

RECORDING REQUESTED BY:

City of Merced, A California charter
municipal corporation acting as the Housing
Successor Agency to the former Redevelopment
Agency of the City of Merced

WHEN RECORDED MAIL TO:

City of Merced
City Clerk
678 West 18th Street
Merced, California 95340

**Exempt Recording Per Gov't Code
Section 6103**

(Above for Recorder's Use Only)

**AGREEMENT CONTAINING COVENANTS
AFFECTING REAL PROPERTY**

**In Respect of the
CITY OF MERCED
acting solely as the Housing Successor Agency to the
Former City of Merced Redevelopment Agency**

**(Childs and B Street Transit-Oriented Development ("TOD" Affordable Housing
Project))**

THIS AGREEMENT (this "Agreement") is entered into this ____ day of _____, _____, by and between the City of Merced, a California charter municipal corporation,, acting solely as the Housing Successor Agency to the Redevelopment Agency of the City of Merced ("Agency"), and Merced CA Apartments, L.P., a Delaware limited partnership (the "Developer"), pursuant to that certain Disposition and Development Agreement dated _____, ____ (the "DDA" attached hereto as Exhibit "B" and incorporated herein) between the Developer and the City, with reference to the following:

WHEREAS, the City has acquired that certain real property consisting of approximately 5.06 acres and generally known as 1137 "B" Street, Merced, California 95341 (APN 035-010-071), incorporated herein by this reference (the "Property" or "Site"), legally described in the attached Exhibit "A". The Developer will acquire the 4.03 acres of the Property from the City pursuant to a Disposition and Development Agreement dated _____, ____ ("DDA").

WHEREAS, the City has agreed to provide a loan of One Million Two Hundred Thousand Dollars (\$1,200,000) from Low and Moderate Income Housing Asset Funds ("Housing Asset Funds") acting as the Housing Successor Agency ("Housing Successor") to the former Redevelopment Agency of the City of Merced ("RDA") (the "Housing Successor Loan") pursuant to the Deed Restriction Covenant and Loan Agreement.

NOW, THEREFORE, THE AGENCY AND THE DEVELOPER AGREE AS FOLLOWS:

1. The Developer, on behalf of itself and its successors, assigns, and each successor in interest to the Site or any part thereof, hereby covenants and agrees:

(a) To use, devote and maintain the Site and each part thereof, for the purposes and uses specified in the City's General Plan and in accordance with the City zoning requirements. No building or any tenant space within a building may include visible bars or grates over or behind any window visible from a public street or right of way. Any permanent signage affixed to the building or windows must be of high quality materials, not including tempera paint.

If in the future, should the building be rezoned to allow commercial uses, the retail and commercial spaces on the Site shall be developed to a high standard and shall not be leased, rented to, or occupied by pawn shops, tattoo parlors, fortune-tellers, skateboard shops, or bail bonds businesses.

(b) To maintain the improvements and landscaping on the Site and keep the Site free from any accumulation of debris and waste materials.

(c) Not to discriminate upon the basis of sex, marital status, disability, race, color, creed, religion, age, national origin, sexual orientation or identity, or ancestry in the sale, lease, sublease, transfer or rental, or in the use, occupancy, tenure, or enjoyment of the Site or any improvements thereon, or of any part thereof. Each and every deed, lease, and contract entered into with respect to the Site shall contain or be subject to substantially the following nondiscrimination or non-segregation clauses:

(1) In deeds: "The grantee herein covenants by and for himself, his heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or groups of persons on account of race, color, creed, religion, sex, disability, marital status, ancestry, sexual orientation or identity, or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee himself or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sub-lessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

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

That there shall be no discrimination against or segregation of any person or group of persons on account of race, disability, color, creed, religion, sex, marital status, ancestry, sexual orientation or identity, or national origin in the leasing, subleasing, transferring, use, or enjoyment of the land herein leased nor shall the lessee himself, or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy, of tenants, lessees, sub-lessees, subtenants, or vendees in the land herein leased."

(3) In contracts: "There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, sex, marital status, disability, ancestry, sexual orientation or identity, or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee himself or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sub-lessees or vendees of the land."

