

CITY OF SANTA FE
SANTA FE HOMES PROGRAM
RENTAL AGREEMENT

"Rodeo Village Apartment Community"
Tract D, Rodeo Business Park, Santa Fe, New Mexico

This Santa Fe Homes Program ("SFHP") Agreement ("Agreement") is made and entered into this 14th day of February, ^{2018 year} 2017 by and between the City of Santa Fe, New Mexico, a New Mexico Municipal Corporation ("City") and Titan Property Management, LLC, a New Mexico limited liability company ("SFHP Developer").

RECITALS

- A. **WHEREAS**, the City has duly adopted the Santa Fe Homes Program and administrative procedures (collectively, the "SFHP") and other regulatory structures in order to ensure that private development bears its fair share of the burden of housing affordability in the Santa Fe community.
- B. **WHEREAS**, in accordance with the requirements of the SFHP, the SFHP Developer has submitted an SFHP proposal (SFHP Proposal), which provides the procedural prerequisite for this Agreement;
- C. **WHEREAS**, the SFHP Developer is the developer of Rodeo Village Apartment Community, and in its SFHP Proposal, the SFHP Developer has proposed to develop the property as described in the document attached hereto as **Exhibit 1** (development plan), incorporated herein by reference, and hereinafter referred to as the "Property".
- D. **WHEREAS**, the SFHP Developer desires to develop the Property subject to and upon the terms and conditions hereinafter set forth and in compliance with Sections 14-9.6 and 26-1 *et seq.* Santa Fe City Code (SFCC) 1987.
- E. **WHEREAS**, pursuant to Ordinance 2016-09, the Governing Body approved amending the Santa Fe Homes Program requirement to allow developers of rental housing to pay a fee-in-lieu instead of seeking an alternate means of compliance if a building permit is obtained between January 1, 2016 and December 31, 2019. Incentives for SFHP developers, as set forth in subsection 14-8.11 SFCC 1987, will not be available for these projects.

F. **WHEREAS**, it is understood that all representations made herein are material to the City and that the City will rely upon these representations in permitting or approving development of the Property.

AGREEMENTS

NOW, THEREFORE, in consideration of the premises, the following agreements and undertakings of the parties, the City and the SFHP Developer, for themselves and their heirs, successors and assigns, hereby agree to be bound by the following terms in order to ensure SFHP compliance, and hereby agree as follows:

1. DEVELOPMENT REQUEST

A. Separate from this Agreement, SFHP Developer is in the process of seeking final development plan approval to build 188 rental units, priced at market rates.

B. The Developer agrees to comply with the Santa Fe Homes Program Ordinance through the payment of a fee, established on an “affordability gap” measure as per SFHP Administrative Procedures.

2. OBLIGATIONS

A. No SFHP Homes Required. Because the project meets the criteria outlined in Ordinance 2016-09, the SFHP does not require construction of any SFHP Homes on-site.

B. Fee Agreement. The SFHP Developer agrees to make a payment of **\$232,524** (the SFHP Payment), as calculated pursuant to the SFHP and as described in **Exhibit 2**. The payment shall be made payable to the City of Santa Fe and dedicated to the Affordable Housing Trust Fund (AHTF). The fee revenues will be used to provide tenant based, scattered site rental assistance to income-qualified renters or to provide capital support for an off-site affordable rental housing project.

C. Payment Deadline. The amount set forth in paragraph 2.B above shall be fully paid to the City’s Office of Affordable Housing at the time this Agreement and the annexation plat, rezoning ordinance, final subdivision plat, or final development plan are recorded at the Santa Fe County Clerk. If none of the previous documents is required, a copy of this Agreement and a receipt that the fee has been paid shall be included with the submittal for a building permit.

3. ENFORCEMENT.

A. Remedies. Failure to make the full payment required under this agreement within 180 calendar days of the date of the SFHP Developer's execution of this Agreement will result in any or all of the following sanctions, depending upon which the Office of Affordable Housing judges to be the most effective and appropriate given the circumstances:

- a) Withholding the recording of plats or plans,
- b) Withholding or revoking building permits,
- c) Issuing stop work orders, and
- d) Withholding or revoking certificates of occupancy.

