

**LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
AFFORDABLE HOUSING FUND  
FIRST AMENDMENT TO REHABILITATION LOAN AGREEMENT**

**THIS FIRST AMENDMENT TO THE REHABILITATION LOAN AGREEMENT** ("Amendment") is made and entered into this 28 day of April 2017 by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government created pursuant to KRS Chapter 67A, whose principal address is 200 East Main Street, Lexington, Kentucky 40507 ("LFUCG") through its **OFFICE OF AFFORDABLE HOUSING**, and **EMERGE DEVELOPMENT, LLC**, a Kentucky limited liability company, whose principal address is 941 National Avenue, Suite 120, Lexington, Kentucky 40502 ("Borrower").

**WITNESSETH:**

**WHEREAS**, pursuant to Chapter 2, Article XXXXV, Section 2-482 of the Lexington-Fayette County Code of Ordinances (the "Code"), the Affordable Housing Fund ("Fund") was created to preserve, produce and provide safe, quality and affordable housing; and

**WHEREAS**, pursuant to Chapter 2, Article XXXXV, Section 2-479 of the Code, the Affordable Housing Governing Board (the "Board") oversees and manages the administration of the Fund; and

**WHEREAS**, LFUCG and the Borrower entered in that certain Rehabilitation Loan Agreement ("Agreement") dated November 24, 2015, (attached hereto and incorporated herein as Exhibit A) whereby LFUCG and Borrower agreed to Affordable Housing Loan Program terms to fund a rehabilitation project located at 531 West Fifth Street, Lexington, Kentucky; and

**WHEREAS**, in order to assist Borrower in the completion of the rehabilitation activity, the Board has approved additional funding to the Borrower, as evidenced by an Updated Commitment Letter dated March 28, 2017 (attached hereto and incorporated herein as Exhibit B);

**WHEREAS**, in accordance with Section 7.8 of the Agreement, LFUCG and Borrower desire to memorialize a modification to the Agreement; and

**NOW, THEREFORE**, the parties agree to the following modifications to the Agreement:

1. Section 1.1 of the Agreement shall be amended to provide for the following:

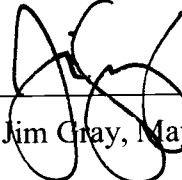
Pursuant to the Application, the Commitment Letter, and Updated Commitment Letter and this Agreement, LFUCG will make available an amount not to exceed **TWO HUNDRED SIXTY-SIX THOUSAND AND 00/100 DOLLARS (\$266,000.00)** to Borrower from the Fund. Affordable Housing Funds will be disbursed by LFUCG to Borrower in accordance with the requirements set forth in this Agreement and conditioned upon Borrower's continued satisfactory performance under the terms of this Agreement. The Funds will be made available in the form of a **FIFTY-**

**FOUR THOUSAND AND 00/100 DOLLARS (\$54,000.00)** forgivable mortgage loan and a **TWO HUNDRED TWELVE THOUSAND AND 00/100 DOLLARS (\$212,000.00)** 15 year term mortgage loan, which shall accrue interest at the rate of two percent (2%) per annum from the date of the final draw of Affordable Housing Funds, until paid in full, and amortizing over 25 years. All Funds will be evidenced by a promissory note ("Note") in form and substance satisfactory to LFUCG payable to LFUCG and signed by the Borrower. Principal and interest (if any) of the Affordable Housing Funds allocated under this Agreement shall be amortized in equal, consecutive monthly installments of principal and accrued but unpaid interest, commencing as set forth in the Note and continuing until principal and interest have been paid in full. All unpaid principal and accrued interest shall be due June 1, 2032 ("Maturity Date"). In the event of any inconsistency between the Application, the Updated Commitment Letter and this Agreement, this Agreement will control. The Funds will be expended only for the purpose of renovation and rehabilitation of the Property (defined below) described in the mortgage(s) executed pursuant to Section 1.2 below and in conformity with the other provisions of this Agreement, the Commitment and the Application. Further, LFUCG will not be required to advance any amount under this Agreement if an Event of Default (as hereinafter defined) has occurred and is continuing.

2. In the event of a conflict between the terms of this Amendment and the terms of the Agreement, this Amendment shall control. All other terms of the Agreement shall remain unchanged and remain in full force and effect.

IN WITNESS WHEREOF, this Agreement is executed as of the date and year first above written.

Lexington-Fayette Urban County Government

By:  \_\_\_\_\_  
Jim Gray, Mayor

ATTEST:  
 \_\_\_\_\_  
Clerk, Urban County Council



**EXHIBIT A**  
**(Agreement)**

**LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
AFFORDABLE HOUSING FUND  
REHABILITATION LOAN AGREEMENT**

**THIS REHABILITATION LOAN AGREEMENT** ("Agreement") is made and entered into this 24 day of November, 2015 by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government created pursuant to KRS Chapter 67A, whose principal address is 200 East Main Street, Lexington, Kentucky 40507 ("LFUCG") through its **OFFICE OF AFFORDABLE HOUSING**, and **EMERGE DEVELOPMENT, LLC**, a Kentucky limited liability company, whose principal address is 941 National Avenue, Suite 120, Lexington, Kentucky 40502 ("Borrower").

**WITNESSETH:**

**WHEREAS**, pursuant to Chapter 2, Article XXXXV, Section 2-482 of the Lexington-Fayette Urban County Code of Ordinances ("the Code"), the Affordable Housing Fund ("the Fund") was created to preserve, produce, and provide safe, quality, and affordable housing; and

**WHEREAS**, pursuant to Chapter 2, Article XXXXV, Section 2-479 of the Code, the Affordable Housing Governing Board oversees and manages the administration of the Fund; and

**WHEREAS**, Borrower by application dated August 3, 2015 (the "Application"), attached hereto and incorporated herein as Exhibit A, has applied for and has received approval for funds for a specific housing related project described below (the "Eligible Activity"); and

**WHEREAS**, in order to assist Borrower in the funding of the Eligible Activity, LFUCG is willing to make funds available to Borrower from the Fund under the terms and conditions of this Agreement; and

**WHEREAS**, on the 21<sup>st</sup> day of September, 2015, LFUCG issued to Borrower a Commitment Letter under LFUCG's Affordable Housing Fund Program which was accepted by Borrower on October 5, 2015 ("Commitment Letter"), attached hereto as Exhibit B and the terms and conditions of which are incorporated herein; and

**WHEREAS**, the project for which Borrower has been approved includes renovation or rehabilitation activities.

**NOW, THEREFORE**, the parties do hereby agree as follows:

**ARTICLE 1 – COMMITMENT**

**1.1 LFUCG's COMMITMENT.** Pursuant to the Application, the Commitment Letter and this Agreement, LFUCG will make available an amount not to exceed **TWO HUNDRED AND TWENTY-THREE THOUSAND AND THIRTY AND 00/100 DOLLARS (\$223,030.00)** to Borrower from the Fund. Affordable Housing Funds will be disbursed by LFUCG to Borrower in accordance with the requirements set forth in this Agreement and conditioned upon Borrower's continued satisfactory performance under the terms of this Agreement. The Funds will be made available in the form of a **FORTY-EIGHT THOUSAND AND THIRTY AND 00/100 DOLLARS (\$48,030.00)** forgivable mortgage loan and a **ONE HUNDRED AND SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$175,000.00)** amortizing mortgage loan, which shall accrue interest at the rate of two percent (2%) per annum from the date of the final draw of Affordable Housing Funds, until paid in full, in conjunction with the attached amortization schedule ("Schedule").

attached hereto as Exhibit C and the terms and conditions of which are incorporated herein. All Funds will be evidenced by a promissory note ("Note") in form and substance satisfactory to LFUCG payable to LFCUG and signed by the Borrower. Principal and interest (if any) of the Affordable Housing Funds allocated under this Agreement shall be amortized in equal, consecutive monthly installments of principal and accrued but unpaid interest, commencing as set forth in the Note and continuing until principal and interest have been paid in full. All unpaid principal and accrued interest shall be due June 1, 2031 ("Maturity Date"). In the event of any inconsistency between the Application, the Commitment Letter and this Agreement, this Agreement will control. The Funds will be expended only for the purpose of renovation and rehabilitation of the Property (defined below) described in the mortgage(s) executed pursuant to Section 1.2 below and in conformity with the other provisions of this Agreement, the Commitment and the Application. Further, LFUCG will not be required to advance any amount under this Agreement if an Event of Default (as hereinafter defined) has occurred and is continuing.

**1.2 MORTGAGE; OTHER SECURITY.** The performance of the Borrower's obligations under this Agreement shall be secured by a mortgage lien, or mortgage liens, in favor of LFUCG in the total principal amount of the Funds in form and substance satisfactory to LFUCG. In the sole discretion of LFUCG, the performance of Borrower's obligations under this Agreement may also be secured by an Assignment of Leases and Rents, Security Agreement, UCC-1 Financing Statement, Fixture Filing, and such other documents as LFUCG may in its sole discretion require (collectively, the Mortgage and the other security documents described in this subsection are referred to as the "Security Documents", and attached hereto as Exhibit D and the terms and conditions of which are incorporated herein).

**1.3 ELIGIBLE ACTIVITY.** The Funds have been made available based upon the information provided by Borrower in the Application. The sole purpose of this allocation of funds is and will be for the rehabilitation of four (4) units known as Smith Town Flats (the "Project") on the real property located at 531 West Fifth Street, Lexington, Kentucky 40508 (more particularly described in Exhibit E attached hereto and incorporated herein by reference) (the "Property").

