

Escrow #85481CLH  
APN: 1220-03-000-028

AGREEMENT TO USE HOME INVESTMENT PARTNERSHIPS PROGRAM  
("HOME FUNDS")

BY CRESTMORE VILLAGE APARTMENTS LIMITED PARTNERSHIP

WHEREAS, the Housing Division, Department of Business and Industry, State of Nevada, "NHD", has entered into a Grant Agreement with the United States Department of Housing and Urban Development, "HUD", for participation in the Home Investment Partnerships Program, "HOME Program" under 24 CFR Part 92 as amended; and

WHEREAS, NHD, as the Entitlement Grantee for the HOME Program, is responsible for the planning, administration, implementation, and evaluation of the program; and

WHEREAS, Crestmore Village Apartments Limited Partnership, a Nevada Limited Partnership, hereinafter referred to as "Crestmore Village".

WHEREAS, NHD desires to assist Crestmore Village by providing HOME Program funds to assist with the construction of a forty unit multi-family project located at 1330 Stodick Parkway, Gardnerville, NV described in Exhibit "A", hereinafter referred to as "The Project".

NOW, THEREFORE, in consideration of the foregoing, the use of HOME Program funds are hereby granted to Crestmore Village by NHD subject to the following conditions and limitations:

**I. Scope of Services.**

A. NHD will loan \$371,948.00 to Crestmore Village in HOME Program funds. The loan will be made at the federal applicable rate at the time of closing. The funds will be used as gap financing for the project. The project is to be completed by December 31, 2001, unless otherwise specified in writing by NHD.

B. Crestmore Village agrees that any project costs, unless otherwise specified, exceeding the \$371,948.00 in HOME Program funds provided by NHD pursuant to this Agreement will be the responsibility of Crestmore Village. Crestmore Village further agrees to pay maintenance and operating costs for the Project.

C. Changes in the Scope of Services as outlined herein must be in accordance with HOME Program regulations, made by written amendment to this Agreement, and approved by both parties. Any such changes must not jeopardize HOME Program funding.

D. Payment of funds will be made quarterly and will start April 1, 2002.

**II. Division General Conditions.** Crestmore Village agrees to abide by all conditions fully set forth below.

A. Crestmore Village has agreed that eleven units will be HOME assisted. The HOME assisted units will consist of eleven two-bedroom units. The units will house families at or below 50% of median income and will have Low-HOME rents. These units will be floating HOME units.

B. Crestmore Village has requested the financial support of NHD that is provided for in this Agreement in order to enable Crestmore Village to provide affordable housing services. NHD shall have no relationship whatsoever with the services provided, except the provision of financial support, monitoring, and the receipt of such reports as are provided for herein. To the extent, if at all, that any relationship to such services on the part of NHD may be claimed or found to exist, Crestmore Village shall be an independent contractor only.

C. Crestmore Village shall obtain any and all federal, state, and local permits and licenses required to execute the Project as described in this Agreement's Scope of Services. Crestmore Village further agrees to abide by all applicable federal, state, and local codes, regulations, statutes, ordinances, and laws.

D. Crestmore Village will provide NHD with client usage records on an annual basis during the period of this Agreement. These records will contain, but are not limited to, the following data:

1. Total clients served;
2. Racial breakdown of clients served including Black, White, Hispanic, American Indian/Alaskan and Asian/Pacific Islander;
3. Number and percentage of Low and Very Low Income clients as defined by HUD HOME Program Income Guidelines;
4. Number of handicapped clients served;
5. Number of senior citizens served;
6. Number of female head-of-households served;
7. Name of each head of household served;
8. Number of persons in each household served; and
9. Rent charged each household served.

E. Crestmore Village will not lease any portion of the affordable housing units to other than HOME-eligible tenants, as defined in the HOME Program regulations (24 CFR 92), without prior written approval from NHD. Any lessee, sublessee, or assignee must meet HOME Program requirements and serve eligible low-income residents.

