$147.13	\$11,806.55
Total				\$717,221.07	\$312,718.00	\$404,503.07			

NOTES, if any: Principal Balance reflects accrued but unpaid interest from the first 15 years of the mortgage.

\$312,718.00 \$404,503.07

ATTACHMENT "D"

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (hereinafter referred to as "Mortgage") is made this _____ day of _____, 2009, between the Mortgagor, **ALTA TIERRA APARTMENTS LIMITED PARTNERSHIP**, a New Mexico limited partnership, whose address is PO Box 2626, Anthony, New Mexico, 88021 (hereinafter referred to as "Borrower"), and the Mortgagee, **CITY OF LAS CRUCES**, a New Mexico municipal corporation, organized and existing under its charter and the Constitution and laws of the State of New Mexico, with a mailing address of PO Box 20000, Las Cruces, New Mexico 88004 (hereinafter referred to as "Lender").

WHEREAS, the Borrower and Lender have entered into a HOME Program Loan Agreement (hereinafter referred to as "HOME Loan Agreement"), a copy of which is on file in the City Clerk's Office for the City of Las Cruces, New Mexico, and the definitions and terms of which are incorporated herein by this reference as if fully set forth herein, and which provides, among other things, that the Lender will loan to Borrower HOME funds in exchange for the acquisition and new construction of the Property, and being more particularly described in **Exhibit "A,"** and the rental of the Property to Low, Very Low, and/or Low Income persons at Affordable rents; and

WHEREAS, to ensure that the rehabilitation of the units on the Property is completed and the Property is leased to Low Income and Moderate Income persons at Affordable rents, the Borrower has executed a note in favor of Lender in the principal sum of Two Hundred Fifty Thousand Dollars and No Cents (\$250,000.00), which indebtedness is evidenced by Borrower's promissory note dated of even date herewith (hereinafter referred to as "Note"), a copy of which is attached hereto as **Exhibit "C,"** due and payable as provided in the Note.

This Mortgage secures the performance of the following obligations: (1) the repayment of the indebtedness evidenced by the City Note as disbursed to Borrower, together with interest thereon, in accordance with the payment provisions set forth in the City Note and all renewals, extensions and modifications thereof, and the performance of all covenants contained therein, and the payment of such amounts, if any, advanced, or costs incurred by Lender in accordance herewith to protect the security of this Mortgage or in connection with the enforcement of this Mortgage or City Note; and (2) the performance of the covenants, agreements and obligations of Borrower herein contained and is upon the statutory mortgage condition for the breach of which it is subject to foreclosure as provided by law.

For consideration paid, Borrower does hereby MORTGAGE, GRANT, BARGAIN, SELL, ASSIGN, GRANT A SECURITY INTEREST IN and CONVEY TO Lender, its successors and assigns, all of Borrower's estate, right, title and interest in, to and under any and all of the following described property, whether now owned or hereafter held or acquired, with mortgage covenants.

- (a) All of Borrower's fee simple estate and interest in that certain parcel of real property situated in the City of Las Cruces, County of Dona Ana, and State of New Mexico, and being more particularly described on **Exhibit "A"** attached hereto and made a part hereof containing 2.7339 acres, more or less.
- (b) All and singular the buildings and improvements, structures, additions, tenements, easements, hereditament, and appurtenances belonging or in anywise appertaining to the aforesaid real property ("Real Property"), now existing or hereafter acquired, installed, or constructed and the reversion or reversions, remainder and remainders rents, issues, and profits thereof and also all the estate, right, title, interest, property, claim and demand whatsoever of Borrower of, in, and to the same, and of, in and to every part and parcel thereof;
- (c) All right, title and interest of Borrower, if any, in and to the land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Real Property to the centerline thereof;
- (d) All right, title and interest of Borrower in all fixtures, fittings, appliances, apparatus, equipment, machinery, building materials, inventory and other articles of personal property and replacements thereof, now or at any time hereafter affixed to, attached to, placed upon or used in anyway in connection with the complete and comfortable use, enjoyment, occupancy or operation of the Real Property or the Project, together with any proceeds realized from the sale, transfer or conversion of any of the above (subject to the right of replacement described in the City Note);
- (e) All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards or judgments, and any unearned premiums accrued, accruing or to accrue under any and all insurance policies now or hereafter obtained by Borrower;
- (f) To the extent assignable, any and all plans, specifications, site plans, drawings, renderings and schematics; however characterized, from time to time prepared for use in connection with the construction and operation of the Project;
- (g) To the extent assignable, all contracts, agreements and understandings now or hereafter entered into, relating to or involving the performance of any work, the rendering of any services, the supply of any materials or the conduct of operations in

- the management of the Real Property and/or the Project including without limitation, construction contracts, architect agreements, development agreements, management agreements with respect to operations, franchise agreements and other similar agreements;
- (h) To the extent assignable, any and all permits, certificates, approvals and authorizations, however characterized, issued or in any way furnished, whether necessary or not, for the operation and use of the Real Property and/or the Project, including, without limitation, building permits, environmental certificates, certificates of occupancy, certificates of operation, room permits, elevator licenses, warranties and guaranties; and
 - (i) All municipal or utility deposits made by or on behalf of Borrower or made in connection with the Real Property and/or the Project, together with all escrow accounts or reserves maintained or required to be maintained by Borrower hereunder, and any and all other assets, revenues and profits of any kind of the Project.

All of the property described in the foregoing subparagraphs (a) through (i) shall sometimes hereinafter be collectively referred to as the "Property". All of the assignments hereinabove referenced are subject to the right of the Borrower to collect, receive, apply, manage, and use the rights assigned until the occurrence of an event of default hereunder. The maximum amount of unpaid loan indebtedness, exclusive of interest thereon, which may be outstanding at any time, is Two Hundred Fifty Thousand Dollars and No Cents (\$250,000.00).

In addition to the other debt or obligation secured hereby, this Mortgage shall secure unpaid balances or advances made for the payment of taxes, tax increment payments, assessments, insurance premiums, and other costs incurred for the protection of the Real Property or the Project, if not paid by Borrower as required by law or this Mortgage.

Borrower represents and warrants that it has full right and authority to grant this Mortgage, and that it shall warrant and defend the lien and interest of the Lender in the Property against all claims and demands whatsoever, except any encumbrances acceptable to Lender, and that Borrower shall maintain the priority of the lien of and the security interest granted by this Mortgage upon the property until the Mortgage is defeased as provided herein.

The Borrower, at its expense, shall cause this Mortgage and instruments supplemental hereto and financing statements and all necessary supplements appropriate continuation statements, to be recorded, registered, and filed in such manner and in such places as may be directed from time to time by Lender as required in order to establish, preserve, and protect the lien of this Mortgage as a valid second mortgage lien on all real property, fixtures, and interests therein included in the Property, and a valid, perfected second priority security interest in all personal property, fixtures and interest therein included in the Property,

including in each such case and without limitation, any such properties acquired after the execution hereof.

All property of every kind acquired by the Borrower after the date hereof which, by the terms hereof, is intended to be subject to the lien of this Mortgage, shall immediately upon the acquisition thereof by the Borrower, and without further mortgage or assignment, become subject to the lien of this Mortgage as fully as though now owned by the Borrower and specifically described herein. Borrower shall take such actions and execute such additional instruments as the Lender shall reasonably require to further evidence or confirm the subjection to the lien of this Mortgage of any such after-acquired property.

Upon notification of the pending sale of any parcel comprising the Project, Mortgage shall release and reconvey such parcel from the charge and lien of this Mortgage subject to the condition concurrent of the consummation of such sale and the payment of principal from the proceeds of such sale as required by the City Note. Further, Borrower shall modify the Mortgage to amend the legal description of the Real Property to conform to any replatting of the Real Property. Further, Borrower shall execute all documents and instruments necessary to subordinate this Mortgage to the mortgage securing the construction loan(s) for the Project.

This Mortgage constitutes a security agreement as to all or any part of the Property, which is of a nature that a security interest therein can be perfected under the Uniform Commercial Code. This Mortgage also constitutes a financing statement with respect to any and all property included in the Property, which is or may become fixtures.

Borrower shall pay promptly when due all taxes, tax increment payments, assessments, and other governmental charges on the property which, if not paid, may become a lien on the Property or any part thereof.

During construction of the Project, until issuance of Certificates of Occupancy for each unit and, if applicable, a letter of acceptance by the City for public infrastructure, Borrower, at its expense, shall keep or cause to be kept, the Property fully insured by a policy or policies of Builder's Risk and Fire Insurance (in an amount not less than the outstanding balances of the loan evidenced by the City Note and of any mortgage to which this Mortgage is subordinate) against fire with extended coverage and in good order and condition, ordinary wear and tear excepted, and shall make all necessary or appropriate repairs, replacements, and renewals thereof. All policies of insurance required by this paragraph shall be endorsed to indicate Lender as an insured Mortgagee.

In the event of any damage or injury to the Project, the Borrower agrees that it shall either repay its obligations under the City Note in full, or it shall take any and all actions necessary to restore the Project substantially to its condition prior

to the damage or injury, and shall apply any proceeds of such insurance coverage to the extent necessary to the costs of such restoration.

If the Borrower shall fail to make any payments or perform any act required to be paid or performed hereunder or under the City Note, Lender may (but shall be under no obligation to do so), upon five (5) days written notice to the Borrower and to the Lender of any mortgage loan to which this Mortgage is subordinate, make such payment or perform such act for the account of and at the expense of Borrower. All payments so made by the Lender and all costs, fees and expenses incurred in connection therewith shall, together with interest thereon as provided herein, be additional indebtedness secured by this Mortgage, to the extent permitted by law, and shall be paid by the Borrower to the Lender on demand. In any action brought to collect such indebtedness, or to foreclose this Mortgage, the Lender shall be entitled to the recovery of such expenses in such action except as limited by law or judicial order or decision rendered in any such proceedings.