**1.4 SITES.** In the event the Project includes new construction activities and/or rehabilitation construction activities, Borrower must identify specific units (the "Units") to be assisted. Once identified, Units may not be changed, removed or substituted without prior written approval of LFUCG.

## **ARTICLE 2 - REPRESENTATIONS AND WARRANTIES OF BORROWER**

**2.1** Borrower represents and warrants that:

(a) The Property will be free and clear of all encumbrances, except the permitted encumbrance listed in the Security Documents, easements, restrictions, stipulations and rights-of-way of record, applicable zoning rules and regulations and taxes which may be due and payable or which have been assessed and become a lien against the property whether or not yet due and payable;

(b) All funds disbursed hereunder will be used only for renovation and rehabilitation expenses, as applicable, of the Property, as approved by LFUCG, and said

funds will not be used in any other manner or for any other purpose; and

(c) The renovation and rehabilitation work has been approved by the appropriate local, regional and state agencies, including those concerned with planning and zoning, public works and health.

**2.2** Borrower understands and acknowledges that projects assisted with the Funds provided by LFUCG must, at a minimum, meet the requirements set out in this Agreement. Borrower will supply, at LFUCG's request, all necessary documentation to substantiate compliance with this paragraph.

**2.3** Borrower represents and warrants that, at the time any advances are made by LFUCG as provided herein, the Property will contain no substance known to be hazardous such as hazardous waste, lead-based paint (in violation of Federal or State law), asbestos, methane gas, urea formaldehyde, insulation, oil, toxic substances, polychlorinated biphenyls (PCBs) or radon, and Borrower shall take all action necessary to insure that the Property contains no such substances. Further, the Property will not be affected by the presence of oil, toxic substances or other pollutants that could be a detriment to the Property, nor is Borrower or the Property in violation of any local, state or federal environmental law or regulation and no violation of the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, Toxic Substance Control Act, Safe Drinking Water Control Act, Comprehensive Environmental Resource Compensation and Liability Act or Occupational Safety and Health Act has occurred or is continuing. Borrower will take all actions within its control necessary to insure that no such violation occurs. Borrower will immediately deliver to LFUCG any notice it may receive about the existence of any of the foregoing hazardous conditions on the Property or about a violation of any such local, state or federal law or regulation with respect to the Property.

**2.4** Borrower is duly organized and validly existing and in good standing under the laws of the Commonwealth of Kentucky; has the power and authority, corporate or otherwise, to own its properties and carry on its business as being conducted; and is duly qualified to do business wherever qualification is required. Borrower has been organized pursuant to state law for the primary purpose of providing housing to persons and families of lower and moderate income. Borrower is not presently under any cease or desist order or other orders of a similar nature, temporary or permanent, of any federal or state authority which would have the effect of preventing or hindering the performance of its duties under this Agreement, nor are there any proceedings presently in progress or to its knowledge contemplated which would, if successful, lead to the issuance of any cease or desist order.

**2.5** Plans and specifications for the Project are satisfactory to Borrower and, to the extent required by applicable law, have been approved by all governmental agencies and authorities having jurisdiction thereof, and the use of the Project site(s) contemplated hereby will comply with all local zoning requirements.

**2.6** There are no actions, suits or proceedings pending or, to the knowledge of the Borrower, threatened against or affecting it or the Project or involving the validity or enforceability of any mortgage or the priority of the mortgage lien granted by or to Borrower, at law or in equity, on or before or by any governmental authority or any other matters which would substantially impair the ability of Borrower to pay when due any amounts which may become payable in respect to the Note, and to the Borrower's knowledge, it is not in default with respect to any order, writ, judgment, injunction, decree or demand of any court of any

governmental authority.

2.7 The consummation of the transaction contemplated hereby and the performance of this Agreement and any Mortgage, if so required, will not result in any breach of, or constitute a default under, any mortgage, deed of trust, lease, bank loan or other loan, credit agreement, corporate charter, bylaw or any other instrument to which the Borrower is a party or by which it may be bound or affected.

### **ARTICLE 3 – REQUIREMENTS FOR DISBURSEMENT**

3.1 **DISBURSEMENT OF AFFORDABLE HOUSING FUNDS.** The Funds will be disbursed to Borrower upon receipt by LFUCG of the following:

- (a) an executed original of the Authorized Signature form; and
- (b) evidence that the Project will remain affordable as provided below;
- (c) proof of costs in adherence to LFUCG's requirements for draws and inspections for the Program activity under this Agreement (construction draws);
- (e) execution of the Note, recordation of a valid mortgage lien against the Property securing repayment of the Funds and execution of any and all other Security Documents which may be required by LFUCG.

LFUCG will not be required to advance any amount hereunder if an Event of Default (hereinafter defined) has occurred and is continuing.

3.2 **DISBURSEMENT OF DEVELOPER FEE.** If a Developer fee is paid the Funds, it will be disbursed on a pro-rata share equal to the percent of the Project completion, with the exception of the initial draw as follows:

- (a) up to 40% of the Project's developer fee may be disbursed at the initial draw; and
- (b) the remaining 60% may be drawn based upon the percentage of construction completion.
- (c) the amount of the developer fee payable from the Funds is limited to seven and one-half percent (7.5%) of the principal amount of the total Affordable Housing Fund loan.

Developer fee shall be used to cover all funding shortfalls before additional funds can be requested. LFUCG will continue to hold the ten percent (10%) retainage until all project completion and closeout documents are received.

3.3 **AFFORDABILITY PERIOD.** Property assisted with the Funds must be restricted to remain affordable to persons at or below Eighty percent (80%) of the area median income pursuant to the guidelines of the United States Department of Housing and Urban Development ("HUD") for a minimum of Fifteen (15) years from date the Funds are first expended on the Project. Affordability must be ensured by recorded deed restrictions for all properties receiving Affordable Housing Funds.

3.4 **SECTION 8 RENTAL ASSISTANCE.** If Affordable Housing Funds are used to construct or rehabilitate rental property, Borrower will not refuse to lease any Unit assisted with Affordable Housing Funds to a holder of a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, as amended, solely because of the status of the



prospective tenant as a holder of a certificate or voucher. Provided, however, if the rent required for the Unit is based upon a percentage of the prospective tenant's income through project design, or the assisted housing unit(s) utilize project-based rental housing assistance through another source, this section will not apply. This section does not apply to homeowner-occupied units of housing assisted with Affordable Housing Funds.

**3.5 INSURANCE.** For all properties assisted with AHTF Funds, the Borrower or Property Owner must maintain all risk, fire and extended coverage, in form and with companies acceptable to LFUCG, for the entirety of the Project and any improvements to be constructed thereon in an amount of not less than the Funds made available to Borrower for the Project. Each policy must include appropriate loss payable clauses in favor of LFUCG or Borrower, as applicable, as beneficiary and without right of cancellation or change except upon thirty (30) days' written notice to LFUCG. Borrower will deliver proof of all insurance to LFUCG upon request.

**3.6 CLOSING COSTS.** All costs associated with funding under this Agreement will be borne by the Borrower, including but not limited to the cost of attorney's fees, documentation, recording fees, and costs associated with disbursement. There will be a One Percent (1%) Closing Cost Fee of **TWO THOUSAND TWO HUNDRED AND THIRTY DOLLARS (\$2,230.00)**.

**3.7 LEGAL MATTERS.** All legal matters incident to the contemplated transaction will be concluded to the satisfaction of LFUCG's Department of Law.

**3.8 PROOF OF CORPORATE ACTION.** Prior to execution of this Agreement, LFUCG shall have received (i) copies of Borrower's organizational documents; (ii) confirmation from the Secretary of State of Borrower's organizational jurisdiction that Borrower is a validly existing entity in good standing, and (iii) a resolution from the Borrower's Board of Directors, member, manager or general partner, as appropriate, authorizing the execution of the legal documents evidencing the funding received under this Agreement. If Borrower is a foreign entity, it shall, in addition to jurisdictional organizational documents provide evidence of its authority to conduct business in the Commonwealth of Kentucky.

#### **ARTICLE 4 - CONSTRUCTION LOAN TERMS**

**4.1 PLANS AND SPECIFICATIONS.** Borrower will develop the Property in accordance with plans and specifications which have been approved by LFUCG, or by any other agency approved by LFUCG, which plans and specifications, upon such approval, will be incorporated herein by reference. Said plans and specifications will include and specifically identify all roads, sewer lines and water lines and will provide for the development of the Property in conformance with applicable Affordable Housing Fund Program requirements. Said plans and specifications may be subject to minor changes as required to comply with state and local building codes and to conform to the Property, provided such changes are approved by LFUCG. In addition to said plans and specifications, Borrower will prepare or cause to be prepared from time to time such additional plans and drawings, including working drawings, shop drawings and supplemental specifications, as may be necessary or desirable to facilitate expeditious construction of the improvements in accordance with the approved plans and specifications and will cause copies of all such additional items to be delivered to LFUCG. All of said plans and specifications and any such additional items so approved are hereinafter collectively referred to as the "Plans and Specifications." Borrower will not deviate nor permit any such deviation from the Plans and Specifications without the prior written consent of LFUCG.