F. If the affordable housing units, or any portion thereof, are subleased without the prior written approval of NHD, or through foreclosure, sale, or other circumstances Crestmore Village loses legal possession of the Property, Crestmore Village shall, upon the request of NHD repay to NHD the balance HOME loan that Crestmore Village received from NHD hereunder. NHD shall require reasonable assurances of security for such repayments in the form of a deed of trust for such Property pursuant to 24

CFR 92.252, and which Crestmore Village shall execute as part of this Agreement. If Crestmore Village chooses to sell, transfer or otherwise convey the subject property, the term of affordability will remain with the eleven HOME assisted units pursuant to deed restrictions placed on the project.

G. Crestmore Village may not assign or delegate any of its rights, interests or duties under this Agreement without the prior written consent of NHD. Any such assignment or delegation made without the required consent shall be voidable by NHD, and may, at the option of NHD, result in the forfeiture of all financial support provided herein.

H. Crestmore Village shall carry or provide Comprehensive Fire and Hazard insurance covering the full replacement costs of the project.

1. Crestmore Village shall allow duly authorized representatives of NHD to conduct such occasional reviews, audits and on-site monitoring of the Project as NHD deems necessary in order to determine:

1. Whether the objectives of the Project are being achieved;
2. Whether the Project is being conducted in an efficient and effective manner;
3. Whether management control systems and internal procedures have been established to meet the objectives of the Project;
4. Whether the financial operations of the Project are being conducted properly;
5. Whether the periodic reports to NHD contain accurate and reliable information; and
6. Whether all of the activities of the Project are conducted in compliance with the provisions of Federal and State laws and regulations and this Agreement.

Visits by NHD to the Project shall be announced to Crestmore Village in advance of those visits and shall occur during normal operating hours. The representatives of NHD may request, and, if such a request is made, shall be granted, access to all of the records of Crestmore Village which relate to the Project. The representatives of NHD may, from time to time, interview recipients of the housing services of the Project who volunteer to be interviewed.

J. At any time during normal business hours, Crestmore Village' records with respect to the Project shall be made available for audit, examination and review by NHD, the Attorney General's Office, contracted independent auditors, HUD, the Comptroller General of the United States, or any combination thereof.

K. Crestmore Village will protect, defend, indemnify, and save and hold harmless NHD from and against any and all liability, damages, demands, claims, suits, liens, and judgments of whatever nature including but not limited to claims for contribution or indemnification for injuries to or death of any person or persons, caused by, in connection with, or arising out of any activities undertaken pursuant to this Agreement. C's obligation to protect, defend, indemnify, and save and hold harmless as set forth in this paragraph shall include any and all attorneys' fees incurred by NHD in the defense or handling of said suits, demands, judgments, liens and claims and all attorneys' fees and investigation expenses incurred by NHD in enforcing or obtaining compliance with the provisions of this Agreement.

L. Crestmore Village will not use any funds or resources which are supplied by NHD in litigation against any person, natural or otherwise, or in its own defense in any such litigation, and agrees to notify NHD of any legal action which is filed by or against it.

M. This Agreement will commence upon its approval and signature by all parties. The term of affordability shall be governed according to the terms and conditions set forth in Section III, paragraph K.

N. In the event Crestmore Village and/or NHD anticipate that the total amount of funds allocated by this Agreement will not be expended in the time and manner prescribed in this Agreement, NHD reserves the right to extract that portion for other projects/programs operated under NHD's HOME Program.

O. Crestmore Village agrees that no officer or employee of Crestmore Village may seek or accept any gifts, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in that position to depart from the faithful and impartial discharge of the duties of that position.

P. Crestmore Village agrees that no officer or employee of Crestmore Village may use his or her position to secure or grant any unwarranted privilege, preference, exemption or advantage for himself or herself, any member of his or her household, any business entity in which he or she has a financial interest or any other person.

Q. Crestmore Village agrees that no officer or employee of Crestmore Village may participate as an agent of Crestmore Village in the negotiation or execution of any contract between Crestmore Village and any private business in which he or she has a financial interest.