Notwithstanding any other provisions of this Mortgage, the City Note, or the Loan Agreement, upon any failure by Borrower to pay when due any installment of principal and/or interest under the City Note, or failure to pay any other obligation under the City Note, and such failure is not cured as provided in the lease agreement, after receipt of written notice from the Lender, such failure to pay or cure shall constitute an immediate default entitling the Lender to exercise any remedy hereafter described in this paragraph, or elsewhere in this Mortgage, the City Note, or the Loan Agreement. Upon any failure to observe or perform any other obligation under this Mortgage, which has not been remedied or cured within ten (10) days after receipt of written notice thereof from Lender, or for such longer period as the Lender shall agree to in writing, then the Lender at its option may declare a default to have occurred hereunder. Subject to the foregoing provisions, with respect to either a default in failure to make payment or any other default, the remedies available to Lender include its ability at any time at its election to exercise any or all or any combination of the remedies conferred upon or reserved to it under this Mortgage, the City Note, the Loan Agreement, or now or hereafter existing at law or in equity. Without limitation, the Lender may declare the entire unpaid principal balance of the City Note immediately due and payable without notice or demand, the same being expressly waived by the Borrower; may proceed at law or equity to collect all amounts secured by this Mortgage and due hereunder, whether at maturity or by acceleration; may foreclose the lien of this Mortgage as against all or any part of the Property; and may exercise any rights, powers, and remedies it may have as a secured party under the Uniform Commercial Code, or other similar laws in effect from time to time.

Each right, power, and remedy of the Lender provided for in the Loan Agreement, the City Note, and Mortgage, or now or hereafter existing at law or in equity, shall be cumulative and concurrent and shall be in addition to every other

right, power, or remedy provided for in this Mortgage, the Loan Agreement, or the City Note, or now or hereafter existing at law or in equity, and the exercise or beginning of exercise or partial exercise by the Lender of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise by the Lender of any or all such rights, power or remedies.

No failure by the Lender to insist upon the strict performance of any term whereof to exercise any right, power, or remedy consequent upon a breach hereof, shall constitute a waiver of any such term or of any such breach. No waiver of any breach shall affect or alter this Mortgage, and the Mortgage shall continue in full force and effect with respect to any other then existing or subsequent breach.

PROVIDED, however, that these presents are upon the condition that if the Borrower shall well and truly pay to Lender, its successors and Assigns, not less than the total of the indebtedness secured hereby and shall fully keep and perform all the conditions, covenants and agreements to be kept and performed by Borrower under this Mortgage, then this Mortgage shall be void; otherwise to remain in full force and effect in law and equity forever.

The existence and lien of this Mortgage shall not impede or affect the right of Borrower from time to time with respect to all or a portion of the Real Property, to dedicate public areas by subdivision plat or otherwise, including streets, easements and park areas, grant to public utilities and other agencies entitled thereto ordinary and necessary easements, and apply for and obtain zoning acceptable to Borrower.

Unless Lender or Borrower gives written instructions to the other party of a change in the person or address set forth below, all notices, demands or requests permitted or required to be given under the provisions of this Mortgage or the City Note shall be hand-delivered or mailed, registered or certified mail, return receipt requested to the following addresses:

Lender:

City of Las Cruces
Attn: Director, Community Development Department
P.O. Box 20000
Las Cruces, New Mexico 88004

Borrower:

Alta Tierra Apartments Limited Partnership
PO Box 2626
Anthony, NM 88021

See notice in the loan agreement

ATTACHMENT "E"

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this "Agreement") is entered into this _____ day of _____, 2009 by and among (i) Bank of America, N.A. (the "Senior Lender"), (ii) City of Las Cruces, New Mexico, a New Mexico municipal corporation (the "Subordinate Lender"), (iii) Alta Tierra Apartments Limited Partnership, a New Mexico limited partnership ("Alta Tierra LP") and (iv) Tierra Del Sol Housing Corporation, a New Mexico non-profit corporation ("Tierra Del Sol"; Tierra Del Sol and Alta Tierra LP are collectively referred to herein as the "Borrower").

Recitals

A. The Senior Lender has made or is making a loan (the "First Mortgage Loan") to Alta Tierra LP in the original principal amount of \$2,300,000.00. The First Mortgage Loan is or will be secured by a first mortgage lien (the "First Mortgage") on a multifamily housing project located in Las Cruces, New Mexico (the "Property"). The Property is more fully described in Exhibit A attached hereto. Alta Tierra LP's obligation to repay the First Mortgage Loan is evidenced by a Promissory Note dated February 10, 2009 (the "First Mortgage Note"), and is due in full on February 10, 2011.

B. Alta Tierra LP has requested the Senior Lender to permit the Subordinate Lender to make a subordinate loan to Borrower in the amount of \$250,000.00 (the "Subordinate Loan") and to secure the Subordinate Loan by, among other things, placing a mortgage lien against the Property.

C. The Senior Lender has agreed to permit the Subordinate Lender to make the Subordinate Loan and to place a subordinate mortgage lien against the Property subject to all of the conditions contained in this Agreement.

D. Upon satisfaction of all conditions set forth in Section 2.6 of the Construction Loan Agreement between Alta Tierra LP and Senior Lender dated of even date herewith, the First Mortgage Loan will convert to a Permanent Loan, as defined in the Construction Loan Agreement ("Conversion").

NOW, THEREFORE, in order to induce the Senior Lender to permit the Subordinate Lender to make the Subordinate Loan to the Borrower and to place a subordinate mortgage lien against the Property, and in consideration thereof, the Senior Lender, the Subordinate Lender and the Borrower agree as follows:

1. Definitions.

In addition to the terms defined in the Recitals to this Agreement, for purposes of this Agreement the following terms have the respective meanings set forth below:

"Affiliate" means, when used with respect to a Person, any corporation, partnership, joint venture, limited liability company, limited liability partnership, trust or individual controlled by, under common control with, or which controls such Person (the term "control" for these purposes shall mean the ability, whether by the ownership of

shares or other equity interests, by contract or otherwise, to elect a majority of the directors of a corporation, to make management decisions on behalf of, or independently to select the managing partner of, a partnership, or otherwise to have the power independently to remove and then select a majority of those individuals exercising managerial authority over an entity, and control shall be conclusively presumed in the case of the ownership of 50% or more of the equity interests).

“Borrower” means the Person named as such in the first paragraph of this Agreement and any other Person (other than the Senior Lender) who acquires title to the Property after the date of this Agreement.

“Business Day” means any day other than Saturday, Sunday or a day on which the Senior Lender is not open for business.

“Default Notice” means: (a) a copy of the written notice from the Senior Lender to the Borrower stating that a First Mortgage Loan Default has occurred under the First Mortgage Loan; or (b) a copy of the written notice from the Subordinate Lender to the Borrower stating that a Subordinate Loan Default has occurred under the Subordinate Loan. Each Default Notice shall specify the default upon which such Default Notice is based.

“First Mortgage Loan Default” means the occurrence of an “Event of Default” as that term is defined in the First Mortgage Loan Documents.

“First Mortgage Loan Documents” means (i) the First Mortgage Note and all other documents evidencing, securing or otherwise executed and delivered in connection with the First Mortgage Loan; and (ii) following Conversion of the First Mortgage Loan, the Permanent Loan Documents.

“Permanent Note” means that certain Promissory Note (Term Only) delivered by Alta Tierra LP to Senior Lender to evidence the Permanent Loan.

“Permanent Mortgage” means that certain Multifamily Leasehold Mortgage, Assignment of Rents and Security Agreement delivered by Alta Tierra LP to Senior Lender and encumbering the Property to secure the obligations of Alta Tierra LP under the Permanent Note.

“Permanent Loan Documents” means the Permanent Note, the Permanent Mortgage and all other documents evidencing, security or otherwise executed and delivered in connection with the Permanent Loan.

“Person” means an individual, estate, trust, partnership, corporation, limited liability company, limited liability partnership, governmental department or agency or any other entity which has the legal capacity to own property.

“Senior Lender” means the Person named as such in the first paragraph on page 1 of this Agreement. When any other Person becomes the legal holder of the First

Mortgage Note or of the Permanent Loan Documents, such other Person shall automatically become the Senior Lender.

“Subordinate Lender” means the Person named as such in the first paragraph on page 1 of this Agreement and any other Person who becomes the legal holder of the Subordinate Note after the date of this Agreement.

“Subordinate Loan Default” means a default by the Borrower in performing or observing any of the terms, covenants or conditions in the Subordinate Loan Documents to be performed or observed by it, which continues beyond any applicable period provided in the Subordinate Loan Documents for curing the default.

“Subordinate Loan Documents” means the Subordinate Note, the Subordinate Mortgage, and all other documents evidencing, securing or otherwise executed and delivered in connection with the Subordinate Loan.

“Subordinate Mortgage” means the mortgage or deed of trust encumbering the Property as security for the Subordinate Loan, which the Subordinate Lender will cause to be recorded among the applicable land records immediately before this Agreement.

“Subordinate Note” means the promissory note of even date herewith issued by the Borrower to the Subordinate Lender, or order, to evidence the Subordinate Loan.

2. Permission to Place Mortgage Lien Against Property.

The Senior Lender agrees, notwithstanding the prohibition against inferior liens on the Property contained in the First Mortgage Loan Documents or the Permanent Loan Documents and subject to the provisions of this Agreement, to permit the Subordinate Lender to record the Subordinate Mortgage and other recordable Subordinate Loan Documents against the Property (which are subordinate in all respects to the lien of the First Mortgage and the Permanent Loan) to secure the Borrower’s obligation to repay the Subordinate Note and all other obligations, indebtedness and liabilities of the Borrower to the Subordinate Lender under and in connection with the Subordinate Loan. Such permission is subject to the condition that each of the representations and warranties made by the Borrower and the Subordinate Lender in Section 3 is true and correct on the date of this Agreement and on the date on which the proceeds of the Subordinate Loan are disbursed to the Borrower. If any of the representations and warranties made by the Borrower and the Subordinate Lender in Section 3 is not true and correct on both of those dates, the provisions of the First Mortgage Loan Documents and the Permanent Loan Documents applicable to unpermitted liens on the Property shall apply.