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**4.2 NO LIENS.** Borrower will cause all work to be performed, including all labor, materials, supervision, supplies, equipment, architectural, and engineering services necessary to complete the improvements, in accordance with the Plans and Specifications. The Borrower will complete the improvements free from all materialmen's liens and all mechanic's liens and claims. All contracts with subcontractors and materialmen will contain, upon the request of LFUCG, a provision for not less than ten percent (10%) retainage to ensure adequate and complete performance in connection with interim or progress payments hereunder. Advances of the Funds by LFUCG will not be made until a representative of LFUCG has inspected the improvements, certified their completion and received from the general contractor and all subcontractors' affidavits, in form and substance satisfactory to LFUCG, stating that payment will constitute payment in full of all amounts due and owing to them and their suppliers.

**4.3 DEADLINE ON PROPERTY DEVELOPMENT.** Borrower will begin renovation and/or rehabilitation of the Property within 30 days after an advance is made hereunder for the Property and will cause all development work to be pursued with diligence and without delay. Borrower will cause the improvements to be constructed in a good and workmanlike manner in substantial compliance with the Plans and Specifications and in all respects in full compliance with all laws, rules, permits, requirements and regulations of any governmental agency or authorities having jurisdiction over the Property.

**4.4 USE OF FUNDS.** Borrower will cause all the Funds borrowed or advanced pursuant hereto to be applied entirely and exclusively for the renovation or rehabilitation, as applicable, of the Property and payment of labor and materials in the completion of development work in substantial compliance with the Plans and Specifications and for the payment of such other costs incidental thereto as may be specifically approved in writing by LFUCG.

**4.5 RIGHT OF INSPECTION.** Borrower will permit access by LFUCG to the books and records of Borrower and to the Property and all improvements at reasonable times. In the event LFUCG determines that any work or materials are not substantially in conformance with the Plans and Specifications, or are not in conformance with any applicable laws, regulations, permits, requirements or rules of any governmental authority having or exercising jurisdiction thereover or are not otherwise in conformity with sound building practices, LFUCG may stop the work and order replacement or correction of any such work or materials. Such inspection will not be construed as a representation or warranty by LFUCG to any third party that the improvements are, or will be, free of faulty materials or workmanship.

**4.6 UNDERTAKING.** If required by LFUCG prior to disbursement of the Funds hereunder and thereafter as LFUCG may require, Borrower will deliver to LFUCG (a) an agreement between Borrower and the architect who has prepared the Plans and Specifications whereby such architect agrees that the agreement is assignable to LFUCG upon the same terms and conditions as exist in said agreement; (b) an agreement between Borrower and Borrower's contractor whereby Borrower's contractor agrees that the agreement is assignable to LFUCG upon the same terms and conditions as exist in said agreement; (c) copies of all subcontracts and material purchase orders between Borrower's contractor and any persons, firms, or corporations with whom it has contracted to provide labor, materials or services with respect to the construction of the improvements, where any such contract exceeds a minimum price of Five Thousand Dollars (\$5,000.00); and (d) if requested in writing by LFUCG, a list of all persons, firms and corporations who have provided or proposed to provide labor, materials or services in connection with construction of the improvements.

**4.7 NON-LIABILITY OF LFUCG.** This Agreement will not be construed to make LFUCG liable to materialmen, contractors, craftsmen, laborers or others for goods and services delivered by them to or upon the Property or for debts or claims accruing to said parties against the Borrower. There are no contractual relationships, either express or implied, between LFUCG and any materialman, contractors, craftsmen, laborers or any other persons supplying work, labor or materials on the job, nor will any third person or persons, individual or corporate, be deemed to be beneficiaries of this Agreement or any term, condition or provisions hereof or on account of any actions taken or omitted by LFUCG pursuant hereto.

#### **ARTICLE 5 – BREACH OR DEFAULT**

**5.1 RECAPTURE OF FUNDS; BREACH OF AGREEMENT.** In the event of a breach, LFUCG may suspend Borrower's authority to draw Affordable Housing Funds at any time by giving notice to Borrower. LFUCG has the right, in its sole discretion, to terminate disbursement of funds and/or recapture any remaining portion of the Affordable Housing Funds and/or require repayment of the Affordable Housing Funds already disbursed upon the occurrence of one or more of the following events ("Breach"):

- (a) Borrower does not diligently pursue the activity detailed in Borrower's Application and for which the Funds have been awarded;
- (b) Borrower violates any of the terms of this Agreement, the Affordable Housing Program Rules, the Note evidencing the Funds under this Agreement or any other Security Document entered into pursuant to this Agreement;
- (c) Borrower does not submit reports or submits inadequate reports pursuant to Article 6 below;
- (d) Borrower defaults under any of the terms of this Agreement or any other document executed in conjunction with funding under this Agreement, and such default is not cured within any applicable cure period;
- (e) Borrower is unable to draw all the Funds, as set forth in the closing documents, in no instance later than twenty-four (24) months from the date of this Agreement;
- (f) The information submitted to LFUCG by Borrower, upon which LFUCG relied in its decision to allocate funds to Borrower, proves to be untrue or incorrect in any material respect; or
- (g) LFUCG determines in its sole discretion that it would be inadvisable to disburse Affordable Housing Funds to Borrower because of a material and adverse change in Borrower's condition.

**5.2 EVENTS OF DEFAULT.** Occurrence of one or more of the following events will, in the sole discretion of LFUCG, constitute an event of default:

- (a) Any installment of principal or interest required by the Promissory Note remains unpaid for more than ten (10) days after the due date thereof;
- (b) Any representation or warranty made herein, or in any certificate, report or statement furnished to LFUCG in connection with the Funds or the Note proves to have been untrue or misleading in any material respect when made;
- (c) Failure of Borrower to perform any of the provisions of the Note, this

Agreement or any other document executed in connection with this Agreement;

(d) Borrowers violation of the affordability requirements, whether evidenced by recorded Deed Restriction or owner certification of continued compliance;

(e) The entry of any lien or encumbrance against the Project site(s), except for ad valorem taxes which are not yet due and payable and liens incurred in the ordinary course of business with respect to amounts which are not yet due and payable without penalty or interest;

(f) Borrower fails to prosecute Project site development work with diligence so that construction thereof will be completed in a timely manner;

(g) Any party obtains or seeks an order or decree in any court of competent jurisdiction seeking to enjoin the construction of the improvements or to delay construction of the same or to enjoin or prohibit Borrower or LFUCG from carrying out the terms and conditions hereof, and such proceedings are not discontinued or such decree is not vacated within thirty (30) days after LFUCG has given Borrower notice under the provisions hereof;

(h) Borrower discontinues the renovation/rehabilitation work and abandonment continues for a period of ten (10) days;

(i) Borrower permits cancellation or termination of any insurance policy required under this Agreement or fails, if required, to obtain any renewal or replacement thereof satisfactory to LFUCG;

(j) Borrower (A) becomes bankrupt, or ceases, becomes unable, or admits in writing its inability to pay its debts as they mature, or makes a general assignment for the benefit of, or enters into any composition or arrangement with, creditors; (B) applies for, or consents (by admission of material allegations of a petition or otherwise) to the appointment of a trustee, receiver or liquidator of the Borrower or of a substantial portion of its assets, or authorizes such application or consent, or proceedings seeking such appointment are commenced without such authorization, consent or application against it and continue un-dismissed and unstayed for a period of fifteen (15) days; (C) authorizes or files a voluntary petition in bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction; or authorizes such application or consent; or proceedings to such end are instituted against the Borrower without such authorization, application or consent and are approved as properly instituted, remain undismissed for fifteen (15) days, or result in adjudication of bankruptcy or insolvency; or

(k) Borrower is found to have violated any law or regulation, whether federal or state.

**5.3 CURE OF BREACH OR DEFAULT; PENALTIES.** If any breach or default is not cured within thirty (30) days from the date LFUCG notifies Borrower of the breach or default, LFUCG may continue suspension of disbursements. Additionally, LFUCG may declare the loan and/or grant immediately due and payable and may institute proceedings for its collection. LFUCG may terminate this Agreement by giving written notice to Borrower. In the event of a termination, Borrower's authority to draw Affordable Housing Funds will terminate as of the date of the notice of termination and Borrower will have no right, title or interest in or to any remaining Affordable Housing Funds.

**5.4 MISAPPROPRIATION OF FUNDS.** Borrower will be liable for any and all

misappropriation of Affordable Housing Funds, audit exceptions by state or federal agencies, and violations of the terms of this Agreement. LFUCG also has the right to require Borrower to repay to LFUCG a portion of or all Affordable Housing Funds drawn by Borrower in cases of breach involving misappropriation of funds or fraudulent uses of funds.

**5.5 RIGHTS UPON DEFAULT.** If one or more of the events of default described above occur, LFUCG may declare Borrower to be in default under this Agreement by giving not less than ten (10) days prior written notice (or other notice required by applicable default provisions in other LFUCG loan documents) to Borrower, except for a default in payment, in which case no notice is required, and thereafter, LFUCG may exercise any one or more of the following remedies:

(a) Terminate the credit hereby extended, declare the entire unpaid balance and all accrued but unpaid interest under the Note due and payable and institute proceedings for collection thereof. Provided, however, LFUCG may make advances under the occurrence of an event of default without waiving any of its rights hereunder;

(b) Exercise its rights under the Note or any other Security Document;

(c) Enter upon the Project site(s), expel and eject Borrower and all persons claiming through or under Borrower and collect the rents and profits therefrom;

(d) Complete the Project site development work at the cost and expense of Borrower and add such cost to the debt evidenced by the loan and/or grant and this Agreement and secured by the Security Documents;

(e) Have discharged of record any mechanic's and materialmen's lien or other lien against the Project site(s);

(f) Institute such legal proceedings or other proceedings in the name of Borrower or LFUCG as LFUCG may deem appropriate for the purpose of protecting the Project site(s) and LFUCG's interests therein; or

(g) Do and perform all acts and deeds in the name of Borrower or LFUCG as LFUCG deems necessary or desirable to protect the Project site(s) and LFUCG's interests therein.