R. Crestmore Village agrees that no officer or employee of Crestmore Village may suppress any report or other document because it might tend to affect unfavorably his or her private financial interests.

S. Crestmore Village shall keep and maintain in effect at all times any and all licenses, permits, notices and certifications which may be required by any county ordinance or state or federal statute.

T. Crestmore Village shall be bound by all county ordinances and state and federal laws, conditions, regulations and assurances which are applicable to the entire HOME Program or are required by HUD, NHD, or any combination thereof.

U. Any material breach of this section may, at the discretion of NHD, result in forfeiture of all HOME Program funds received by Crestmore Village.

### III. Federal General Conditions.

A. Crestmore Village shall comply with the following laws and directives:

1. The Hatch Act as set forth in Title 5, Chapter 15, of the United States Code.
2. The National Environmental Policy Act of 1969 as set forth in Public Law 91-190 and the implementing regulations in 24 CFR, Parts 51 and 58.
3. Title VIII of the Civil Rights Act of 1968, Public Law 90-284.
4. Section 109 of the Housing and Community Development Act of 1974.
5. Title VI of the Civil Rights Act of 1964, Public Law 88-352, and the regulations of HUD with respect thereto, including 24 CFR, Parts 1 and 2.
6. The Fair Housing Act, as amended.
7. Section 3 of the Housing and Urban Development Act of 1968, as amended, and the regulations of HUD with respect thereto, including 24 CFR, Part 135.
8. Executive Order 11063, as amended.
9. The Age Discrimination Act of 1975.
10. Section 504 of the Rehabilitation Act of 1973.
11. Executive Order 11246, as amended, and the regulations which are issued pursuant thereto.
12. The Fair Labor Standards Act.
13. Section 202(a) of the Flood Disaster Protection Act of 1973.
14. Sections 302 and 401(b) of the Lead-Based Paint Poisoning Prevention Act and implementing regulations in 24 CFR, Part 35.

15. The Davis-Bacon Act, as amended, which requires that all laborers and mechanics who are employed to perform work on the Project, or any contractor whose work is financed, in whole or in part, with assistance which is received under the Housing and Community Development Act of 1974, shall compensate for such work at wage rates which are not less than those that prevail in the locality for similar construction, and said workers shall receive overtime compensation in accordance with the Contract Work Hours and Safety Standards Act. The contractor and its subcontractors shall also comply with all applicable Federal laws and regulations which pertain to labor standards, including the minimum wage law.
16. 45 CFR, Part 76, Subpart F of the Drug-Free Workplace Act of 1988.
17. Section 319 of Public Law 101-121, of the Department of the Interior Appropriations Act, which prohibits Crestmore Village from using appropriated Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan, and requires that no Federal appropriated funds have been paid or will be paid, by or on behalf of C, 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.
18. Title I of the Housing and Community Development Act of 1974, as amended, which requires that C:
  - a. shall not discriminate against any employee or applicant for employment on the basis of religion, and not limit employment or give preference in employment to persons on the basis of religion;
  - b. shall not discriminate against any person applying for such public services on the basis of religion, and not limit such services or give preference to persons on the basis of religion; and
  - c. shall not provide religious instruction or counseling, conduct religious worship or services, engage in religious proselytizing, or exert any religious influence in the provision of the public services set forth in this Agreement.
19. Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225.

B. No officer, employee or agent of NHD shall have any interest, direct

or indirect, financial or otherwise, in any contract or subcontract or the proceeds thereof, for any of the work to be performed pursuant to the Project during the period of service of such officer, employee or agent, for one year after the completion of the project.

C. None of the personnel employed in the administration of the Project shall be in any way or to any extent engaged in the conduct of political activities in contravention of Chapter 15 Title 5, U.S. Code.

D. None of the HOME Program funds to be paid under this Agreement shall be used for any partisan political activity, or to support or defeat legislation pending before Congress.