2. There shall be no discrimination against or segregation of any person or groups of persons, on account of sex, marital status, disability, race, color, creed, religion, age, national origin, sexual orientation or identity, or ancestry in the sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Site or any part thereof, nor shall the Developer, its successors, assigns, or successors in interest to the Site or any part thereof, or any person claiming under or through them, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sub-lessees, or vendees of the Site or any part thereof.

3. The covenants and agreements established in this Agreement shall, without regard to technical classification and designation, be binding on the Developer and any successor in interest to the Site, or any part thereof, for the benefit of and in favor of the City and Agency, and its successors and assigns. Except as set forth in the following sentence and as otherwise set forth in the Deed Restriction Covenant and Loan Documents with respect to the Housing Successor Loan, as such terms are defined in the Deed Restriction Covenant and Loan Agreement, the covenants in paragraph 1 of this Agreement shall remain in effect until 55 years from the issuance of a certificate of occupancy. The covenants against discrimination contained in paragraphs 1 and 2 of this Agreement shall remain in perpetuity.

4. The covenants and restrictions contained in this Agreement shall not benefit nor be enforceable by any owner of any other real property within or outside the Property or any person or entity having any interest in any such other real property.

5. Any notice, request, demands, approvals or other communications given hereunder or in connection herewith shall be sent by registered or certified mail, return receipt requested, postage and fees prepaid and addressed to the party hereto to receive such notice, at its address as set forth as follows:

TO CITY: City of Merced
678 West 18th Street
Merced, CA 95340
Attention: Housing Division & City Clerk

With a Copy to: City Attorney's Office
City of Merced
678 West 18th Street
Merced, CA 95340

TO DEVELOPER: Merced CA Apartments, L.P., a Delaware limited partnership
c/o JDF, LLC
777 West Putnam Avenue
Greenwich CT 06830
Attention: Joanne D. Flanagan, Esq.

With a Copy to: The Richman Group of California Development Company LLC
420 31st Street Suite B1
Newport Beach, CA 92663
Attention: Rick Westberg

TO INVESTOR: USA Institutional Merced, LLC
c/o JDF, LLC
777 West Putnam Avenue
Greenwich, CT 06830
Attention: Joanne D. Flanagan, Esq.

With a Copy to: Kraus Lam LLC
230 W. Monroe St.
Chicago, IL 60606
Attention: Daniel Kraus, Esq.

Either party may, by notice given as aforesaid, change its address for any subsequent notice. Any notice shall be deemed given on the second day following its deposit in the United States mail. No party hereto shall be deemed to be in default of any provision hereof unless and

until twenty-one (21) days notice thereof shall be given by one party to the other, and then the party in default shall have the absolute right to cure said default so long as such cure is commenced within a reasonable time, in no event longer than sixty (60) days, and such cure is diligently prosecuted to its conclusion. The foregoing is in addition to any of the provisions contained herein.

IN WITNESS WHEREOF, the City and the Developer have executed this Agreement by duly authorized representatives, all on the date first above written.

CITY OF MERCED ACTING AS THE HOUSING
SUCCESSOR AGENCY TO THE FORMER
REDEVELOPMENT AGENCY OF THE CITY OF
MERCED

BY: _____
Agency Executive Director

ATTEST:
STEPHANIE R. DIETZ, INTERIM CITY CLERK

BY: _____
Assistant/Deputy City Clerk acting as
the Secretary to the Board

APPROVED AS TO FORM:

BY: Prueha A. Ntn 9-24-2020
Agency General Counsel Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

“DEVELOPER”

Merced CA Apartments, L.P., a
Delaware limited partnership

By: Merced Childs & B Street, LLC, a
Delaware limited liability company

Its Managing General Partner

By: Central Valley Coalition for Affordable
Housing, a California nonprofit
corporation, Managing Member

Christina Alley, Chief Executive
Officer

By: Merced CA GP, LLC, a Delaware
limited liability company

Its Administrative General Partner

By: TRG Merced CA Member LLC, a
Delaware limited liability company

Its Sole Member

By: _____
Samantha Anderes, its Treasurer

By: The Richman Group of California
Development Company LLC, a
California limited liability company,
its Co-General Partner

By: _____
Samantha Anderes, its Treasurer

Taxpayer I.D. No. _____

ADDRESS:

c/o JDF, LLC
777 West Putnam Avenue
Greenwich CT 06830
Attention: Joanne D. Flanagan, Esq.