(h) All of the rights and remedies of LFUCG under this Agreement shall be cumulative and to the fullest extent permitted by law and shall be in addition to all those rights and remedies afforded LFUCG at law or in equity or in bankruptcy.

**5.6 PAYMENTS DUE TO DEFAULT.** Borrower shall to reimburse and fully compensate LFUCG upon demand for all loss, damage and expense, including without limitation reasonable attorney's fees and court costs, together with interest on the amount thereof from the date the same accrues at the rate of twelve percent (12%) per annum, incurred by LFUCG (a) by reason of any default or defaults hereunder or under this Agreement, the Note, or the Security Documents or any other loan document executed by Borrower, (b) by reason of the neglect by Borrower of any duty or undertaking hereunder or under the Security Documents and (c) in the exercise of any right or remedy hereunder or under the Security Documents.

#### **ARTICLE 6 – RECORDS; REPORTING**

**6.1 RECORDS; ACCESS.** Borrower agrees to keep adequate records pertaining to the

Project and the uses of the Funds. Borrower agrees to provide LFUCG or its designee access to all of its books and records, including fiscal records, for the purpose of program assessment reviews, and to retain all books and records until the later of three (3) years from the termination of this Agreement, or until all audits of performance during the term of this Agreement have been completed, or until any pending litigation involving this grant or related books and records is settled. Borrower agrees to maintain its books and records in accordance with generally accepted accounting principles. Nothing in this Agreement will be construed to limit the ability of LFUCG to monitor implementation of the project funded by this Agreement.

**6.2 REPORTING REQUIREMENTS.** In the event project activity reports are required, reports must be submitted as requested by LFUCG, on the forms provided by LFUCG, beginning the first calendar quarter after Borrower receives a disbursement of the Funds.

**6.3 ANNUAL FINANCIAL REPORTING.** Borrower agrees to provide LFUCG or its designee audited financials and/or Financial Compilation Reports on an annual basis during the term of this Agreement.

**6.4 CAPITAL NEEDS ASSESSMENT.** LFUCG requires a PCNA for all rehabilitation and adaptive reuse projects that includes a capital reserve replacement schedule which projects either beyond the term of any LFUCG loan or twenty (20) years if the project only requires Housing Credits; furthermore, LFUCG requires a subsequent PCNA in year 15 with corresponding adjustment to the capital reserve replacement schedule for all projects obtaining Risk-Sharing, HOME or Affordable Housing Funds gap financing through LFUCG.

**6.5 WARRANTY AS TO INFORMATION.** Borrower acknowledges that its award of Affordable Housing Funds has been based upon information received from Borrower. Borrower warrants that the financial and other information furnished by Borrower to LFUCG was, at the time of application, and continues to be, true and accurate.

**6.6 PROGRAM COMPLIANCE.** Borrower agrees to comply with LFUCG Affordable Housing program guidelines and criteria relating to the Affordable Housing Fund.

#### **ARTICLE 7 - MISCELLANEOUS**

**7.1 NOTICES.** Any notice required or permitted to be given pursuant to this Agreement will be deemed to have been duly given when properly addressed and hand-delivered, or mailed by registered or certified mail with postage prepaid, to Borrower or LFUCG, as the case may be, at the following addresses or to such other place as any of the parties may for themselves designate in writing from time to time for the purpose of receiving notices pursuant hereto:

**Borrower:** Emerge Development, LLC  
941 National Avenue, Suite 120  
Lexington, Kentucky 40502  
ATTN: Benjamin Clements, Partner

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**LFUCG:** Lexington-Fayette Urban County Government  
101 East Vine Street, Suite 400  
Lexington, Kentucky 40507  
ATTN: Richard McQuady, Affordable Housing Manager

**7.2 COSTS TO BE PAID BY BORROWER.** All items which Borrower agrees to furnish under this Agreement will be furnished at Borrower's sole cost and expense.

**7.3 NON-DISCRIMINATION AND FAIR HOUSING RULES.** The Project and all contractors and major subcontractors engaged in connection therewith shall comply with all fair housing and non-discrimination statutes and regulations as they are amended from time to time, which include but are not limited to the following, each of which is hereby incorporated by reference into this Agreement:

Fair Housing Act (Title VIII of the Civil Rights Act of 1968);  
24 CFR § 5.105, which prohibits discrimination on the basis of actual or perceived sexual orientation or gender identity, and marital status  
Title VI of the Civil Rights Act of 1964;  
Section 504 of the Rehabilitation Act of 1973;  
Section 109 of Title I of the Housing and Community Development Act of 1974;  
Title II of the Americans with Disabilities Act of 1990;  
Architectural Barriers Act of 1968;  
Age Discrimination Act of 1975;  
Title IX of the Education Amendments Act of 1972; and  
Presidential Executive Orders 11063, 11246, 12892, 12898, 13166, 13217.  
Nondiscrimination and Equal Opportunity requirements [24 CFR §5.105(a)]  
Chapter 2, Article 2, §§2-26 – 2-46 of the Code

**7.4 SUSPENSION AND DEBARMENT.** Borrower certifies by submission of its application and execution of this Agreement that to the best of its knowledge and belief after reasonable investigation, that it and/or its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any transaction under this Agreement by any federal department or agency, or under LFUCG's Suspension and Debarment Policy. Borrower further agrees that any future principal will meet the requirements of this section.

**7.5 INDEMNIFICATION.** Borrower shall indemnify, defend and hold LFUCG harmless from and against any and all liabilities, claims, demands, losses, damages, costs and expenses (including without limitation, reasonable attorney's fees and litigation expenses), actions or causes of actions, arising out of or relating to any breach of any covenant or agreement or the incorrectness or inaccuracy of any representation and warranty of Borrower contained in this Agreement or in any document delivered to LFUCG or by Borrower, or any other person on behalf of Borrower pursuant to the terms of this Agreement, except for that which occurs as a result of LFUCG's gross negligence or willful misconduct.

**7.6 GOVERNING LAW.** This Agreement and the loan referred to herein will be governed by the laws of the Commonwealth of Kentucky.

7.7 **ASSIGNABILITY.** Borrower may not assign this Agreement or any part hereof without the prior written consent of LFUCG. Subject to the foregoing restriction, this Agreement will inure to the benefit of LFUCG, its successors and assigns and will bind Borrower, Borrower's successors, assigns and representatives.

7.8 **MODIFICATION.** No variance or modification of this Agreement will be valid and enforceable except by supplemental agreement in writing, executed and approved in the same manner as this Agreement.

7.9 **EXHIBITS.** Any exhibits attached to this Agreement and the matters contained therein are incorporated herein and deemed to be a part hereof as if fully recited in this Agreement prior to the date of execution hereof.

7.10 **WAIVER.** LFUCG may waive Borrower's performance of any of the terms of this Agreement or Borrower's default hereunder; provided, however, such waiver must be in writing, signed by LFUCG, and any such written waiver hereunder will not be construed as a waiver of any other term or condition of this Agreement or of any act of continuing default.

7.11 **INVALID PROVISIONS.** The invalidity or unenforceability of a particular provision of this Agreement will not affect the other provisions hereof, and this Agreement will be construed in all respects as if such invalid or unenforceable provisions were omitted.

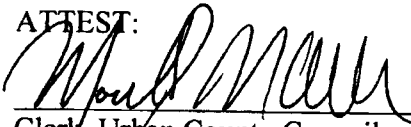
IN WITNESS WHEREOF, this Agreement is executed as of the date and year first above written.

Lexington-Fayette Urban County Government

By: \_\_\_\_\_

  
Jim Gray, Mayor

ATTEST:

  
Clerk, Urban County Council

Emerge Development, LLC

By: \_\_\_\_\_

Title: Partner - Emerge Development

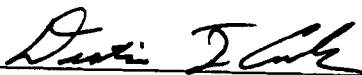


COMMONWEALTH OF KENTUCKY )

COUNTY OF Fayette )

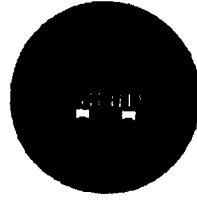
Subscribed, sworn to and acknowledged before me this 19 day of November, 2015, by Ben Clements, as partner of Emerge Development, LLC, a Kentucky limited liability company, for and on behalf of said Emerge Development, LLC.

My commission expires: 11/29/2015

  
Notary Public

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**EXHIBIT A**  
**(The LFUCG Affordable Housing Fund Application)**



## **Affordable Housing Fund Application Checklist**

Please review the program guidelines and eligible uses prior to filling out this application. If you have any questions, please contact the Office of Affordable Housing at 859.258.3598 or by email at [rmcquady@lexingtonky.gov](mailto:rmcquady@lexingtonky.gov).