E. Crestmore Village shall carry out its activities in compliance with all Federal laws and regulations described in 24 CFR Part 92, which are applicable to HOME Program grants, except that Crestmore Village will not assume NHD's environmental responsibilities described in 24 CFR 92.352, nor the intergovernmental review process described in 24 CFR 92.359.

F. Crestmore Village shall comply with applicable uniform administrative requirements, as described in 24 CFR 92.505.

G. Crestmore Village shall maintain records in accordance with 24 CFR 92.508.

H. Crestmore Village shall comply with the requirements of Executive Order 11625, 12432, and 12138 which provide for the utilization of minority businesses and women business enterprises in all federally assisted contracts. Crestmore Village shall provide NHD, on an annual basis, records and data on Minority Business Enterprise, Women's Business Enterprise, and affirmative marketing efforts. These records shall contain, but are not limited to, the following data:

1. Data on the attempts to reach minority-owned and female-owned businesses when announcing business opportunities;
2. Data on racial/ethnic or gender character of business to whom a contract was awarded and the contract amount; and
3. Data on attempts to affirmatively further fair housing.

NHD, in its discretion, may request such other and further information as from time to time required to ensure compliance with the mandates of the above listed Executive Orders.

I. Program income, not including rents receivable, shall be returned to NHD unless NHD authorizes in writing that all or a specific portion thereof of such program income will be retained by Crestmore Village.

J. Any material breach of the terms of this section may, in the discretion of NHD, result in forfeiture of all HOME Program funds received by Crestmore Village.

K. For a period of 20 years, Crestmore Village agrees to maintain the residential units of the Project as "affordable housing" per the HOME Program regulations, Section 92.252, unless a longer period of affordability has been stated in the Low-Income Housing Tax Credit Regulatory Agreement.

L. Crestmore Village agrees to maintain the Project in compliance with Housing Quality Standards established by HUD for the Section 8 Program, and local housing code requirements for the duration of this Agreement.

M. Crestmore Village agrees to undertake an affirmative marketing program in conformance with 24 CFR 92.351(b) and Chapter 3 of the HUD Handbook 7360.01 (Rental Rehabilitation Program) and as described in the State of Nevada Program Description.

N. Crestmore Village agrees that the duration of this Agreement is in effect for the Period of Affordability established in paragraph K of this section, commencing from the initial date of payment of HOME funds, pursuant to 24 CFR 92.252.

O. Crestmore Village agrees that, for the duration of this Agreement, the Project will be operated in compliance with Home Program requirements, specifically those contained in 24 CFR 92.250-92.258, Subpart F.

P. All leases with tenants living in HOME-assisted units shall be made for not less than one year, unless a shorter term is mutually agreed upon between Crestmore Village and tenant. All such leases must comply with the requirements set forth in 24 CFR 92.253.

Q. Crestmore Village agrees to allow Nevada Housing Division to inspect the property to ensure that the units meet HQS standards, or the local building codes that are in effect at the time of funding.

R. Crestmore Village agrees to recertify tenant HOME Program eligibility at least annually as required by HUD regulations.

S. Crestmore Village agrees that maximum rents charged shall not exceed those calculated by NHD per HOME Program regulations, and that Crestmore Village will supply tenants with written notice at least 45 days before implementing any rent increase.

#### **IV. Financial Management.**

A. Crestmore Village agrees to comply with the requirements of the United States Office of Management and Budget (OMB) Circular No. A-110 "Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" and its relevant attachments "A" through "O" excepting Section F.2(H) of OMB Circular A-110 which has been superseded by OMB Circular A-133; and Circular A-122, entitled "Cost Principles for Non-Profit Organizations".

B. Crestmore Village agrees that all costs of the Project shall be recorded by budget line items and be supported by checks, payrolls, time records, invoices, contracts, vouchers, orders and other accounting documents evidencing in proper detail the



nature and propriety of the respective charges, and that all checks, payrolls, time records, invoices, contracts, vouchers, orders or other accounting documents which pertain, in whole or in part, to the Project shall be thoroughly identified and readily accessible to NHD.