3. Borrower’s and Subordinate Lender’s Representations and Warranties.

The Borrower and the Subordinate Lender each makes the following representations and warranties to the Senior Lender:

(a) **Subordinate Note.** The Subordinate Note contains the following provision:

The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by a First Mortgage Note (as defined in the Subordination Agreement) of even date herewith in the original principal amount of \$2,300,000.00, and upon conversion, a Permanent Note (as defined in the Subordination Agreement) in the original principal amount of \$390,000.00, each issued by Alta Tierra Apartments Limited Partnership and payable to Bank of America, N.A. (the "Senior Lender"), or order, to the extent and in the manner provided in that certain Subordination Agreement of even date herewith between the payee of this Note, and the Senior Lender and the maker of this Note (the "Subordination Agreement"). The Mortgage securing this Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the First Mortgage and the Permanent Mortgage (as each term is defined in the Subordination Agreement) as more fully set forth in the Subordination Agreement. The rights and remedies of the payee and each subsequent holder of this Note under the Mortgage securing this Note are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of this Note shall be deemed, by virtue of such holder's acquisition of the Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the Subordinate Lender under the Subordination Agreement.

(b) Relationship of Borrower to Subordinate Lender and Senior Lender.

The Subordinate Lender is not an Affiliate of the Borrower and is not in possession of any facts which would lead it to believe that the Senior Lender is an Affiliate of the Borrower.

(c) Term. The term of the Subordinate Note does not end before the term of the First Mortgage Note.

(d) Subordinate Loan Documents. The executed Subordinate Loan Documents are substantially in the same forms as those submitted to, and approved by, Senior Lender prior to the date of this Agreement. Upon execution and delivery of the Subordinate Loan Documents, Borrower shall deliver to Senior Lender an executed copy of each of the Subordinate Loan Documents, certified to be true, correct and complete.

(e) Senior Loan Documents. Borrower, but not Subordinate Lender, represents and warrants that the executed Senior Loan Documents are substantially in the same forms as, when applicable, those submitted to, and approved by, Senior Lender prior to the date of this Agreement. Upon execution and delivery of the Senior Loan Documents, Borrower shall deliver to Subordinate Lender an executed copy of each of the Senior Loan Documents, certified to be true, correct and complete.

4. Terms of Subordination.

(a) Agreement to Subordinate. The Senior Lender and the Subordinate Lender agree that: (i) the indebtedness evidenced by the Subordinate Loan Documents is and shall be subordinated in right of payment, to the extent and in the manner provided in this Agreement to the prior payment in full of the indebtedness evidenced by the First Mortgage Loan Documents, and (ii) the Subordinate Mortgage and the other Subordinate

Loan Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the First Mortgage and the other First Mortgage Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the First Mortgage and the other First Mortgage Loan Documents (including but not limited to, all sums advanced for the purposes of (1) protecting or further securing the lien of the First Mortgage, curing defaults by the Borrower under the First Mortgage Loan Documents or for any other purpose expressly permitted by the First Mortgage, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Property).

(b) Subordination of Subrogation Rights. The Subordinate Lender agrees that if, by reason of its payment of real estate taxes or other monetary obligations of the Borrower, or by reason of its exercise of any other right or remedy under the Subordinate Loan Documents, it acquires by right of subrogation or otherwise a lien on the Property which (but for this subsection) would be senior to the lien of the First Mortgage, then, in that event, such lien shall be subject and subordinate to the lien of the First Mortgage.

(c) Payments Before First Mortgage Loan Default. Until the Subordinate Lender receives a Default Notice of a First Mortgage Loan Default from the Senior Lender, the Subordinate Lender shall be entitled to retain for its own account all payments made under or pursuant to the Subordinate Loan Documents.

(d) Payments After First Mortgage Loan Default. The Borrower agrees that, after it receives notice (or otherwise acquires knowledge) of a First Mortgage Loan Default, it will not make any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Mortgage) without the Senior Lender's prior written consent. The Subordinate Lender agrees that, after it receives a Default Notice from the Senior Lender with written instructions directing the Subordinate Lender not to accept payments from the Borrower on account of the Subordinate Loan, it will not accept any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Mortgage) without the Senior Lender's prior written consent. If the Subordinate Lender receives written notice from the Senior Lender that the First Mortgage Loan Default which gave rise to the Subordinate Lender's obligation not to accept payments has been cured, waived, or otherwise suspended by the Senior Lender, the restrictions on payment to the Subordinate Lender in this Section 4 shall terminate, and the Senior Lender shall have no right to any subsequent payments made to the Subordinate Lender by the Borrower prior to the Subordinate Lender's receipt of a new Default Notice from the Senior Lender in accordance with the provisions of this Section 4(d).

(e) Remitting Subordinate Loan Payments to Senior Lender. If, after the Subordinate Lender receives a Default Notice from the Senior Lender in accordance with subsection (d) above, the Subordinate Lender receives any payments under the Subordinate Loan Documents, the Subordinate Lender agrees that such payment or other distribution will be received and held in trust for the Senior Lender and unless the Senior

Lender otherwise notifies the Subordinate Lender in writing, will be promptly remitted, in kind to the Senior Lender, properly endorsed to the Senior Lender, to be applied to the principal of, interest on and other amounts due under the First Mortgage Loan Documents in accordance with the provisions of the First Mortgage Loan Documents. By executing this Agreement, the Borrower specifically authorizes the Subordinate Lender to endorse and remit any such payments to the Senior Lender, and specifically waives any and all rights to have such payments returned to the Borrower or credited against the Subordinate Loan. Borrower and Senior Lender acknowledge and agree that payments received by the Subordinate Lender, and remitted to the Senior Lender under this Section 4, shall not be applied or otherwise credited against the Subordinate Loan, nor shall the tender of such payment to the Senior Lender waive any Subordinate Loan Default which may arise from the inability of the Subordinate Lender to retain such payment or apply such payment to the Subordinate Loan.

(f) Agreement Not to Commence Bankruptcy Proceeding. The Subordinate Lender agrees that during the term of this Agreement it will not commence, or join with any other creditor in commencing any bankruptcy reorganization, arrangement, insolvency or liquidation proceedings with respect to the Borrower, without the Senior Lender's prior written consent.

5. Default Under Subordinate Loan Documents.

(a) Notice of Default and Cure Rights. The Subordinate Lender shall deliver to the Senior Lender a Default Notice within five Business Days in each case where the Subordinate Lender has given a Default Notice to the Borrower. Failure of the Subordinate Lender to send a Default Notice to the Senior Lender shall not prevent the exercise of the Subordinate Lender's rights and remedies under the Subordinate Loan Documents, subject to the provisions of this Agreement. The Senior Lender shall have the right, but not the obligation, to cure any Subordinate Loan Default within 60 days following the date of such notice; provided, however that the Subordinate Lender shall be entitled, during such 60-day period, to continue to pursue its rights and remedies under the Subordinate Loan Documents to the extent permitted under Section 5(b). All amounts paid by the Senior Lender in accordance with the First Mortgage Loan Documents to cure a Subordinate Loan Default shall be deemed to have been advanced by the Senior Lender pursuant to, and shall be secured by the lien of, the First Mortgage.

(b) Subordinate Lender's Agreement to Standstill. If a Subordinate Loan Default occurs and is continuing, the Subordinate Lender agrees that, without the Senior Lender's prior written consent, it will not accelerate the Subordinate Loan, commence foreclosure proceedings with respect to the Property, collect rents, appoint (or seek the appointment of) a receiver or institute any other collection or enforcement action.

(c) Cross Default. The Borrower and the Subordinate Lender agree that a Subordinate Loan Default shall constitute a First Mortgage Loan Default under the First Mortgage Loan Documents and the Senior Lender shall have the right to exercise all rights or remedies under the First Mortgage Loan Documents in the same manner as in the case of any other First Mortgage Loan Default. If the Subordinate Lender notifies the

Senior Lender in writing that any Subordinate Loan Default of which the Senior Lender has received a Default Notice has been cured or waived, as determined by the Subordinate Lender in its sole discretion, then provided that Senior Lender has not conducted a sale of the Property pursuant to its rights under the First Mortgage Loan Documents, any First Mortgage Loan Default under the First Mortgage Loan Documents arising solely from such Subordinate Loan Default shall be deemed cured, and the First Mortgage Loan shall be reinstated, provided, however, that the Senior Lender shall not be required to return or otherwise credit for the benefit of the Borrower any default rate interest or other default related charges or payments received by the Senior Lender during such First Mortgage Loan Default.

6. Default Under First Mortgage Loan Documents.

(a) Notice of Default and Cure Rights. The Senior Lender shall deliver to the Subordinate Lender a Default Notice within five Business Days in each case where the Senior Lender has given a Default Notice to the Borrower. Failure of the Senior Lender to send a Default Notice to the Subordinate Lender shall not prevent the exercise of the Senior Lender's rights and remedies under the First Mortgage Loan Documents, subject to the provisions of this Agreement. The Subordinate Lender shall have the right, but not the obligation, to cure any such First Mortgage Loan Default as provided below. Subordinate Lender may have up to 30 days from the date of the Default Notice to cure any monetary default under the First Mortgage Loan Documents; provided, however, that the Senior Lender shall be entitled during such 30-day period to continue to pursue its remedies with respect to the Property. Subordinate Lender may have up to 60 days from the date of the Default Notice to cure a non-monetary default if during such 60-day period Subordinate Lender keeps current all payments required by the First Mortgage Loan Documents. In the event that such a non-monetary default creates an unacceptable level of risk relative to the Property, or Senior Lender's secured position relative to the Property, as determined by Senior Lender in its sole discretion, then Senior Lender may exercise during such 60-day period all available rights and remedies to protect and preserve the Property and the rents, revenues and other proceeds from the Property. All amounts paid by the Subordinate Lender to the Senior Lender to cure a First Mortgage Loan Default shall be deemed to have been advanced by the Subordinate Lender pursuant to, and shall be secured by the lien of, the Subordinate Mortgage.