A complete loan application package to the Affordable Housing Trust must include the following:

- 1) Completed Application for Funding (Pages 2-5 of this document).
- 2) Completed Capacity Review (Pages 6-8 of this document).
- 3) Project or Business plan, include the following:
  - a) Market analysis.
  - b) Project description with emphasis on the impact the project is expected to have on the neighborhood as well as the need for funds from the Affordable Housing Fund and how the development addresses affordable housing needs in Fayette County.
  - c) A Location Map identifying neighborhood amenities.
  - d) Site photos showing front and rear of building (if applicable). If vacant land, pictures from the north, south, east and west.
  - e) An affordability analysis indicating the income level household that can afford the units at the proposed rent level.
  - f) Physical Needs Assessment (if applicable).
  - g) Detailed description of rehabilitation plan (if applicable).
  - h) A projected 15 year pro-forma.
  - i) Detailed description of sources and uses of funds to acquire and complete development. Describe status of other proposed funds as to whether they are committed, applied for, or in initial discussions. Provide commitment letters for committed funds.
  - j) Post rehabilitation or new construction appraisal.
  - k) Provide verification of site control and proper zoning as well as utilities available to the site.
  - l) Detailed timeline for completion of development.

## Development Information

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### Development Type (Check all that apply):

New Construction:

Rehabilitation:

Adaptive Re-Use:

Rental (11 Units or Less):

Rental (12 Units or More):

Single Site:

Scattered Site:

Historic Property:

**Total Number of Units: 4**

**Total Number of Buildings: 1**

### Square Feet of Units by Bedroom Size:

Unit Size: 1 Square Footage: 600

Unit Size: Square Footage:

Unit Size: Square Footage:

Unit Size: Square Footage:

Unit Size: Square Footage:

### Monthly Rents by Bedroom Size:

Unit Size: 1 Monthly Rent: 650

Unit Size: Monthly Rent:

Unit Size: Monthly Rent:

Unit Size: Monthly Rent:

Unit Size: Monthly Rent:

**Target Area Median Income (AMI): \$47,500**

### Amenities (Check all that apply):

Stove:

Refrigerator:

Dishwasher:

Garbage Disposal:

Dishwasher:

Wash/Dryer Hookup:

Help/Call System:

Community Room:

Playground:

Other (Please specify):

### Location Amenities (Check all that apply):

Lexington, KY Affordable Housing Fund – Application Packet

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## **Application for Funding Agreement**

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The applicant certifies that the information submitted in this application is accurate and consistent with the applications submitted to other funding sources. The applicant commits to keeping the staff and board of the Affordable Housing Fund of Lexington, KY updated with changes in the project structure, funding, and development team. The applicant and any other borrower consents to a possible credit check as part of the underwriting process.

I have read the above agreement and consent to its terms:

**Name: Benjamin Clements, PE**

**Title: Partner with Emerge Development (Developer) & Emerge Contracting (GC)**

**Date: 08.03.2015**

3. Has any member of the development team ever had any violations that resulted in the issuance of an 8823 or other citations by a state housing finance agency?
- No  If yes, please provide details in a separate attachment.
4. In the last 5 years has any member of the development team or any entity in which a member of the development team has an identity of interest (see instructions for definition) received an award of funds and/or housing credits which have been recaptured or in which the development was not completed?
- No  If yes, please provide details in a separate attachment.
5. Have any members of the development team ever been charged with or convicted of any criminal offenses, other than a minor motor vehicle violation? If yes, furnish details in a separate attachment.
- No  If yes, please provide details in a separate attachment.
6. Have any members of the development team been subject to any disciplinary action, past or pending, by any administrative, governmental or regulatory body? If yes, furnish details in a separate attachment.
- No  If yes, please provide details in a separate attachment.
7. Has any member of the development team been informed of any current or ongoing investigation of the applicant with respect to possible violations of state or federal laws? If yes, furnish details in a separate attachment.
- No  If yes, please provide details in a separate attachment.
8. Has any member of the development team been a party to a bankruptcy, been in receivership or adjudicated as bankrupt? If yes, furnish details in a separate attachment.
- No  If yes, please provide details in a separate attachment.
9. Has any member of the development team been denied a business-related license or had it suspended or revoked by any administrative, governmental, or regulatory agency? If yes, furnish details in a separate attachment.
- No  If yes, please provide details in a separate attachment.
10. Is any member of the development team currently debarred, suspended, or disqualified from contracting with any federal, state, or municipal agency? If yes, furnish details in a separate attachment.

# EMERGE

DEVELOPMENT

## Project Plan - Rehabilitation of 531 West Fifth Street

### A. Market analysis.

The 531 West Fifth Street is located on the West end of downtown Lexington near Coolavin Park and the Jefferson Street corridor. Housing in the area is primarily comprised of single family residences (mostly row homes dating to the early 1900's) with some interspersed multi-family housing units of varying age. The majority of households in the area are renters and it is predominantly low income with an area median income of \$17,900.

### B. Project description with emphasis on the impact the project is expected to have on the neighborhood as well as the need for funds from the Fayette County Affordable Housing Fund and how the development addresses affordable housing needs in Fayette County.

Emerge Development acquired 531 West Fifth Street in April of 2015. At the time of purchase there were two structures on the 531 lot, a 2,400 SF 4-plex with the second structure being a 500 SF house having the alternate address 509 Smith Street. The properties were acquired as part of a multiple property deal which also included 535 & 537 West Fifth Street. At the time of purchase the 535 lot was vacant and the 537 lot had a 900 SF house. It was determined that none of the structures were suitable for human occupancy due to numerous egregious building and fire code violations and sanitary conditions. Existing tenants were relocated by the previous owner prior to Emerge Development's purchase of the properties.

Emerge Development is pursuing funding for the rehabilitation of the 4-plex only. It was determined that rehabilitation of the other structure on the 531 lot was not viable and the structure has been demolished. Future development of the 535 and 537 lots is planned.

Rehabilitation of the 531 West Fifth Street 4-plex will have a marked impact on the stock of affordable, safe and well maintained housing in the neighborhood. Prior to purchase and rehabilitation by Emerge, the 4-plex did not provide a satisfactory level of comfort, quality of life or safety to tenants. Funding will be utilized to address the following property deficiencies:

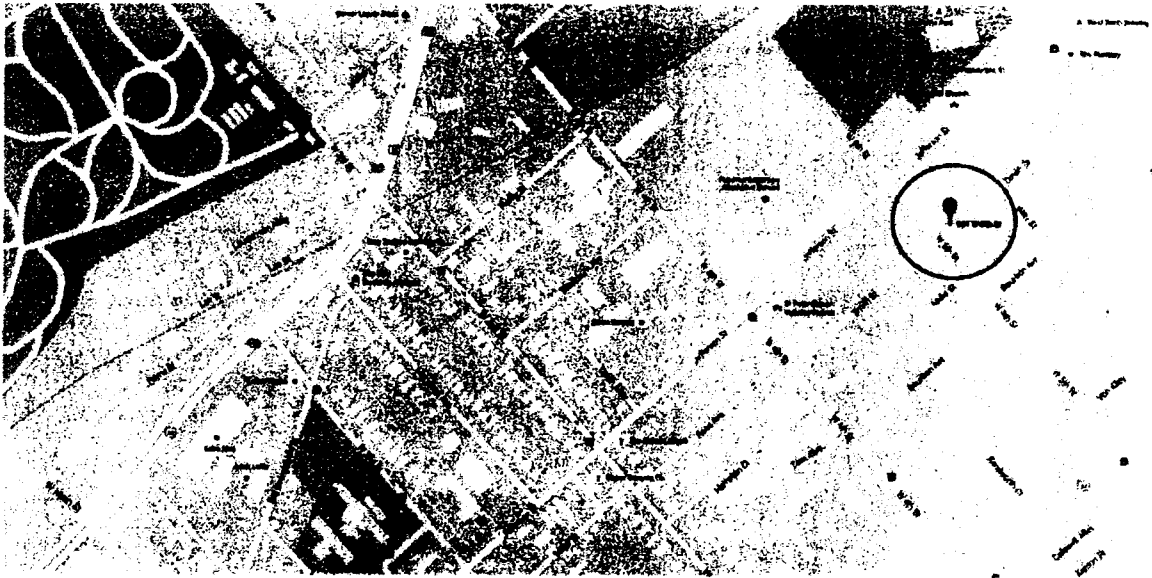
- (a) Lack of air conditioning
- (b) All space heating provided by a single gas fired radiant heater in each unit
  - (i) Units posed significant fire and safety risk
  - (ii) Did not provide sufficient heating for comfort which resulted in tenants using electric space heaters (additional fire risk)
- (c) No insulation in floors or walls
- (d) Lack of on site laundry
- (e) Unsecured entry
- (f) Outdated electrical system
- (g) Leaky roof system
- (h) Extreme roach and mouse infestation

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# EMERGE

DEVELOPMENT

## C. A Location Map identifying neighborhood amenities



- Property is conveniently located less than one mile from multiple amenities including:
- LexTran Transit Center
  - Coolavin Park
  - LFUCG Offices
  - Public Schools
  - Secondary Education Institutions