TELEPHONE: (203) 869-0900
FACSIMILE: (203) 496-8569
E-MAIL: flanaganj@jdfllaw.com

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

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of _____

}

On _____ before me,

Date

Here Insert Name and Title of the Officer

personally appeared _____,

Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Signature

Place Notary Seal Above

Signature of Notary Public

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

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of _____

}

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

WITNESS my hand and official seal.

Signature

Place Notary Seal Above

Signature of Notary Public

Exhibit A: Legal Description of Property

EXHIBIT A

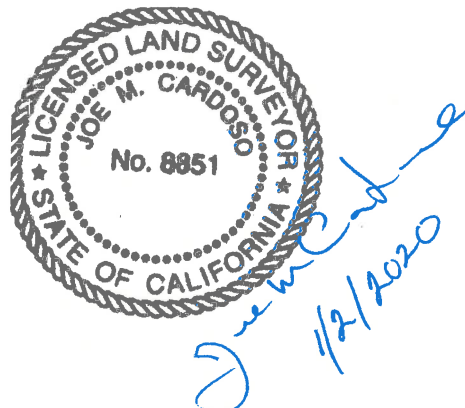
A parcel of land situated in the Southeast One Quarter (SE1/4) of Section 30, Township 7 South, Range 14 East, M.D.B. & M., City of Merced, County of Merced, State of California, said parcel of land being a portion of Parcel A, as said Parcel A is delineated on that certain map entitled "PARCEL MAP FOR RAYMOND A. BESSEMER M.D.", filed for record on March 2, 2000, in the office of the County Recorder of Merced County, in Book 86 of Parcel Maps, at Pages 22-23, said parcel of land being more particularly described as follows:

All of said Parcel A, EXCEPTING THEREFROM the following real property:

BEGINNING at the southwest corner of said Parcel A; thence N24°39'01"E, along the west line of said Parcel A, a distance of 211.87 feet; thence S6S° 21' 00" E, to the easterly line of said Parcel A, a distance of 320.00 feet; thence S24°39'01"W, along said easterly line, a distance of 63.21 feet to the beginning of a tangent curve concave to the northwest, having a radius of 15.00 feet; thence southwesterly along said curve, through a central angle of 66°33'00", an arc distance of 17.42 feet to a point of tangency on the south line of said Parcel A; thence N88°48'00"W, along said south line, a distance of 338.97 feet to **POINT OF BEGINNING.**

The above-described parcel of land is delineated on Exhibit B, attached hereto, and made a part hereof.

The above-described parcel of land contains 4.01 acres, more or less, is subject to any liens, encumbrances, covenants, restriction, and rights-of-way or easements of record or legally acquired.



PARCEL 2
94 P.M. 33

PARCEL 1
94 P.M. 33

COUNTY OF MERCED
GRANT DEED
2009-061427, M.C.R.

4.01 ACRES
174,683 Sq. Ft.

PARCEL A
86 P.M. 22

MERCED CEMETERY
DISTRICT

COUNTY OF MERCED



SCALE: 1"= 100'

N24°39'01"E 757.80'
545.93'

S65°19'58"E 320.00'

15 R.S. 11

S24°39'01"W 609.06'
545.84'

B STREET

S65°21'00"E 320.00'

1.05 ACRES
45,570 Sq. Ft.

211.87'

63.21'

N88°48'00"W 338.97'

P.O.B.

CHILDS AVENUE

DELTA = 66°33'00"
RAD. = 15.00'
LEN. = 17.42'
TAN. = 9.84'

Lt O.P. 24



City of Merced
DEVELOPMENT SERVICES
ENGINEERING PROJECTS AND STANDARDS
678 W. 18th Street (209) 385-6846

EXHIBIT B

DR. BY: CARDOSO
DATE: 4/19/16
CH. BY:
DATE:
File No.

SCALE: 1"=100'

Exhibit B: Disposition and Development Agreement