B. Other Remedies Available. It is understood and agreed by the SFHP Developer that the remedies provided under Section 3.A of this Agreement are non-exclusive. This Agreement shall not restrict the City's recourse to any remedy available under the law including, but not limited to, liens and litigation.

C. Notice. The City agrees to provide written notice pursuant to the SFHP of any violation or alleged violation of the terms and conditions of this Agreement. The SFHP Developer will give the City written notice of any violation or alleged violation of the terms and conditions of this Agreement. Both parties will give the other party thirty at least days to cure any violation or alleged violation of this Agreement.

City of Santa Fe:

Office of Affordable Housing
PO Box 909
Santa Fe, NM 87504-0909

Contractor:

Titan Property Management LLC
6300 Riverside Plaza Lane NW, Ste 200
Albuquerque, NM 87120

4 SUCCESSORS IN TITLE/COVENANTS TO RUN

In the event that SFHP Developer sells, assigns, leases, conveys, mortgages, or encumbers the Property to any third party, the third party shall be provided with a copy of this Agreement and shall be required to comply with this Agreement. The terms and conditions of this Agreement run with the land and are binding upon all heirs, successors, and assigns.

5. **RECORDATION**

The SFHP Developer agrees to put into escrow a check payable to the Santa Fe County Clerk's office to pay for recording this Agreement in the amount of \$25.00. The City will record the Agreement within ten days after the date of the last signature obtained unless the SFHP Developer pays in full the required SFHP Payment. If paid in full, the City will not record the Agreement and will return the check. .

6. **CITY'S ZONING AUTHORITY UNIMPAIRED**

The City's rights to enforce any and all provisions of the Santa Fe City Code shall be the same as its rights generally to enforce any other ordinance, which shall in no way be diminished by this Agreement. The SFHP Developer acknowledges that this Agreement is included within the zoning authority and charter authority of the City, which is, and is hereby, accepted by the SFHP Developer as a sufficient but additional basis for this Agreement.

7. **CAPTIONS**

The captions and paragraph headings of this Agreement are not necessarily descriptive or intended or represented to be descriptive, of all the provisions thereunder, and in no manner shall such captions and paragraph headings be deemed or interpreted to limit the provisions of this Agreement.

8. **FURTHER ASSURANCES**

The parties agree to execute such documents as may be required to show the satisfactory compliance with SFHP Ordinance (SFCC 26-1) and this Agreement.

9. **SEVERABILITY**

If any provision of this Agreement, or the application of such provisions to any person or circumstances, shall be held invalid, the remainder of this Agreement, or the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

10. **NO WAIVER**

No actions taken by the parties following a breach of any of the terms contained in this Agreement shall be construed to be a waiver of any claim or consent to any succeeding breach of the same or any other term.

11. NUMBERS AND GENDERS

Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

12. GOVERNING LAW; VENUE; INTERPRETATION

SFHP Developer shall abide by all applicable federal and state laws and regulations, and all ordinances, rules, and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the SFHP Developer agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

This Agreement shall be enforceable according to its terms and New Mexico law. This Agreement is subject to the general principles of equity, fairness and reasonableness irrespective of whether such enforcement or interpretation is considered in a proceeding at equity or in law and shall be construed according to its purpose of fostering and preserving affordable housing. Any benefit to private parties arising under this Agreement is purely incidental to the purpose of creating affordable housing.

13. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written Agreement. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement. This Agreement shall not relieve the SFHP Developer from complying with present or future City ordinances, duly adopted resolutions, or regulations applicable to the development.

14. AMENDMENTS

This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto. Any amendments to this Agreement shall be reviewed by the Office of Affordable Housing and sent, if applicable, to the appropriate review body as set forth in

the SFHP Ordinance and then to the City Manager for approval.