# EMERGE

DEVELOPMENT

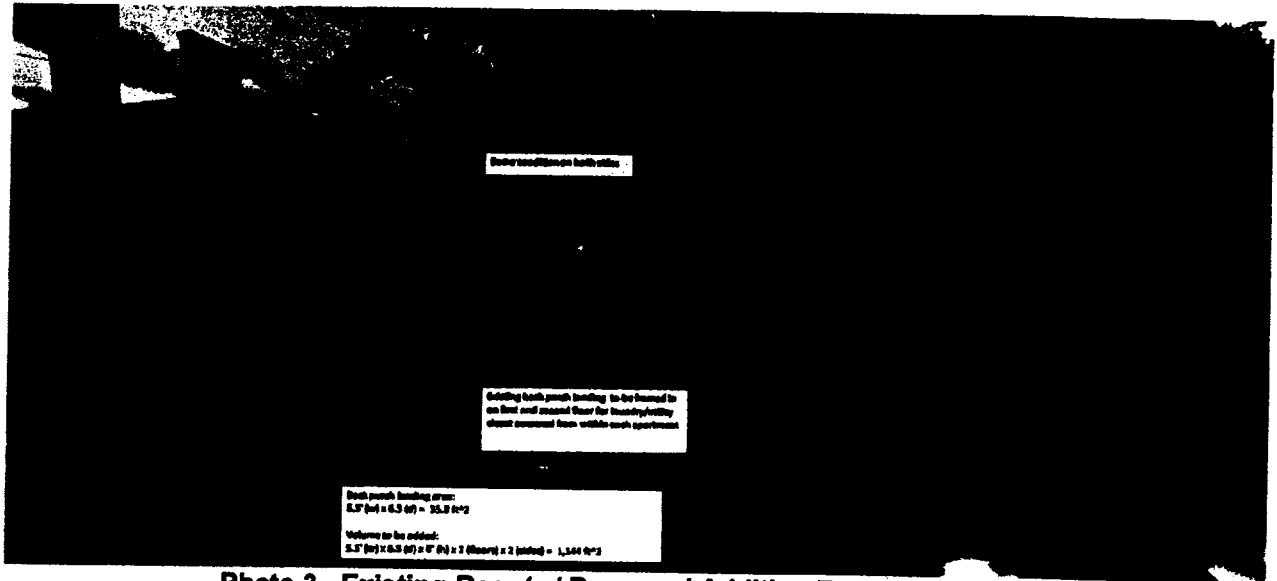


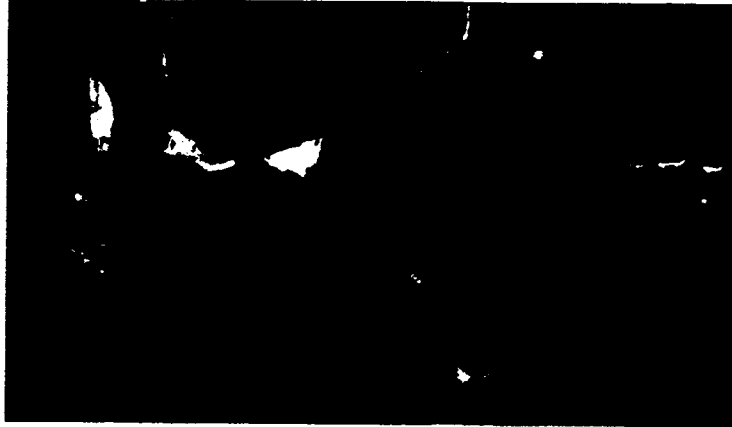
Photo 3 - Existing Rear (w/ Proposed Addition Framing)

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# EMERGE

DEVELOPMENT

**Electrical** | The electrical system is outdated and not up to current codes. Several instances of corroded and burnt electrical connections were uncovered during inspection and interior demolition (see photo below). Many rooms do not have overhead lights or adequate number of outlets.



**Photo 4 - Example of burned wiring**

**HVAC** | There is currently no air conditioning and space heating is provided by a single gas fired unit heater located in each unit's living room. Beyond posing a fire and safety hazard this system does not provide adequate space heating for occupant comfort.

Kitchen and bathroom exhaust fans are not currently installed in the units.

**Appliances** | The existing appliances are either inoperable or past their expected service life.

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# EMERGE

## DEVELOPMENT

**Electrical** | The electrical system is outdated and not up to current codes. Several instances of corroded and burnt electrical connections were uncovered during inspection and interior demolition. The electrical system will be fully replaced back to the meter and new breaker panels, fixtures and control devices installed.

**HVAC** | There is currently no air conditioning and space heating is provided by a single gas fired unit heater located in each unit's living room. Beyond posing a fire and safety hazard this system does not provide adequate space heating for occupant comfort. This will be replaced with an energy efficient mini-split heat pump system. Beyond being energy efficient, the mini-split systems do not take up floor space and are low maintenance.

Kitchen and bathroom exhaust fans are not currently installed in the units. These will be installed during rehabilitation.

**Appliances** | The existing appliances are either inoperable or past their expected service life. All appliances will be replaced with EnergyStar rated products where possible. The building does not currently have laundry facilities on site. Stackable washer/dryers will be provided in each unit.

**Acquisition Description**

531 West 5th Street (alternate address 509 Smith Street), two structures on a single lot zoned R-3. Purchased on 04.24.2015 as part of a multiple property acquisition along West 5th Street.

509 Smith Street - Single floor, 518 SF residence to be demolished

531 West 5th Street - Two floor 2,408 SF 4-plex to be remodeled

Multiple Property Acquisition Cost	\$220,000
531 West 5th Street Basis	\$129,169 <sup>(V)</sup>

**Redevelopment Information**

Total Project Cost (TPC)	\$320,199
Building Size	2,408 SF
Number of 1-Bdrm Units	4
Market Monthly Rental Rate	\$650 <sup>(V)</sup>
Affordable Monthly Rental Rate	\$650 <sup>(V)</sup>
Market Rate Units	2 of 4 <sup>(V)</sup>
Affordable Rate Units	2 of 4 <sup>(V)</sup>

**Financing Description**

Project will utilize two forms of financing provided by the Lexington Fayette Urban County Government (LFUCG) Affordable Housing Fund (AHF):

- 1) Forgivable Debt - Will serve as a developers fee
- 2) Low Interest Loan - Will fund acquisition and redevelopment costs

	<u>Contribution</u>	
Cash Equity	30.3%	\$97,169
LFUCG AHF Forgivable Debt	15.0%	\$48,030
LFUCG AHF Low Interest Loan	54.7%	\$175,000

**Financing - LFUCG AHF Low Interest Loan**

LTPC	54.7%
UPB	\$175,000 <sup>(V)</sup>
Interest Rate	2.00% <sup>(V)</sup>
Term (years)	15 <sup>(V)</sup>
Amortization (months)	240 <sup>(V)</sup>
I/O Period (months)	12 <sup>(V)</sup>
Deed Restriction Period (years)	15

**Financing - LFUCG AHF Forgivable Debt**

LTPC	15.0% <sup>(V)</sup>
Forgivable Debt Amount	\$48,030 <sup>(V)</sup>
Deed Restriction Period (years)	5

**Financial Model Results**

Assumed Capitalization Rate at Sale	7.8% <sup>(V)</sup>
Assumed Transaction Cost at Sale*	38.0% <sup>(V)</sup>
Asset Sale	\$165,542
Yield (Year 5)	10.96%
Yield (Year 15)	22.23%
IRR	17.41%

\*Notes: (V) - Indicates variable used in Financial Analysis calculations

Transaction cost is increased to account for depreciation and capital gains on asset sale in year 15

## 1.2 - Redevelopment Budget

## Emerge Development

531 West 5th Street

Category	USD (\$)	Pct.	Source*
HVAC	\$19,800	14%	E
Electric	\$16,000	11%	Q
Drywall	\$16,000	11%	E
Plumbing	\$11,000	8%	E
Flooring	\$11,000	8%	E
Framing - Repairs to Existing Structure	\$8,000	6%	E
Appliances - Kitchen	\$8,000	6%	E
Sitework	\$6,000	4%	E
Demolition - Interior of Existing Structure	\$6,000	4%	E
Trim & Hardware	\$6,000	4%	E
Roof Repair - Chimney Removal	\$6,000	4%	E
Demolition - Existing Structure at 509 Smith Street	\$5,800	4%	A
General Labor	\$5,000	3%	E
Cabinets & Counters	\$4,000	3%	E
Appliances - Washer/Dryer	\$3,200	2%	E
Insulation	\$3,000	2%	E
Framing - Enclose Washer/Dryer Area	\$2,500	2%	E
Water Heaters	\$1,500	1%	E
Siding Repair	\$1,500	1%	E
Tree Trimming	\$1,500	1%	E
Windows	\$1,200	<1%	E
<b>Total Redevelopment Budget</b>	<b>\$143,000</b>		
<b>Redevelopment Cost per Square Foot</b>	<b>\$59</b>		

\*Notes: E = Estimate ; Q = Quote ; A = Actual

1.4 - Financing

Emerge Development

531 West 5th Street

Loan Terms	Start / End Date	9/1/15	2015e - 2023e												9/1/30			
			2015e	2016e	2017e	2018e	2018e	2019e	2020e	2021e	2022e	2023e	2024e	2025e	2026e	2027e	2028e	2029e
Date of Terms:	TBD	UPB (Beg.):	\$175,000	\$175,000	\$167,376	\$160,610	\$153,199	\$145,640	\$137,929	\$130,064	\$122,042	\$113,859	\$105,512	\$96,999	\$88,316	\$79,458	\$70,424	-
UPB:	\$175,000	Interest:	\$3,500	\$3,500	\$3,358	\$3,212	\$3,064	\$2,913	\$2,759	\$2,601	\$2,441	\$2,277	\$2,110	\$1,940	\$1,766	\$1,589	\$1,408	\$38,439
LTPC:	54.7%	Principal:	\$0	\$7,124	\$7,266	\$7,411	\$7,560	\$7,711	\$7,865	\$8,022	\$8,183	\$8,346	\$8,513	\$8,684	\$8,857	\$9,034	\$9,215	\$113,791
Interest Rate:	2.00%	P & I:	\$3,500	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$152,230
Term (yrs):	15	UPB (End.):	\$175,000	\$167,876	\$160,610	\$153,199	\$145,640	\$137,929	\$130,064	\$122,042	\$113,859	\$105,512	\$96,999	\$88,316	\$79,458	\$70,424	\$61,209	-
Amortization (mnts):	240																	
I/O Period:	12																	