(b) Cross Default. The Subordinate Lender agrees that, notwithstanding any contrary provision contained in the Subordinate Loan Documents, a First Mortgage Loan Default shall not constitute a default under the Subordinate Loan Documents if no other default occurred under the Subordinate Loan Documents until either (i) the Senior Lender has accelerated the maturity of the First Mortgage Loan, or (ii) the Senior Lender has taken affirmative action to exercise its rights under the First Mortgage to collect rent, to appoint (or seek the appointment of) a receiver or to foreclose on (or to exercise a power of sale contained in) the First Mortgage. At any time after a First Mortgage Loan Default is determined to constitute a default under the Subordinate Loan Documents, the Subordinate Lender shall be permitted to pursue its remedies for default under the Subordinate Loan Documents, subject to the restrictions and limitations of this Agreement. If at any time the Borrower cures any First Mortgage Loan Default to the

satisfaction of the Senior Lender, as evidenced by written notice from the Senior lender to the Subordinate Lender, any default under the Subordinate Loan Documents arising from such First Mortgage Loan Default shall be deemed cured and the Subordinate Loan shall be retroactively reinstated as if such First Mortgage Loan Default had never occurred.

7. Conflict.

The Borrower, the Senior Lender and the Subordinate Lender each agrees that, in the event of any conflict or inconsistency between the terms of the First Mortgage Loan Documents, the Subordinate Loan Documents and the terms of this Agreement, the terms of this Agreement shall govern and control solely as to the following: (a) the relative priority of the security interests of the Senior Lender and the Subordinate Lender in the Property; (b) the timing of the exercise of remedies by the Senior Lender and the Subordinate Lender under the First Mortgage and the Subordinate Mortgage, respectively; and (c) solely as between the Senior Lender and the Subordinate Lender, the notice requirements, cure rights, and the other rights and obligations which the Senior Lender and the Subordinate Lender have agreed to as expressly provided in this Agreement. Borrower acknowledges that the terms and provisions of this Agreement shall not, and shall not be deemed to: extend Borrower's time to cure any First Mortgage Loan Default or Subordinate Loan Default, as the case may be; give the Borrower the right to notice of any First Mortgage Loan Default or Subordinate Loan Default, as the case may be other than that, if any, provided, respectively under the First Mortgage Loan Documents or the Subordinate Loan Documents; or create any other right or benefit for Borrower as against Senior Lender or Subordinate Lender.

8. Rights and Obligations of the Subordinate Lender Under the Subordinate Loan Documents and of the Senior Lender under the First Mortgage Loan Documents.

Subject to each of the other terms of this Agreement, all of the following provisions shall supersede any provisions of the Subordinate Loan Documents covering the same subject matter:

(a) Protection of Security Interest. The Subordinate Lender shall not, without the prior written consent of the Senior Lender in each instance, take any action which has the effect of increasing the indebtedness outstanding under, or secured by, the Subordinate Loan Documents, except that the Subordinate Lender shall have the right to advance funds to cure First Mortgage Loan Defaults pursuant to Section 6(a) above and advance funds pursuant to the Subordinate Mortgage for the purpose of paying real estate taxes and insurance premiums, making necessary repairs to the Property and curing other defaults by the Borrower under the Subordinate Loan Documents.

(b) Condemnation or Casualty. In the event of: a taking or threatened taking by condemnation or other exercise of eminent domain of all or a portion of the Property (collectively, a "Taking"); or the occurrence of a fire or other casualty resulting in damage to all or a portion of the Property (collectively, a "Casualty"), at any time or times when the First Mortgage remains a lien on the Property the following provisions shall apply:

(1) The Subordinate Lender hereby agrees that its rights (under the Subordinate Loan Documents or otherwise) to participate in any proceeding or action relating to a Taking and/or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Taking or a Casualty shall be and remain subordinate in all respects to the Senior Lender's rights under the First Mortgage Loan Documents with respect thereto, and the Subordinate Lender shall be bound by any settlement or adjustment of a claim resulting from a Taking or a Casualty made by the Senior Lender; provided, however, this subsection and/or anything contained in this Agreement shall not limit the rights of the Subordinate Lender to file any pleadings, documents, claims or notices with the appropriate court with jurisdiction over the proposed Taking and/or Casualty; and

(2) all proceeds received or to be received on account of a Taking or a Casualty, or both, shall be applied (either to payment of the costs and expenses of repair and restoration or to payment of the First Mortgage Loan) in the manner determined by the Senior Lender in its sole discretion; provided, however, that if the Senior Lender elects to apply such proceeds to payment of the principal of, interest on and other amounts payable under the First Mortgage Loan, any proceeds remaining after the satisfaction in full of the principal of, interest on and other amounts payable under the First Mortgage Loan shall be paid to, and may be applied by, the Subordinate Lender in accordance with the applicable provisions of the Subordinate Loan Documents, provided however, the Senior Lender agrees to consult with the Subordinate Lender in determining the application of Casualty proceeds, provided further however that in the event of any disagreement between the Senior Lender and the Subordinate Lender over the application of Casualty proceeds, the decision of the Senior Lender, in its sole discretion, shall prevail.

(c) No Modification of Subordinate Loan Documents. The Borrower and the Subordinate Lender each agrees that, until the principal of, interest on and all other amounts payable under the First Mortgage Loan Documents have been paid in full, it will not, without the prior written consent of the Senior Lender in each instance, increase the amount of the Subordinate Loan, increase the required payments due under the Subordinate Loan, decrease the term of the Subordinate Loan, increase the interest rate on the Subordinate Loan, or otherwise amend the Subordinate Loan terms in a manner that creates an adverse effect upon the Senior Lender under the First Mortgage Loan Documents. Any unauthorized amendment of the Subordinate Loan Documents or assignment of the Subordinate Lender's interest in the Subordinate Loan without the Senior Lender's consent shall be void ab initio and of no effect whatsoever and Subordinate Lender agrees that it shall not transfer or assign the Subordinate Loan or the Subordinate Loan Documents without the prior written consent of the Senior Lender.

9. Conversion, Modification or Refinancing of First Mortgage Loan.

The Subordinate Lender consents to any agreement or arrangement in which the Senior Lender waives, postpones, extends, reduces or modifies any provisions of the First Mortgage Loan Documents, including any provision requiring the payment of money. Subordinate Lender

further agrees that its agreement to subordinate hereunder shall extend to the Permanent Loan Documents, as well as to any new mortgage debt which is for the purpose of refinancing all or any part of the First Mortgage Loan (including reasonable and necessary costs associated with the closing and/or the refinancing) and, in the event of new mortgage debt, Subordinate Lender shall execute and deliver to Senior Lender a new subordination agreement on the same terms and conditions as this Subordination Agreement. Following Conversion, all the terms and covenants of this Agreement shall inure to the benefit of any holder of the Permanent Loan; and all references to the First Mortgage Loan, the First Mortgage Note, the First Mortgage and the First Mortgage Loan Documents shall mean, respectively, the Permanent Loan, the Permanent Note, the Permanent Mortgage and the Permanent Loan Documents.

10. Default by the Subordinate Lender or Senior Lender.

If the Subordinate Lender or Senior Lender defaults in performing or observing any of the terms, covenants or conditions to be performed or observed by it under this Agreement, the other, non-defaulting lender shall have the right to all available legal and equitable relief.

11. Notices.

Each notice, request, demand, consent, approval or other communication (hereinafter in this Section referred to collectively as "notices" and referred to singly as a "notice") which the Senior Lender or the Subordinate Lender is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered); or (b) sent by Federal Express (or other similar national overnight courier) designating early morning delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received two days after mailing in the United States), addressed to the respective parties as follows:

SENIOR LENDER:

Bank of America, N.A.
7800 Forsyth Boulevard, Suite 350
Mail Code: MO1-076-03-06
St. Louis, Missouri 63105
Attention: Loan Administration Manager

SUBORDINATE LENDER:

City of Las Cruces, New Mexico
P.O. Box 20000
Las Cruces, New Mexico 88004
Attention: Community Development Director

With a copy to:

City of Las Cruces, New Mexico
P.O. Box 20000
Las Cruces, New Mexico 88004
Attention: City Attorney's Office

Either party may, by notice given pursuant to this Section, change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses for its notices, but notice of a change of address shall only be effective upon receipt.

12. General.

(a) **Assignment/Successors.** This Agreement shall be binding upon the Borrower, the Senior Lender and the Subordinate Lender and shall inure to the benefit of the respective legal successors and assigns of the Senior Lender and the Subordinate Lender.

(b) **No Partnership or Joint Venture.** The Senior Lender's permission for the placement of the Subordinate Loan Documents does not constitute the Senior Lender as a joint venturer or partner of the Subordinate Lender. Neither party hereto shall hold itself out as a partner, agent or Affiliate of the other party hereto.

(c) **Senior Lender's and Subordinate Lender's Consent.** Wherever the Senior Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by the Senior Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement. Wherever the Subordinate Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by the Subordinate Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement.

(d) **Further Assurances.** The Subordinate Lender, the Senior Lender and the Borrower each agree, at the Borrower's expense, to execute and deliver all additional instruments and/or documents reasonably required by any other party to this Agreement in order to evidence that the Subordinate Mortgage is subordinate to the lien, covenants and conditions of the First Mortgage, or to further evidence the intent of this Agreement.

(e) **Amendment.** This Agreement shall not be amended except by written instrument signed by all parties hereto.

(f) **Governing Law.** This Agreement shall be governed by the laws of the State in which the Property is located.