C. Crestmore Village agrees that excerpts or transcripts of all checks, payrolls, time records, invoices, contracts, vouchers, orders and other accounting documents related to or arguably related to the Project will be provided upon request to NHD.

D. Crestmore Village agrees that it may not request disbursement of funds under this Agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed.

**V. Modification or Revocation of Agreement.**

A. NHD will amend or otherwise revise this Agreement, without Crestmore Village approval, should such modification be required by HUD or any applicable Federal statutes or regulations.

B. In the event that any of the HOME Program funds for any reason are terminated or withheld from NHD or otherwise not forthcoming, NHD may revoke this Agreement.

C. In accordance with 24 CFR 85.43, NHD may suspend or terminate this agreement if Crestmore Village fails to comply with any of its terms.

D. This agreement may be terminated at the convenience of NHD in accordance with 24 CFR 85.44.

E. This Agreement constitutes the entire Agreement between the parties and may only be modified by a written amendment signed by the parties, or as otherwise set forth in the terms of the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and intend to be legally bound thereby, this 30<sup>th</sup> day of October, 2001. The undersigned certifies that it has not contracted services of any debarred, suspended or ineligible contractors or allow any of its members to contract services of any debarred, suspended or ineligible contractors

CRESTMORE VILLAGE APARTMENTS  
LIMITED PARTNERSHIP, A Nevada  
Limited Partnership

By: Picerne Crestmore Village Apartments,  
LLC., a Nevada Limited Liability Company,  
as managing general partner

By: [Signature]  
Robert M. Picerne, Manager

State of Florida )  
County of Seminole

On this 29<sup>th</sup> day of October, 2001, before me, a Notary Public, personally appeared Robert M. Picerne, who did say that he is the manager of Picerne Crestmore Village Apartments, LLC, which is the managing general partner of Crestmore Village Apartments Limited Partnership, a Nevada Limited Partnership named in the foregoing instrument, and acknowledged that he executed the same.

[Signature]  
Notary Public



Kristin S. Brown  
MY COMMISSION # CC944607 EXPIRES  
June 13, 2004  
BONDED THRU TROY FAIR INSURANCE, INC.

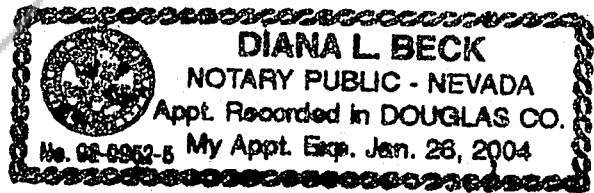
NEVADA HOUSING DIVISION

[Signature]  
Charles L. Horsey, III, Administrator

State of Nevada )  
Carson City )

On this 30<sup>th</sup> day of October, 2001, before me, a Notary Public, personally appeared Charles L. Horsey, III, who did say that he is the Administrator of the Nevada Housing Division, named in the foregoing instrument, and acknowledged that he executed the same.

[Signature]  
Notary Public



APPROVED AS TO FORM ONLY

By: [Signature]  
Christine Munro  
Legal Counsel to the Division

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

All that certain lot, piece or parcel of land situate in the County of Douglas, State of Nevada, described as follows:

A parcel of land located within a portion of the Northwest  $\frac{1}{4}$  of Section 3, Township 12 North, Range 20 East, Mount Diablo Meridian, more particularly described as follows:

Parcel 2D of Parcel Map 00-048 for Crestmore Village Apartments Limited Partnership filed for record September 4, 2001 in Book 0901 of Official Records, at Page 65, Document No. 522014 and containing 5.39 acres more or less

A.P.N. 25-160-40



REQUESTED BY  
**WESTERN TITLE COMPANY, INC.**  
IN OFFICIAL RECORDS OF  
DOUGLAS CO., NEVADA

2001 NOV 29 PM 4: 04

LINDA SLATER  
RECORDER

\$24.<sup>00</sup> PAID *KJ* DEPUTY