Total Fees	2015e	2016e	2017e	2018e	2019e	2020e	2021e	2022e	2023e	2024e	2025e	2026e	2027e	2028e	2029e	Total
Appraisal:	\$12,453	\$13,811	\$15,600	\$15,797	\$16,009	\$16,561	\$17,129	\$17,477	\$18,079	\$18,700	\$19,078	\$19,737	\$20,415	\$20,826	\$21,546	\$161,815
Origination:	\$3,500	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$98,112
Flood Cert:	\$8,953	\$3,187	\$4,976	\$5,173	\$5,386	\$5,937	\$6,505	\$6,853	\$7,456	\$8,076	\$8,455	\$9,113	\$9,791	\$10,203	\$10,922	\$82,503
Attorney:																
Mig/Deed Rec'ing:																

Asset Sale \$165,342  
 Cap Rate: 7.6%  
 Transaction Cost: 38.0%  
 Total Debt SVC (w/ fees): \$101,112  
 Payoff Amount: \$61,209  
 Net Proceeds: \$104,333

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# **EMERGE**

**Development**

## **531 West Fifth Street Rehabilitation Team**

Note that 531 West Fifth Street is owned and operated by Emerge Development. A separate sister company, Emerge Contracting, will conduct all work associated with the properties rehabilitation.

# EMERGE

## Development

- Pioneered the NPV-based "cash-for-keys" model (\$5 – 30k for relocation assistance), including approval and operational implementation
- Recognized for enthusiastic attitude to problem-solving; applied institutional-scale discipline while maintaining a forward-thinking prioritization; 3 Platinum Global Recognition Awards for outstanding leadership

### **ASSETPLANUSA**

Los Angeles, CA

**Vice President, Business Development & Interim CFO**

Oct '09 – Jun '10

*Co-founded a third-party short sale company for lenders/servicers, from concept to investor capital return within one year.*

- Grew monthly revenue from \$0 to \$300k within six months; responsible for investor relations, payroll, weekly cash reports & revenue share agreements
- Architected the design of people, process, & technology to complete 5,000 short sales per month; including a multi-tenant SaaS customization, E2E process manuals, & a realtor-management database

### **WMD CAPITAL MARKETS**

Santa Barbara, CA

**Associate, RMBS & whole loan desk**

Mar '07 – Sep '07

*Managed investment deal flow from Goldman Sachs, Deutsche Bank, and other firms; typical deal size between \$25 mn - \$100 mn. Completed due diligence and underwriting on the acquisition of \$63 mn of distressed debt.*

- Developed investment case assumptions involving sensitivity analysis of complex structured securities; lead analyst for a \$117 mn pool of 4,200 1st & 2nd lien mortgages restructured into a whole loan package; revealed a \$10 mn residual value in a pool of bonds trading for \$4 mn

### **U.S. ARMY AIRBORNE INFANTRY**

Hawaii / Iraq

**Sergeant, Squad Leader (2-27 Infantry Bn "Wolfhounds")**

May '03 – May '06

- Handpicked for missions with Green Berets & Delta during a 13 month tour (300+ combat patrols); achieved written & conversational Arabic through private instruction; promoted meritoriously & decorated

### **EDUCATION**

**M.B.A. ('09, 3.5 GPA), UCLA ANDERSON SCHOOL OF MANAGEMENT**

Los Angeles, CA

**B.A., Economics ('02, cum laude), UNIVERSITY OF KENTUCKY**

Lexington, KY



# EMERGE

Development

benclements@emergelex.com

## **EMERGE PROPERTY & EMERGE CONTRACTING**

### **Development Associate**

Lexington, KY

Nov. '14 – Present

*Manage construction, development, and management of properties in portfolio, as well as construction estimates on external jobs.*

- Provided technical expertise on MEP projects
- Generate development feasibility plans
- Asses zoning requirements

## **CODEGREEN SOLUTIONS**

New York, NY

### **Energy Project Manager**

9/13-10/14

- Served as technical advisor to property managers on base building system upgrades for increased energy efficiency (centrifugal electric, steam turbine & steam absorption chillers, cooling towers, boiler plants and installation of VFDs)
- Conducted feasibility studies and preliminary cost estimates for installation of cogeneration plants (combined heat and power) and auxiliary generators to be installed in commercial office and multifamily residential facilities
- Managed engineering teams to complete ASHRAE Level II Energy Audits and Retro-Commissioning Studies of numerous large (300,000 SF - 1,200,000 SF) commercial office buildings

## **EME Group**

New York, NY

### **Senior Associate Mechanical Engineer**

11/10-9/13

- Gained solid understanding and working knowledge of mechanical equipment through hands on experience with chillers, dry coolers, cooling towers, condensing boilers, variable frequency drives (VFD), variable refrigerant volume systems, ground source heat pumps, air handling units and lighting controls
- Evaluated existing facility mechanical infrastructure to identify mechanical and control device deficiencies and opportunities for system optimization through modification of control logic
- Generated utility cost savings calculations, implementation cost estimates and payback estimates
- Managed all aspects of the commissioning process for new buildings from project inception through close out on numerous large scale (120,000+ SF) LEED certified projects throughout the New York City area
- Developed project documents for all phases of the commissioning and retro-commissioning process; Commissioning Specification, Owners Project Requirements, Basis of Design, Cx Plan and Test Procedures
- Conducted design reviews and submittal reviews with design teams
- Coordinated with contractors and equipment manufacturers representatives and lead functional testing of mechanical equipment, including troubleshooting and documentation of deficiencies encountered

## **URS**

Princeton, NJ

### **Mechanical Engineer**

06/08-10/10

- Developed System Design Specifications for the Comanche Peak Nuclear Generating Facility, Units 3 & 4
- Drafted and reviewed equipment specifications and system calculations for industrial equipment including; plate and frame heat exchangers, nitrogen blanketing system, city water booster

**Acquisition Description**

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509 Smith Street - Single floor, 518 SF residence to be demolished

531 West 5th Street - Two floor 2,408 SF 4-plex to be remodeled

Multiple Property Acquisition Cost	\$220,000
531 West 5th Street Basis	\$129,169 <sup>(V)</sup>

**Redevelopment Information**

Total Project Cost (TPC)	\$320,199
Building Size	2,408 SF
Number of 1-Bdrm Units	4
Market Monthly Rental Rate	\$650 <sup>(V)</sup>
Affordable Monthly Rental Rate	\$650 <sup>(V)</sup>
Market Rate Units	2 of 4 <sup>(V)</sup>
Affordable Rate Units	2 of 4 <sup>(V)</sup>

**Financing Description**

Project will utilize two forms of financing provided by the Lexington Fayette Urban County Government (LFUCG) Affordable Housing Fund (AHF):

- 1) Forgivable Debt - Will serve as a developers fee
- 2) Low Interest Loan - Will fund acquisition and redevelopment costs

	<u>Contribution</u>	
Cash Equity	30.3%	\$97,169
LFUCG AHF Forgivable Debt	15.0%	\$48,030
LFUCG AHF Low Interest Loan	54.7%	\$175,000

**Financing - LFUCG AHF Low Interest Loan**

LTPC	54.7%
UPB	\$175,000 <sup>(V)</sup>
Interest Rate	2.00% <sup>(V)</sup>
Term (years)	15 <sup>(V)</sup>
Amortization (months)	240 <sup>(V)</sup>
I/O Period (months)	12 <sup>(V)</sup>
Deed Restriction Period (years)	15

**Financing - LFUCG AHF Forgivable Debt**

LTPC	15.0% <sup>(V)</sup>
Forgivable Debt Amount	\$48,030 <sup>(V)</sup>
Deed Restriction Period (years)	5

**Financial Model Results**

Assumed Capitalization Rate at Sale	7.8% <sup>(V)</sup>
Assumed Transaction Cost at Sale*	38.0% <sup>(V)</sup>
Asset Sale	\$165,542
Yield (Year 5)	10.96%
Yield (Year 15)	22.23%
IRR	17.41%

\*Notes: (V) - Indicates variable used in Financial Analysis calculations

Transaction cost is increased to account for depreciation and capitol gains on asset sale in year 15

## 1.1 - Sources &amp; Uses

## Emerge Development

531 West 5th Street

<b>Capital Stack</b>	<b>USD (\$)</b>	<b>Pct.</b>
Cash Equity (30.3% of LTFC)	\$97,169	30%
LFUCG AHF Forgivable Debt (15.0% of LTFC)	\$48,030	15%
LFUCG AHF Low Interest Loan (54.7% of LTFC)	\$175,000	55%
<b>Sub-Total</b>	<b>\$320,199</b>	