(g) **Severable Provisions.** If any provision of this Agreement shall be invalid or unenforceable to any extent, then the other provisions of this Agreement, shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

(h) Term. The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all of the principal of, interest on and other amounts payable under the First Mortgage Loan Documents; (ii) the payment of all of the principal of, interest on and other amounts payable under the Subordinate Loan Documents, other than by reason of payments which the Subordinate Lender is obligated to remit to the Senior Lender pursuant to Section 4 hereof; (iii) the acquisition by the Senior Lender of title to the Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the First Mortgage; or (iv) the acquisition by the Subordinate Lender of title to the Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Subordinate Mortgage, but only if such acquisition of title does not violate any of the terms of this Agreement.

(i) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.

SUBORDINATE LENDER:

City of Las Cruces, New Mexico

Attest:

Esther Martinez, City Clerk
(SEAL)

By: _____
Terrence Moore
City Manager

Approved as to Form:

Deputy *K. McLaughlin*
City Attorney

State of New Mexico)
)
County of Dona Ana)

This instrument was acknowledged before me on _____, 2009 by Terrence Moore, as City Manager of the City of Las Cruces, New Mexico.

Printed Name: _____
Notary Public, State of _____

My Commission Expires:

BORROWER:

Alta Tierra Apartments Limited Partnership,
a New Mexico limited partnership

By: TDS Alta Tierra, LLC,
a New Mexico limited liability company,
its General Partner

By: Tierra Del Sol Housing Corporation,
a New Mexico nonprofit corporation,
its Manager

By: _____
Rose Garcia
Executive Director

State of New Mexico)
)
County of Dona Ana)

This instrument was acknowledged before me on _____, 2009 by Rose Garcia, as Executive Director of Tierra Del Sol Housing Corporation, a New Mexico nonprofit corporation, Manager of TDS Alta Tierra, LLC a New Mexico limited liability company, the General Partner of Alta Tierra Apartments Limited Partnership, a New Mexico limited partnership.

Printed Name: _____
Notary Public, State of New Mexico

My Commission Expires:

BORROWER:

Tierra Del Sol Housing Corporation,
a New Mexico nonprofit corporation

By: _____
Rose Garcia
Executive Director

State of New Mexico)
)
County of Dona Ana)

This instrument was acknowledged before me on _____, 2009 by Rose Garcia, as Executive Director of Tierra Del Sol Housing Corporation, a New Mexico nonprofit corporation.

Printed Name: _____
Notary Public, State of New Mexico

My Commission Expires:

EXHIBIT A

Legal Description

PURSUANT TO SECTION 14-11-10.1 NMSA 1978, THE SIMPLE DESCRIPTION OF THE PROPERTY IS 1500 E. MADRID AVENUE, LAS CRUCES, NEW MEXICO, WHICH PROPERTY IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A TRACT OF LAND SITUATE WITHIN THE CORPORATE LIMITS OF THE CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO, IN SECTIONS 6 AND 7, T.23S., R.2E., N.M.P.M. OF THE U.S.R.S. SURVEYS BEING PART OF BLOCK 10, BISHOPS TRACT, FILED NOVEMBER 15, 1946, IN PLAT BOOK 6M, PAGE 46, DONA ANA COUNTY RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS, IT WIT:

BEGINNING AT A CHISELED 'X' ON A SIDEWALK ON THE SOUTH LINE OF MADRID AVENUE FOR THE NORTHEAST CORNER OF THE TRACT HEREIN DESCRIBED, SAID CORNER BEING IDENTICAL TO THE NORTHEAST CORNER OF BLOCK 10, OF SAID BISHOPS TRACT;

THENCE FROM THE POINT OF BEGINNING AND ALONG THE EAST BOUNDARY OF BLOCK 10, BISHOPS TRACT, S.41 DEG. 05'38"E., 295.01 FEET TO A CHISELED 'X' ON A SIDEWALK FOR THE SOUTHEAST CORNER OF SAID BLOCK 10 AND THE SOUTHEAST CORNER OF THE TRACT HEREIN DESCRIBED;

THENCE ALONG THE SOUTH BOUNDARY OF BLOCK 10 AND THE NORTH LINE OF HERNANDEZ ROAD, S.63 DEG. 00'00"W., 451.11 FEET TO A CHISELED CROSS ON A SIDEWALK FOR THE SOUTHWEST CORNER OF THIS TRACT;

THENCE LEAVING HERNANDEZ ROAD, N.27 DEG. 24'36"W., 286.13 FEET TO A CONCRETE MONUMENT FOUND ON THE SOUTH LINE OF MADRID AVENUE FOR THE NORTHWEST CORNER OF THIS TRACT;

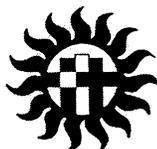
THENCE ALONG THE SOUTH LINE OF MADRID AVENUE, N.63 DEG. 00'00"E., 381.32 FEET TO THE POINT OF BEGINNING CONTAINING 2.7339 ACRES OF LAND, MORE OR LESS.

ATTACHMENT "F"**SCOPE OF WORK, PROJECT SCHEDULE AND BUDGET**

Alta Tierra Apartments, located at 1500 E Madrid is a 57 unit multi-family development. The Apartment complex was built in 1984 and has experienced much wear and tear over the years that made the rehabilitation of the complex necessary. The rehabilitation will provide for a significant make-over of the existing complex and make use of green building practices to provide a much healthier/efficient environment for residents. Major exterior work will include the repair and painting of stucco siding, new roof/asphalt parking lot/playground, xeriscape landscaping, and installation of energy efficient windows. In addition, handicapped units will be brought up to code and all common facilities/area will be made accessible. Interior work will include the replacement of evaporative coolers, furnaces, water heaters, kitchen and bathroom cabinets, plumbing/electrical fixtures, flooring, and interior painting.

One unit will be used for Social Services which will also be an integral piece of this project and will be facilitated by an AmeriCorps VISTA volunteer. The services will include health care education, after-school tutoring, drug prevention programming, employment development, and computer literacy training. Homeownership counseling/education and financial literacy programming will also be offered by Tierra Del Sol Housing Corporation.

PAYMENT REQUEST FORM



City of Las Cruces
PEOPLE HELPING PEOPLE

INVOICE

Date _____

Agency Name Tierra Del Sol Housing Corporation
Project Name Alta Tierra Apartments

Original contract balance **\$ 250,000.00**

Balance as of end of previous month \$

Invoice Expenses:

\$
\$
\$
\$

GRAND TOTAL: \$

Remaining Balance: \$ _____

Certification:

I, _____, as _____

of _____,
hereby certify that the information provided on this invoice is for reimbursement
of eligible HOME expenses incurred in the month of _____ for Tierra Del
Sol Housing Corporation, a Community Housing Development Organization.

Printed Name

Signature

Date

ATTACHMENT "H"

2009 HOME RENT CHART

HUD INCOME GUIDELINES LAS CRUCES MSA RENT LIMITS Rent Levels by Number of Bedrooms							
Effective date: May 2, 2009							
PROGRAM	EFFICIENCY	1 BR	2BR	3BR	4BR	5BR	6BR
LOW HOME RENT LIMIT	386	413	496	573	640	705	771
HIGH HOME RENT LIMIT	460	496	553	711	774	835	897
For Information Only:							
FAIR MARKET RENT	460	496	553	763	847	974	1101
50% RENT LIMIT	386	413	496	573	640	705	771
65% RENT LIMIT	481	517	623	711	774	835	897
Source: The U.S. Department of Housing and Urban Development (HUD) Office of Policy Development and Research (PD&R), FY2009 Rent Limits from website at http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/rent/2009/newmexico.pdf							

ATTACHMENT "I"

UTILITY ALLOWANCE

**Allowances for
Tenant-Furnished Utilities
and Other Services**

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0169
(exp. 07/31/2007)

Las Cruces Housing Authority - Section 8 926 S. San Pedro, Las Cruces, NM 88001		Apartments with 5 or more units					01/01/2009
Utility or Service		Monthly Dollar Allowances					
		0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	a. Natural Gas	5	7	11	13	15	17
	b. Bottle Gas	12	16	25	29	34	38
	c. Electric	8	11	19	21	26	28
	d. Other	-	-	-	-	-	-
Cooking	a. Natural Gas	6	6	8	9	10	11
	b. Bottle Gas	13	15	17	20	22	24
	c. Electric	6	6	6	6	6	6
	d. Other	-	-	-	-	-	-
Air Conditioning		16	21	24	29	30	34
Electrical Services		19	20	22	25	29	32
Water Heating	a. Natural Gas	5	7	9	12	15	16
	b. Bottle Gas	8	9	20	28	34	37
	c. Electric	10	13	18	25	29	33
	d. Other	-	-	-	-	-	-
Water		8	9	11	14	17	21
Sewer		8	10	13	17	22	27
Trash Collection		-	-	-	-	-	-
Range/Microwave		11	11	11	11	11	11
Refrigerator		13	13	13	13	13	13
Other		-	-	-	-	-	-

Actual Family Allowances To be used by the family to compute allowance. Complete below for the actual unit rented.	Utility or Service	per month cost
Name of Family	Heating	\$
Address of Unit	Cooking	
	Other Electric	
	Air Conditioning	
	Water Heating	
	Water	
	Sewer	
	Trash Collection	
	Range/Microwave	
	Refrigerator	
	Other	
Number of Bedrooms	Total	\$

Previous editions are obsolete

form HUD-52667 (12/97)
ref. Handbook 7420.8

ATTACHMENT "J"

RESTRICTIVE REAL ESTATE COVENANTS

Made in Las Cruces, New Mexico

Date: _____

This Agreement is made by **ALTA TIERRA APARTMENTS LIMITED PARTNERSHIP**, a New Mexico limited partnership (hereinafter referred to as "Owner") whose address is PO Box 2626, Anthony, New Mexico 88021, in favor of the **CITY OF LAS CRUCES**, a municipal corporation (hereinafter referred to as "City").