15. TERM

This Agreement shall remain in force until the full payment of the SFHP Payment obligation set forth herein.

16. PUBLIC PURPOSE

The City declares, and the SFHP Developer acknowledges, that this Agreement as well as all restrictions contained in this Agreement are for public purposes.

WHEREFORE, the parties set their hands and seals this 14th day of February, 2018.

ATTEST:

CITY OF SANTA FE:

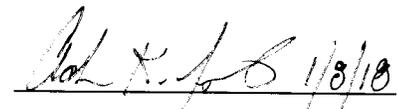

YOLANDA Y. VIGIL, CITY CLERK
YV


BRIAN K. SNYDER, CITY MANAGER
2/14/2018

APPROVED AS TO FORM:

CITY OF SANTA FE:


KELLEY A. BRENNAN, CITY ATTORNEY


ADAM K. JOHNSON,
FINANCE DIRECTOR *AKJ*

SFHP DEVELOPER/SUCCESSOR IN INTEREST:

Titan Property Management, LLC.

By: [Signature]
Josh Rogers

Its: Director to Entitlements

ACKNOWLEDGEMENTS

STATE OF NEW MEXICO)

) ss.

COUNTY OF SANTA FE)

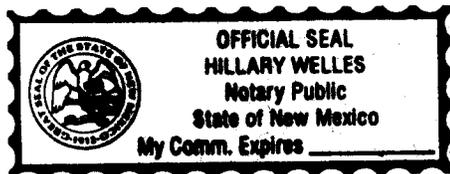
The foregoing instrument was acknowledged before me this 31st day of January,
2018, by Josh Rogers.

[Signature]

NOTARY PUBLIC

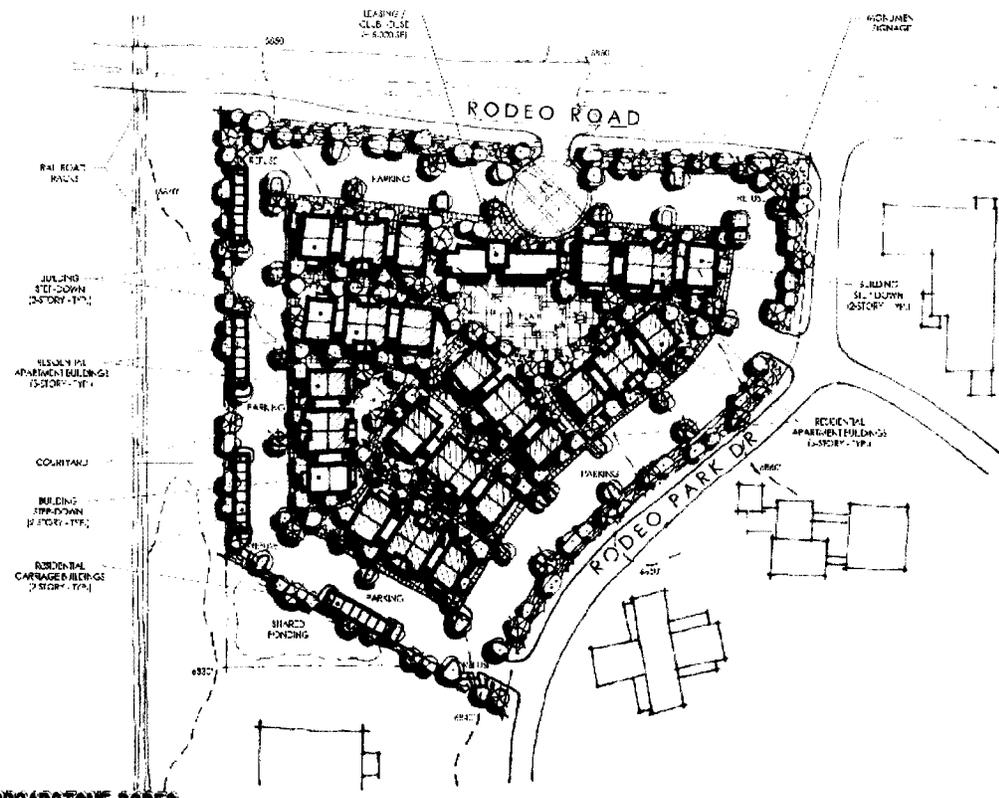
My Commission Expires:

10/26/2019



Attach: Exhibit 1 - Development plan
Exhibit 2 - SFHP Pricing & Rental schedule

PRELIMINARY - NOT FOR CONSTRUCTION

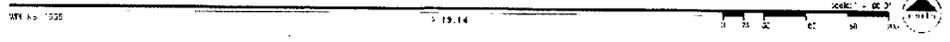


PROJECT DATA:

SITE AREA:	1,549,330 SQ. FT. (35.032 ACRES)
TOTAL UNITS:	184 UNITS (± 43.7%)
1-BDRM:	190 UNITS (± 45.9%)
2-BDRM:	176 UNITS (± 9.3%)
TOTAL:	1,192 UNITS
DENSITY:	123.5 D.U. / ACRE
PARKING PROVIDED:	1338 SPACES
SURFACE:	294 SPACES
GARAGE:	24 SPACES
PARKING RATIO:	± 1.65 SPACES / UNIT
PARKING REQUIRED:	1,267 SPACES
1-BDRM (1,000 sq ft):	84 x 1.25 = 106 SPACES
2-BDRM (1,200 sq ft):	90 x 1.5 = 135 SPACES
3-BDRM (1,250 sq ft):	16 x 1.5 = 27 SPACES
OPEN SPACE REQUIRED:	250 SF PER UNIT = 47,000 SQ. FT. (1,061 x 199)
OPEN SPACE PROVIDED:	± 72,450 SQ. FT.

**BROADSTONE RODEO
APARTMENT
COMMUNITY**
SANTA FE, NEW MEXICO

CONCEPT SITE PLAN



**SANTA FE HOMES PROGRAM
PRICING & RENTAL SCHEDULE
"RODEO VILLAGE"**

The project is in a SC-1 zoning district. The project has an area of approximately 8.0 acres. The project is proposing 188 rental homes; 0 studio, 78 one-bedroom units, 92 two-bedroom units, and 18 three-bedroom units.

The SFHP requirement is calculated below:

Total number of units multiplied by (0.15) = the number of SFHP rental units required

188 total units x 0.15 = 28.2 SFHP unit(s) is/are required.

In lieu of providing affordable rental units, the Developer proposes to comply with SFHP through the payment of a fee as per Ordinance 2016-09.

2017 Affordability Gap Voucher Calculation

- 1) Use the "affordability gap" which is based is based on subtracting the subsidized rent (SFHP Avg) from the HUD Fair Market Rent (HUD FMR) as illustrated below to determine a "fee per unit":

	2017 HUD FMR	SFHP Avg	Fee/Unit
Studio	\$ 806	\$ 538	\$ 268
1 BR	\$ 878	\$ 615	\$ 263
2 BR	\$ 1,048	\$ 691	\$ 357
3 BR	\$ 1,392	\$ 768	\$ 624
4 BR	\$ 1,477	\$ 830	\$ 647

- 2) Enter how many market rate units are in each bedroom size; multiply by 15% to get the number of affordables; multiply the # of affordables by the Fee/Unit to get the Fee/Month; and then multiply that amount by 24 (to represent two years of assistance for the tenant who would otherwise live in that unit):

BR Size	# Units	Aff'd Units	Fee/Unit	Fee/Mo	Project Fee
Studio	0	0	\$268	\$0	\$0
1	78	11.7	\$263	\$3,077	\$73,850
2	92	13.8	\$357	\$4,927	\$118,238
3	18	2.7	\$624	\$1,685	\$40,435
TOTAL	188	28.2		\$9,689	\$232,524