RESOLUTION NO. 2018-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, APPROVING A HOME INVESTMENT PARTNERSHIPS LOAN TO MERCED GATEWAY INVESTORS II, LP, IN THE PRINCIPAL AMOUNT OF $500,000, APPROVING AND AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT, REGULATORY AGREEMENT, SUBORDINATION AGREEMENT AND RELATED LOAN DOCUMENTS, AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH

WHEREAS, pursuant to City Council action of _____2018 the City of Merced (the "City"), approved the execution of a City Loan Commitment Agreement dated July 17, 2017 (the "CLCA") with Merced Gateway Investors II, LP (the "Developer") which, among other things, provided for certain financial assistance in the form of loans from the City to the Developer; and,

WHEREAS, pursuant to the CLCA, the City agreed to make a loan in the amount of Five Hundred Thousand Dollars ($500,000) (the "HOME Loan") to the Developer to finance the construction of a multi-family affordable residential rental project (the "Project") on the Site; and

WHEREAS, in consideration for the HOME Loan, the Project is to consist of fifty (50) units, of which thirty-nine (39) units shall be restricted for occupancy by households with incomes at or below Sixty percent (60%) of the Area Median Income ("AMI"), ten (10) units shall be restricted for occupancy for homeless veteran families, and one (1) manager's unit shall be restricted for occupancy by households with income at or below one hundred twenty percent (120%) of the AMI, for a period of fifty-five (55) years; and

WHEREAS, the City has previously received a grant from the U.S. Department of Housing and Urban Development ("HUD") made to the City pursuant to the HOME Investment Partnership Program funds ("HOME Program") pursuant to and in accordance with a Funding Approval and HOME Investment Partnerships Agreement (M17-MC060227) (14.239 – HOME Entitlement Grant) under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended; and, with Federal award date September 22, 2017 between the City and HUD, from which funds the City intends to make the HOME Loan to the Developer; and

WHEREAS, the HOME Loan is being made pursuant to, and is subject to the HOME Program, established and governed by Title II of Public Law No. 101-625, 104 Stat. 4079 (Nov. 28, 1990), (42 USC 12701), known as the Cranston-Gonzalez National Affordable Housing Act of 1990 as amended by the Housing and Community Development Act of 1992, Public Law No. 102-550, the requirements of 24 CFR part 92, the State HOME Investment Partnerships Program Act (25 CCR Sections 8200 et. seq.) and the State Uniform Multifamily Regulations (25 CCR Sections 8300 et. seq.), as applicable (the "Law"); and

WHEREAS, the City Council of the City, with the aid of its staff, has reviewed the documentation related to the HOME Loan, which documentation is on file with City Clerk of the City; and

WHEREAS, the City now desires to authorize the making of the HOME Loan to the Developer pursuant to that certain Deed Restriction Covenant and Loan Agreement, dated _____, 2018 (the "HOME Loan Agreement"), by and between the City and the Developer, to be funded from moneys of the HOME Program, and subject to all applicable provisions and regulations of the Law, the Standard Agreement, and the Loan Documents as defined in the HOME Loan Agreement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1. The City hereby approves and authorizes the HOME Loan in the amount of Five Hundred Thousand Dollars ($500,000) to Developer, to be funded from grant proceeds of the HOME Program, all in accordance with the terms and conditions of the HOME Loan Agreement. The HOME Loan is also subject to terms and provisions of the Law, the Standard Agreement and all applicable rules and regulations applicable to the HOME Program.

SECTION 2. The City hereby approves and authorizes the execution of the HOME Loan Agreement, substantially in the form presented at this meeting and on file with the City Clerk of the City, with such revisions, amendments and completions as shall be approved by the Mayor, the City Manager, the Finance Director or the City Clerk of the City, and each of them, and any designee of any

of them (each, an "Authorized Officer") with the advice of the City Attorney, such approval to be conclusively evidenced by the execution and delivery thereof by an Authorized Officer.

SECTION 3. The HOME Loan will be evidenced by a Note (the "HOME Note") executed by the Developer in favor of the City and delivered concurrently with the execution of the HOME Loan Agreement. Repayment of the HOME Note will be secured by the Deed of Trust and Security Agreement (the "HOME Trust Deed"), covering the Site and the Project. The City hereby approves the HOME Note and the HOME Trust Deed substantially in the forms presented at this meeting and on file with the City Clerk of the City, with such revisions, amendments and completions as shall be approved by an Authorized Officer. The Developer shall execute the HOME Trust Deed in favor of Old Republic National Title Insurance Company as Trustor in trust for the benefit of City and deliver it to escrow for recordation.

SECTION 4. The City hereby approves and authorizes the execution of that certain (a) Regulatory Agreement and Declaration of Restrictive Covenants (the "HOME Regulatory Agreement"), by and between the City and the Developer, (b) Agreement Containing Covenants Affecting Real Property (the "HOME Covenant Agreement") and (c) Notice of Affordability Restrictions on Transfer of Property (the "HOME Notice"), substantially in the forms presented at this meeting and on file with the City Clerk of the City, with such revisions, amendments and completions as shall be approved by an Authorized Officer with the advice of the City Attorney, such approval to be conclusively evidenced by the execution and delivery thereof by an Authorized Officer. The City Clerk shall deliver the HOME Regulatory Agreement, the HOME Covenant Agreement and the HOME Notice to escrow for recordation.

SECTION 5. The City hereby approves the subordination of the HOME Loan to the CSCDA Loans to pursuant to the terms and provisions of that certain Subornation Agreement by and among _____, as agent for CSCDA, Developer and the City (the "Subordination Agreement").

SECTION 6. Any one of the Authorized Officers, and each of them, is hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they deem necessary or

advisable, in order to consummate the HOME Loan and otherwise to effectuate the purposes of this Resolution and the transactions contemplated hereby.

SECTION 7. The City Clerk shall certify as to the adoption of this Resolution, which shall be in full force and effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Merced, at a regular meeting held on the _____ day of _____ 2018, by following called vote:

AYES Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED

BY _____
Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM

BY: _____ 5-16-2018
City Attorney Date