1. Recitals

- A. Tierra Del sol Housing Corporation (hereinafter referred to as "Sponsor") has caused a separate limited partnership to be formed, Alta Tierra Apartments Limited Partnership (hereinafter referred to as "Owner") whose address is PO Box 2626, Anthony, New Mexico 88021, to own, manage, and operate 57 units of subsidized rental housing for low-income persons.
- B. The Owner is the owner in fee simple of that certain real estate ("Real Property") in Dona Ana County, New Mexico, which is more particularly described in **Exhibit "A"** attached hereto and made a part hereof and containing 2.7339, more or less.
- C. The City has advanced certain sums of money under the National Affordable Housing Act of 1990/HOME Investment Partnership Program (24 CFR Part 92) to the Sponsor and Owner. Such sum benefits the Real Property of the Owner.
- D. In consideration for the assistance given by the City for the benefit of the Sponsor and Owner, the Sponsor and Owner have agreed to restrictions on the use and rental of the Real Property in order to implement the policies and obligations of the National Affordable Housing Act of 1990/HOME Investment Partnership Program (24 CFR Part 92).

2. Definitions

"Annual Gross Income" means the anticipated total income from all sources, as defined in 24 CFR Part 5.609 to be received by the Family Head and spouse and by each additional member of the household during a twelve month period.

"City's Median Income" means the median income for the City of Las Cruces, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development from time to time and published in the Federal Register.

"HOME Assisted Units" means that apartment unit which either directly, or indirectly, has received financial assistance through the City under the National Affordable Housing Act/HOME Investment Partnership Program (24 CFR Part 92).

"Housing Quality Standards" means the standards set forth in 24 CFR Part 887 to maintain a decent, safe and sanitary living environment.

"Program Income" means that portion of income generated as a direct result of Project funding and subject to the restrictions of 24 CFR Part 92.

"Project" has the meaning given in the Loan Agreement.

"Section 8 Fair Market Rent" means that rent established by the U.S. Department of Housing and Urban Development as authorized under 24 CFR Part 882.

Except as otherwise expressly provided herein, all capitalized terms shall have the meaning given in the HOME Loan Agreement.

3. Restrictive Covenants

During the term of this Agreement as set forth in Paragraph 5 below:

- A. Use of Property. The Real Property shall be used as, and only for, residential rental purposes. A minimum of four (4) of the 57 units shall comply with the requirements of 24 CFR Part 92.
- B. Income Qualification. The Sponsor and Owner shall determine the annual income of a household occupying or seeking to occupy a HOME assisted unit prior to occupancy of a HOME assisted unit. Tenants occupying HOME assisted units shall meet the minimum income targeting criteria:
 - 1. 100% of the households occupying HOME assisted units will have annual incomes that do not exceed 60% of the City's Median Income adjusted for family size; and,
 - 2. The income of households occupying HOME assisted units must be verified using 24 CFR Part 5 prior to occupancy and annually thereafter until the term of affordability is met;
 - 3. Following occupancy, if a HOME assisted unit household's income exceeds 80% of the City's Median Income, adjusted for family size, the household may remain in the unit. However, the household must pay the lesser of 50% of their adjusted monthly income for rent and utilities, the market rent or the maximum Section 42 rent for the unit.

1. Rent Determination. All four HOME assisted units must have rents, hereafter called "Low HOME rents," which are no greater than:
 - a. Thirty percent of the tenant's monthly adjusted income; or
 - b. Thirty percent of the annual income of a family whose income equals 50% of the median income, hereafter called "Low HOME rents."

If utilities are not included in the rent, an allowance must be made using the Housing Authority of the City of Las Cruces' established utility allowance levels.

- C. Rent Increases. Any rent increases for any of the HOME assisted units must be approved by the City prior to implementation of the increase.
- D. Set Aside Units. The four HOME assisted units are designated as floating units. The HOME units shall be set aside and rented to qualified tenants as follows:

<u>Bedroom Size</u>	<u>Number of Units</u>	<u>Rent Type</u>	<u>Rent Level</u>
2-Bedroom	4	Low	\$496

The Owner must maintain this configuration of HOME assisted units within the Real Property throughout the term of this Agreement.

- E. Tenant Selection and Re-Certification. The Sponsor and Owner shall undertake the initial review of income eligibility of prospective tenants for the HOME assisted units. In determining income eligibility, the Sponsor and Owner acknowledge that the City must examine the source documents evidencing the prospective tenant's Annual Gross Income. All documentation including, but not necessarily limited to, a tenant's application, verifications, proposed rent and lease terms shall be submitted to the City's Community Development – Neighborhood Services Section, or successor or assigns, for final approval before the Sponsor and Owner enter into a lease with a prospective tenant. The Sponsor and Owner acknowledge that the City must keep documentation verifying the income eligibility of tenants. The City shall use its best efforts to grant such approval within seven (7) business days after receipt of the tenant application from the Sponsor and Owner.

During the Affordability Period, in accordance with 24 CFR §92.252(h), the Sponsor and Owner shall re-verify tenant eligibility annually with similar documentation as submitted at initial lease-up. This information must be maintained in the tenants' files and made available for review by the City.

- F. Lease Provisions. Each household in a HOME assisted unit will have an executed lease with the Sponsor and Owner which is in compliance with 24 CFR Part 92.253.
- G. Property Standards Requirements. The Project will meet all Housing Quality Standards, or other physical property standards regulated by the U.S. Department of Housing and Urban Development, and local building code requirements for the duration of this Agreement.

4. Reporting Requirements

The Sponsor and Owner shall report, in writing, at least quarterly during the construction phase of the Project, regarding the status of construction. Upon issuance of the Certificate of Occupancy by the City of Las Cruces, the Sponsor and Owner shall submit annual reports by the last business day of July. These reports shall include, but not be limited to, the financial statements for the Project, and, for the HOME assisted units, a certified rent roll showing household size, tenant's race and ethnicity, whether the occupant is a female head of household, date of execution of the occupants current lease, adjusted gross annual income, and rental rates.

5. Term

The term of this Agreement shall commence and the restrictions set forth herein shall automatically commence to apply, on the day and time that the Mortgage securing permanent financing for the residential apartment complex on the Real Property is recorded in the Office of the County Clerk of Dona Ana County, New Mexico. This Agreement and the Restrictive Covenants set forth herein shall automatically terminate at the earlier of: (A) 5:00 p.m., New Mexico time on the forty fifth (45th) anniversary of such recordation.

6. Covenants Running with Real Property

This Agreement shall be and constitute covenants running with the Real Property during the term of this Agreement and shall be enforceable by the City by legal and equitable action, including an action for injunctive relief.

ATTACHMENT "K"**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS**

The certification set out below is a material representation upon which reliance is placed by the City of Las Cruces and the U.S. Department of Housing and Urban Development ("HUD") in awarding the Grant. If it is later determined that the Sponsor and Owner knowingly rendered a false certification or otherwise violates the requirements of the Drug-Free Workplace Act, the City's Community Development Department and/or the HUD, in addition to any other remedies available to the federal government, may take action authorized under the Drug-Free Workplace Act. The Sponsor and Owner will comply with the other provisions of the Act and with other applicable laws.

CERTIFICATION

1. The Sponsor and Owner certify that it will provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Sponsor and Owner's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:
 1. The dangers of drug abuse in the workplace;
 2. The Sponsor and Owner's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
 - C. Making it a requirement that each employee engaged in the performance of the Grant be given a copy of the statement required by paragraph "A".
 - D. Notifying the employee in the statement required by paragraph "A" that, as a condition of employment under the Grant, the employee would:
 1. Abide by the terms of the statement; and
 2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.

- E. Notify the City's Community Development Department and/or HUD in writing within ten (10) calendar days after receiving notice under subparagraph (D)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every Grant Officer or other designee on whose Grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected Grant.
- F. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (D)(2), with respect to any employee who is so convicted:
1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health, law enforcement or other appropriate agency.
- G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A), (B), (C), (D), (E) and (F).
2. The Sponsor and Owner shall insert in the space provided on the attached "Place of Performance" form the site(s) for the performance of work to be carried out with the Grant funds (including street address, city, county, state, zip code and total estimated number of employees). The Sponsor and Owner further certifies that, if it is subsequently determined that additional sites will be used for the performance of work under the Agreement; it shall notify the City's Community Development Department and/or HUD immediately upon the decision to use such additional sites by submitting a revised "Place of Performance" form.

**PLACE OF PERFORMANCE
FOR CERTIFICATION REGARDING DRUG-FREE WORKPLACE
REQUIREMENTS**

Name of Subgrantee: Tierra Del Sol Housing Corporation
Alta Tierra Apartments Limited Partnership

Program Name: Alta Tierra Apartments

Date: _____

The Borrower shall insert in the space provided below the site(s) expected to be used for the performance of work under the Grant covered by the certification:

Place of Performance (includes street address, city, county, state, zip code for each site):

1500 E Madrid, Las Cruces, NM 88001

880 Anthony, Dr., Anthony, NM 88021

Check if there are work places on file that are not identified here.

ATTEST:

**TIERRA DEL SOL HOUSING
CORPORATION**

By:

Rose Garcia, Executive Director

Date

**ALTA TIERRA APARTMENTS LIMITED
PARTNERSHIP**

By:

Rose Garcia

Date

ATTACHMENT "L"**SECTION 3 CLAUSE**

- A. The work to be performed under this Agreement is on a project providing direct Federal financial assistance from the Department of Housing and Urban Development ("HUD") and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. §1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns that are located in or owned in substantial part by persons residing in the area of the Project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual agreement or other disability that would prevent them from complying with these requirements.
- C. The Sponsor and Owner will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training. 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, the name and location of the persons taking applications for each of the positions, and the anticipated date the work shall begin.
- D. The Sponsor and Owner will include this Section 3 Clause in every subcontract for work in connection with the Program and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the Sponsor and Owner is in violation of the regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Sponsor and Owner will not subcontract with any agency where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the agency has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of HUD issued there under prior to the execution of the Agreement shall be a condition of the Federal financial assistance provided to the Project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its subrecipients, and its successors, and assigns to those sanctions specified by the HOME Loan Agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135, which include termination of this Agreement for default and debarment and suspension from future HUD-assisted contracts.

ATTEST:

TIERRA DEL SOL HOUSING CORPORATION

By:

Rose Garcia, Executive Director Date _____

ALTA TIERRA APARTMENTS LIMITED PARTNERSHIP

By:

Rose Garcia Date _____

ATTACHMENT "M"**EQUAL EMPLOYMENT OPPORTUNITY CLAUSE
FOR CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246**

In carrying out this Agreement, the Sponsor and Owner and its contractors and subcontractors shall not discriminate against any employee or applicant for employment because of race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental handicap or serious medical condition, or status with regard to public assistance. The Sponsor and Owner shall take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices shall include, but not be limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Sponsor and Owner shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Government setting forth the provisions of this nondiscrimination clause. The Sponsor and Owner shall state in all solicitations or advertisements for employees placed by or on behalf of the Sponsor and Owner that it is an Equal Opportunity or Affirmative Action employer.

ATTEST:**TIERRA DEL SOL HOUSING
CORPORATION**

By:

Rose Garcia, Executive Director_____
Date**ALTA TIERRA APARTMENTS LIMITED
PARTNERSHIP**

By:

Rose Garcia_____
Date

ATTACHMENT "N"

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 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.
- (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 subcontracts, sub-grant and contracts under grants, and cooperative agreements) and that the Sponsor and Owner 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 this 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.

ATTEST:
TIERRA DEL SOL HOUSING CORPORATION

By: _____
Rose Garcia, Executive Director

_____ Date

**ALTA TIERRA APARTMENTS LIMITED
PARTNERSHIP**

By: _____
Rose Garcia

_____ Date

ATTACHMENT "O"

AFFIRMATIVE MARKETING PLAN

Affirmative Fair Housing Marketing (AFHM) Plan - Multifamily Housing

446

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity

OMB Approval No. 2529-0013
(exp. 1/31/2010)

1a. Applicant's Name, Address (including City, State & Zip code) & Phone Number	1c. Project/Contract Number	1d. Number of Units
	1e. Rental Range From \$ _____ To \$ _____	1f. Type of Housing <input type="checkbox"/> Elderly <input type="checkbox"/> Family <input type="checkbox"/> Mixed (Elderly/Disabled)
	1g. Approximate Starting Dates (mm/dd/yyyy) Advertising _____ Occupancy _____	

1b. Development's Name, Location (including City, State and Zip code)	1h. Housing Market Area	1i. Census Tract
	1j. Managing Agent's Name & Address (including City, State and Zip Code)	

2. Type of Affirmative Marketing Area (check all that apply) a. Plan <input type="checkbox"/> New <input type="checkbox"/> Update Reason for Update: _____ b. Area <input type="checkbox"/> White (non-minority) Area <input type="checkbox"/> Minority Area <input type="checkbox"/> Mixed Area (with _____ % minority residents)	3. Direction of Marketing Activity (Indicate which group(s) in the housing market area are least likely to apply for the housing because of its location and other factors without special outreach efforts) <input type="checkbox"/> White <input type="checkbox"/> American Indian or Alaskan Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Persons with Disabilities <input type="checkbox"/> Families with Children <input type="checkbox"/> Other _____ Specify _____ (e.g. specific ethnic group, religion)
--	--

4a. Marketing Program: Commercial Media (Check the type of media to be used to advertise the availability of this housing)

Newspapers/Publications
 Radio
 TV
 Billboards
 Other (specify) _____

Name of Newspaper, Radio or TV Station	Group Identification of Readers/Audience	Size/Duration of Advertising

4b. Marketing Program: Brochures, Signs, and HUD's Fair Housing Poster

(1) Will brochures, letters, or handouts be used to advertise? Yes No If "Yes", attach a copy or submit when available.

(2) For development site sign, indicate sign size _____ x _____; Logo type size _____ x _____. Attach a photograph of sign or submit when available.

(3) HUD's Fair Housing Poster must be conspicuously displayed wherever sales/rentals and showings take place. Fair Housing Posters will be displayed in the Rental Office Real Estate Office Model Unit Other (specify) _____

4c. Marketing Program: Community Contacts. To further inform the group(s) least likely to apply about the availability of the housing, the applicant agrees to establish and maintain contact with the groups/organizations listed below which are located in the housing market area. If more space is needed, attach an additional sheet. Notify HUD-Housing of any changes in this list. Attach a copy of correspondence to be mailed to these groups/organizations. (Provide all requested information.)

Name of Group/Organization	Group Identification	Approximate Date (mm/dd/yyyy)	Person Contacted (or to be Contacted)
Address & Phone Number	Method of Contact	Indicate the specific function the Group/Organization will undertake in implementing the marketing program	

5. Future marketing Activities Mark the box(es) that best describe marketing activities to fill vacancies as they occur after the project has been initially occupied.

Newspapers/Publications Radio Community Contacts
 Brochures/Leaflets/Handouts TV Other (Specify)
 Site Signs

6. Experience and Staff Instructions (See instructions)

6a. Staff has affirmative marketing experience. No Yes

6b. On separate sheets, indicate training to be provided to staff on Federal, State and local fair housing laws and regulations, as well as this AFHM Plan. Attach a copy of the instructions to staff regarding fair housing.

7. Additional Considerations Attach additional sheets as needed.

8. Review and Update By signing this form, the applicant agrees to review their AFHM Plan at least every 5 years and update as needed to ensure continued compliance with HUD's Affirmative Fair Housing Marketing Regulations (24 CFR 200.620).

Signature of person submitting this Plan & Date of Submission (mm/dd/yyyy)

Name (type or print)

Title & Name of Company

For HUD-Office of Housing Use Only	For HUD-Office of Fair Housing and Equal Opportunity Use Only
Reviewing Official:	Approved _____ Disapproved _____ (Check One)
Signature & Date (mm/dd/yyyy)	Signature & Date (mm/dd/yyyy)
Name (type or print)	Name (type or print)
Title	Title

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget (OMB) control number.

In General : The Affirmative Fair Housing Marketing (AFHM) Plan is used to ensure that insured and subsidized multifamily housing projects are taking necessary steps to eliminate discriminatory practices and to overcome the effects of past discrimination involving Federally insured and subsidized housing. No application for any housing project insured or subsidized under the Department of Housing and Urban Development's (HUD) housing programs shall be funded without a HUD approved AFHM Plan (See the "Applicability" section in the instructions below.) Multifamily housing projects must have an updated AFHM Plan in effect for the life of HUD's mortgage insurance. The responses are required to obtain or retain benefits under the Fair Housing Act, Section 808(e)(5) & (6) and 24 CFR Part 200, Subpart M. The form contains no questions of a confidential nature.

Applicability: This form is to be completed by all insured or subsidized: multifamily housing projects.

Each applicant is required to carry out an affirmative program to attract prospective tenants of all minority and non-minority groups in the housing market area regardless of their race, color, religion, sex, national origin, disability or familial status, (24 CFR 200.620). Racial groups include White, Black or African American, American Indian or Alaska Native, Asian, Native Hawaiian or Other Pacific Islander. Other groups in the housing market area who may be subject to housing discrimination include, but are not limited to, Hispanic or Latino, persons with disabilities, families with children, or persons with different religious affiliations. The applicant shall describe in the AFHM Plan the proposed activities to be carried out during advance marketing, where applicable, and during all rent ups. The affirmative marketing program also should ensure that any group(s) of persons ordinarily **not** likely to apply for this housing without special outreach (See Part 3), know about the housing, feel welcome to apply, and have the opportunity to rent.

INSTRUCTIONS

Send completed form to: your local HUD Office
Attention: Director, Office of Housing

Part 1-Applicant and Project Identification. Blocks 1a thru 1f-Self-Explanatory. Block 1g-the applicant should specify the approximate date for starting the marketing activities and the anticipated date of initial occupancy (if unoccupied). Block 1h-the applicant should indicate the housing market area, in which the housing will be (is) located. Block 1i - the applicant may obtain census tract location information from local planning agencies, public libraries and other sources of census data. Block 1j the applicant should complete only if a Managing Agent (the agent can not be the applicant) is implementing the AFHM Plan.

Part 2-Type of Affirmative Marketing Plan: Applicants for multifamily housing projects should indicate the status of the AFHM Plan, e.g. new or

update. Please provide the reason for the current update. (Section 7 may be used if additional space is needed.) The AFHM Plan should also indicate the approximate racial composition of the housing/market area in which the housing will be (is) located by checking one of the three choices.

Part 3-Direction of Marketing Activity. Indicate which group(s) the applicant believes are least likely to apply for this housing without special outreach. Consider factors such as rent for housing, sponsorship of housing, racial/ethnic characteristics of housing market area in which housing will be (is) located, disability, familial status, or religious affiliation of eligible population, public transportation routes, etc.

Part 4-Marketing Program. The applicant shall describe the marketing program to be used to attract all segments of the eligible population, especially those groups designated in Part 3 of this AFHM Plan present in the housing marketing area that are least likely to apply. The applicant shall state: the type of media to be used, the names of

newspaper/call letters of radio or TV stations; the identity of the circulation or audience of the media identified in the AFHM Plan (e.g., White, Black or African American, American Indian or Alaska Native, Asian, Native Hawaiian or Other Pacific Islander, Hispanic or Latino, persons with disabilities, families with children, and religious affiliation), and the size or duration of newspaper advertising or length and frequency of broadcast advertising. Community contacts include individuals or organizations that are well known in the housing market area or the locality that can influence persons within groups considered least likely to apply. Such contacts may include, but need not be limited to: neighborhood, minority and women's organizations, grass roots faith-based or other community based organizations, labor unions, employers, public and private agencies, disability advocates, schools and individuals who are connected with these organizations and/or are well-known in the community. Applicants should notify their local HUD–Office of Housing of any changes to the list in Part 4c of this AFHM Plan.

Part 5-Future Marketing Activities. Self-Explanatory.

Part 6-Experience and Staff Instructions.

- 6a. The applicant should indicate whether he/she has had previous experience in marketing housing to group(s) identified as least likely to apply for the housing.
- 6b. Describe the instructions and training provided or to be provided to rental staff. This guidance to staff must include information regarding Federal, State and local fair housing laws and this AFHM Plan.

Copies of any written materials should be submitted with the AFHM Plan, if such materials are available.

Part 7-Additional Considerations. In this section describe other efforts not previously mentioned which are planned to attract persons least likely to apply for the housing

Part 8-Review and Update. By signing, the applicant assumes full responsibility for

implementing the AFHM Plan, and for reviewing and updating the Plan at least every 5 years. HUD may monitor the implementation of this AFHM Plan at any time and request modification in its format or content, where deemed necessary.

Notice of Intent to Begin Marketing. No later than 90 days prior to the initiation of rental marketing activities, the applicant with an approved AFHM Plan shall submit notice of intent to begin marketing. The notification is required by the Affirmative Fair Housing Marketing Plan Compliance Regulations (24 CFR Part 108.15). It is submitted either orally or in writing to the Office of Housing in the appropriate HUD Office servicing the locality in which the proposed housing will be located.

OMB approval of the Affirmative Fair Housing Plan includes approval of this notification procedure as part of the AFHM Plan. The burden hours for such notification are included in the total designated for this AFHM Plan form.

**LENDER'S CONSENT AND AGREEMENT TO RECORDING OF AND
SUBORDINATION TO LAND USE RESTRICTION AGREEMENT**

The City of Las Cruces, a New Mexico municipal corporation (the "Lender") provides to the New Mexico Mortgage Finance Authority ("MFA") this consent to the recording of a Land Use Restriction Agreement with respect to the real property described in Exhibit A attached hereto (the "Land").

RECITALS

1. Alta Tierra Apartments Limited Partnership is the owner ("Owner") of the multifamily rental housing project located on the Land and has applied to MFA for an allocation of Housing Tax Credits ("Credits") with respect to the Project pursuant to Section 42 of the Internal Revenue Code of 1986, as amended (the "Code").
2. The Lender is the beneficiary of a deed of trust covering the Land.
3. Section 42(h)(6) provides that Credits are not allowed unless an "extended low-income housing commitment" is in effect with respect to the Project in the form of an agreement between MFA and the Owner (the "Land Use Restriction Agreement") which is recorded as a restrictive covenant against and running with the Land.
4. Although the Land Use Restriction Agreement terminates in the event of foreclosure, Section 42(h)(6)(e)(ii) of the Code requires that certain limitations as to termination of tenancies and rent increases survive such foreclosure for a period of three years.
5. To assure the survival of the limitations described in said Section 42(h)(6)(e)(ii), MFA requires, as a condition to its execution of the Land Use Restriction Agreement, that the holders of all security interests in the Land recorded prior to the recording of the Land Use Restriction Agreement consent to such recording and acknowledge and agree to the priority of the provisions of Section 42(h)(6)(e)(ii) of the Code.

CONSENT AND AGREEMENT

Lender hereby consents to the recording of the Land Use Restriction Agreement as a restrictive covenant encumbering and running with the Land, and acknowledges and agrees that those provisions of the Land Use Restriction Agreement which set forth the requirements of Section 42(h)(6)(e)(ii) of the Code are superior to Lender's security interest and shall continue in full force and effect for a period of three (3) years following the date of acquisition of the Project by foreclosure (or instrument in lieu of foreclosure).

IN WITNESS WHEREOF, Lender has caused this Consent and Agreement to be executed by its duly authorized officers this _____ day of _____, 2009.

(S E A L)

City of Las Cruces, a New Mexico municipal corporation
(Lender)

By: _____
Terrence Moore, City Manager

Its: _____

ATTEST:

RESOLUTION NO. 09-165**A RESOLUTION APPROVING COMMITMENT OF PROGRAM YEAR 2009 HOME FUNDS TO A FEDERAL LOW INCOME HOUSING TAX CREDIT (LIHTC) PROJECT FOR AFFORDABLE HOUSING.**

The City Council is informed that:

WHEREAS, the Cranston-Gonzalez National Affordable Housing Act (NAHA) of 1990 created the HOME Investments partnerships Program (HOME); and

WHEREAS, the City of Las Cruces, as a recipient of HOME funding, desires to provide funding in accordance with the goals of the City's 2006-2010 Consolidated Plan which outlines affordable housing and community development needs; and

WHEREAS, the City of Las Cruces has received a Letter of Intent to apply and an application for PY 2009 HOME funding for a Federal Low Income Housing Tax Credit (LIHTC) project for the rehabilitation of the Alta Tierra Apartment Complex from Tierra del Sol Housing Corporation; and

WHEREAS, the City of Las Cruces desires to commit anticipated PY 2009 HOME funding to Tierra del Sol enabling them to secure financing for the project and meet the Tax Credit application deadline with the New Mexico Mortgage Finance Authority (MFA); and

WHEREAS, in order to comply with the regulatory requirements of the HOME Investment Partnerships Program (HOME), the City must execute an agreement with Tierra del Sol Housing Corporation when anticipated funding is released at a future date.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the City of Las Cruces hereby commits future PY 2009 HOME funds to Tierra del Sol Housing Corporation for the LIHTC project and rehabilitation of Alta Tierra Apartments.

(II)

THAT the City Manager, as the official representative of the City, is hereby authorized to sign all commitment documents on the City's behalf as it relates to this Resolution.

(III)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE and APPROVED this 20th day of January, 2009.

(SEAL)

APPROVED:



Mayor

ATTEST:


City Clerk

VOTE:

Mayor Miyagishima:	<u>Absent</u>
Councillor Silva:	<u>Aye</u>
Councillor Connor:	<u>Aye</u>
Councillor Archuleta:	<u>Aye</u>
Councillor Small:	<u>Aye</u>
Councillor Jones:	<u>Aye</u>
Councillor Thomas:	<u>Aye</u>

Moved by: Connor

Seconded by: Silva

APPROVED AS TO FORM:


City Attorney

All improvements affixed to the
Real property in the City of Las Cruces, County of Dona Ana, State of New Mexico, described as
follows:

Tract 1

A TRACT OF LAND SITUATE WITHIN THE CORPORATE LIMITS OF THE CITY OF LAS CRUCES,
DONA ANA COUNTY, NEW MEXICO, IN SECTIONS 6 AND 7, T.23S., R.2E., N.M.P.M. OF THE
U.S.R.S. SURVEYS BEING PART OF BLOCK 10, BISHOPS TRACT, FILED NOVEMBER 15, 1946, IN
PLAT BOOK 6, PAGE 46, DONA ANA COUNTY RECORDS AND MORE PARTICULARLY DESCRIBED
AS FOLLOWS, TO WIT:

BEGINNING AT A CHISELED CROSS ON A SIDEWALK ON THE SOUTH LINE OF MADRID AVENUE
FOR THE NORTHEAST CORNER OF THE TRACT HEREIN DESCRIBED, SAID CORNER BEING
IDENTICAL TO THE NORTHEAST CORNER OF BLOCK 10, OF SAID BISHOPS TRACT;

THENCE FROM THE POINT OF BEGINNING AND ALONG THE EAST BOUNDARY OF BLOCK 10,
BISHOPS TRACT, S.41°05'38"E., 295.01 FEET TO A CHISELED CROSS ON A SIDEWALK FOR THE
SOUTHEAST CORNER OF SAID BLOCK 10 AND THE SOUTHEAST CORNER OF THE TRACT
HEREIN DESCRIBED;

THENCE ALONG THE SOUTH BOUNDARY OF BLOCK 10 AND THE NORTH LINE OF HERNANDEZ
ROAD, S.63°00'00"W., 451.11 FEET TO A CHISELED CROSS ON A SIDEWALK FOR THE
SOUTHWEST CORNER OF THIS TRACT;

THENCE LEAVING HERNANDEZ ROAD, N.27°24'36"W., 286.13 FEET TO A CONCRETE
MONUMENT FOUND ON THE SOUTH LINE OF MADRID AVENUE FOR THE NORTHWEST CORNER
OF THIS TRACT;

THENCE ALONG THE SOUTH LINE OF MADRID AVENUE, N63°00'00"E., 381.32 FEET TO THE
POINT OF BEGINNING, CONTAINING 2.7339 ACRES OF LAND, MORE OR LESS.

**City of Las Cruces
HOME and CDBG Multi-family Rental Loan Policies**

Applicability:

1. Multi-family Rental Housing New Construction, in excess of four units.
2. Multi-family Rental Housing Rehabilitation, in excess of four units.
3. Transitional and Emergency Shelters, New or Rehabilitation Construction.

Terms:

	Low Income Housing Tax Credits-Federal		Affordable Housing Tax Credits-State	Non-Tax Credit Projects
	9% Tax Credit	4% Tax Credit		
Interest Rate	AFR*	1%	1%	1%
Mortgage Terms	45 years		20-45 years	20-45 years
Payment Terms	Yrs 1-15 Int. only Yrs 16-45 Amortized		Amortized based over term	Amortized based over term

* Applicable Federal Rate at time of initial HOME Agreement commitment

Special Conditions:

1. All loans with repayment required will start repayment on July 1, to coincide with new fiscal year. For example, if funds are awarded in October 2007, repayment will begin July 1, 2008.
2. Funding Capital for Transitional Living and Emergency Shelters either new or through rehabilitation of existing facilities, will be provided in the form of a Grant to the Sub-Recipient.
3. Rental Rehabilitation funding Projects will be capped at funding 40% of the total construction costs, excluding those in City-owned facilities, which may receive up to 100% of funding.

4. LIHTC projects with a 9% tax credit will have interest only payments in years 1-15 based on the Applicable Federal Rate at time of initial HOME Agreement commitment.
5. All loans shall be set up with an escrow company of the City's choosing and the payee shall pay both the monthly collection and distribution fee, while the city shall pay the initial fee.