<b>Incentives</b>	<b>USD (\$)</b>	<b>Pct.</b>
None		
<b>Sub-Total</b>	<b>\$0</b>	

<b>Uses of Proceeds</b>	<b>USD (\$)</b>	<b>Pct.</b>
Acquisition	\$129,169	40%
Redevelopment Budget	\$143,000	45%
Developers Fee	\$48,030	15%
<b>Sub-Total</b>	<b>\$320,199</b>	

## 1.2 - Redevelopment Budget

## Emerge Development

531 West 5th Street

Category	USD (\$)	Pct.	Source*
HVAC	\$19,800	14%	E
Electric	\$16,000	11%	Q
Drywall	\$16,000	11%	E
Plumbing	\$11,000	8%	E
Flooring	\$11,000	8%	E
Framing - Repairs to Existing Structure	\$8,000	6%	E
Appliances - Kitchen	\$8,000	6%	E
Sitework	\$6,000	4%	E
Demolition - Interior of Existing Structure	\$6,000	4%	E
Trim & Hardware	\$6,000	4%	E
Roof Repair - Chimney Removal	\$6,000	4%	E
Demolition - Existing Structure at 509 Smith Street	\$5,800	4%	A
General Labor	\$5,000	3%	E
Cabinets & Counters	\$4,000	3%	E
Appliances - Washer/Dryer	\$3,200	2%	E
Insulation	\$3,000	2%	E
Framing - Enclose Washer/Dryer Area	\$2,500	2%	E
Water Heaters	\$1,500	1%	E
Siding Repair	\$1,500	1%	E
Tree Trimming	\$1,500	1%	E
Windows	\$1,200	<1%	E
<b>Total Redevelopment Budget</b>	<b>\$143,000</b>		
<b>Redevelopment Cost per Square Foot</b>	<b>\$59</b>		

\*Notes: E = Estimate : Q = Quote : A = Actual

1.3 - Cash Flow Analysis

Emerge Development

531 West 5th Street

Start / End Date	9/1/15	2016e	2017e	2018e	2019e	2020e	2021e	2022e	2023e	2024e	2025e	2026e	2027e	2028e	2029e	2030e	9/1/30
<b>Cash Flow</b>		<b>Yr 1</b>	<b>Yr 2</b>	<b>Yr 3</b>	<b>Yr 4</b>	<b>Yr 5</b>	<b>Yr 6</b>	<b>Yr 7</b>	<b>Yr 8</b>	<b>Yr 9</b>	<b>Yr 10</b>	<b>Yr 11</b>	<b>Yr 12</b>	<b>Yr 13</b>	<b>Yr 14</b>	<b>Yr 15</b>	<b>Total</b>
Investment	(97,169)																
Development Fee	\$48,030																
Cash Flow Distributions	\$8,953	\$3,187	\$4,976	\$5,173	\$5,386	\$5,937	\$6,505	\$6,853	\$7,456	\$8,076	\$8,455	\$9,113	\$9,791	\$10,203	\$10,922	\$104,333	
Sale Distributions																	
<b>Sub-Total</b>	<b>(\$40,186)</b>	<b>\$3,187</b>	<b>\$4,976</b>	<b>\$5,173</b>	<b>\$5,386</b>	<b>\$5,937</b>	<b>\$6,505</b>	<b>\$6,853</b>	<b>\$7,456</b>	<b>\$8,076</b>	<b>\$8,455</b>	<b>\$9,113</b>	<b>\$9,791</b>	<b>\$10,203</b>	<b>\$10,922</b>	<b>\$104,333</b>	
																	Yield (Year 5)
																	10.96%
																	Yield (Year 15)
																	22.23%
																	IRR
																	17.41%
<b>Operating Revenue</b>	<b>2015e</b>	<b>2016e</b>	<b>2017e</b>	<b>2018e</b>	<b>2019e</b>	<b>2020e</b>	<b>2021e</b>	<b>2022e</b>	<b>2023e</b>	<b>2024e</b>	<b>2025e</b>	<b>2026e</b>	<b>2027e</b>	<b>2028e</b>	<b>2029e</b>	<b>Total</b>	
Projected Rental Revenue																	
Gross Revenue	\$26,520	\$28,922	\$31,445	\$32,388	\$33,360	\$34,361	\$35,392	\$36,453	\$37,547	\$38,673	\$39,834	\$41,029	\$42,260	\$43,527	\$44,833	\$546,545	
<b>Operating Expenses</b>	<b>2015e</b>	<b>2016e</b>	<b>2017e</b>	<b>2018e</b>	<b>2019e</b>	<b>2020e</b>	<b>2021e</b>	<b>2022e</b>	<b>2023e</b>	<b>2024e</b>	<b>2025e</b>	<b>2026e</b>	<b>2027e</b>	<b>2028e</b>	<b>2029e</b>	<b>Total</b>	
Utility - Electric	\$6,298	\$6,477	\$6,671	\$6,871	\$7,077	\$7,290	\$7,508	\$7,733	\$7,965	\$8,204	\$8,451	\$8,704	\$8,965	\$9,234	\$9,511	\$116,950	
Insurance	\$2,882	\$2,968	\$3,057	\$3,149	\$3,243	\$3,341	\$3,441	\$3,544	\$3,651	\$3,760	\$3,873	\$3,989	\$4,109	\$4,232	\$4,359	\$53,588	
Property Tax	\$759	\$1,405	\$1,728	\$2,051	\$2,373	\$2,373	\$2,373	\$2,611	\$2,611	\$2,611	\$2,872	\$2,872	\$2,872	\$3,159	\$3,159	\$35,828	
Maintenance	\$1,300	\$1,339	\$1,379	\$1,421	\$1,463	\$1,507	\$1,552	\$1,599	\$1,647	\$1,696	\$1,747	\$1,800	\$1,853	\$1,909	\$1,966	\$24,179	
Utility - Sewer	\$960	\$989	\$1,018	\$1,049	\$1,080	\$1,113	\$1,146	\$1,181	\$1,216	\$1,253	\$1,290	\$1,329	\$1,369	\$1,410	\$1,452	\$17,865	
Utility - Water	\$877	\$904	\$931	\$959	\$988	\$1,017	\$1,048	\$1,079	\$1,111	\$1,145	\$1,179	\$1,215	\$1,251	\$1,288	\$1,327	\$16,319	
Miscellaneous	\$500	\$515	\$530	\$546	\$563	\$580	\$597	\$615	\$633	\$652	\$672	\$692	\$713	\$734	\$756	\$9,299	
Management	\$500	\$515	\$530	\$546	\$563	\$580	\$597	\$615	\$633	\$652	\$672	\$692	\$713	\$734	\$756	\$9,299	
<b>Total Operating Expenses*</b>	<b>\$14,067</b>	<b>\$15,111</b>	<b>\$15,845</b>	<b>\$16,592</b>	<b>\$17,351</b>	<b>\$17,800</b>	<b>\$18,263</b>	<b>\$18,977</b>	<b>\$19,468</b>	<b>\$19,974</b>	<b>\$20,756</b>	<b>\$21,292</b>	<b>\$21,845</b>	<b>\$22,701</b>	<b>\$23,287</b>	<b>\$283,328</b>	
<b>Net Operating Income</b>	<b>\$12,453</b>	<b>\$13,811</b>	<b>\$15,600</b>	<b>\$15,797</b>	<b>\$16,009</b>	<b>\$16,561</b>	<b>\$17,129</b>	<b>\$17,477</b>	<b>\$18,079</b>	<b>\$18,700</b>	<b>\$19,078</b>	<b>\$19,737</b>	<b>\$20,415</b>	<b>\$20,826</b>	<b>\$21,546</b>	<b>\$263,217</b>	
<b>Annual Debt SVC</b>	<b>\$3,500</b>	<b>\$10,624</b>	<b>\$10,624</b>	<b>\$10,624</b>	<b>\$10,624</b>	<b>\$10,624</b>	<b>\$10,624</b>	<b>\$10,624</b>	<b>\$10,624</b>	<b>\$10,624</b>	<b>\$10,624</b>	<b>\$10,624</b>	<b>\$10,624</b>	<b>\$10,624</b>	<b>\$10,624</b>	<b>\$152,230</b>	
<i>Interest Rate: 2.00%</i>																	
<i>Loan Term (yrs): 15</i>																	
<i>Ann. Term (months): 240</i>																	
<i>I/O Period (months): 12</i>																	
<b>Annual Net Income</b>	<b>\$8,953</b>	<b>\$3,187</b>	<b>\$4,976</b>	<b>\$5,173</b>	<b>\$5,386</b>	<b>\$5,937</b>	<b>\$6,505</b>	<b>\$6,853</b>	<b>\$7,456</b>	<b>\$8,076</b>	<b>\$8,455</b>	<b>\$9,113</b>	<b>\$9,791</b>	<b>\$10,203</b>	<b>\$10,922</b>	<b>\$110,987</b>	

\*Notes: Per LFCG PVA property tax rate will be 1.19% of assessed property value; see tab 1.5 for calculation  
 Model assumes all other Operating Expenses increase 3% annually  
 Insurance expenses based on current expenses on similar properties. 09% of property value  
 Owner pays for water. annual per unit cost based on assumption: (1) Usage: 120 gal / day / unit (2) Utility Cost: \$0.5008 / 100 gal  
 Electricity cost is estimate based on full property load calculation

1.4 - Financing

Emerge Development

531 West 5th Street

Loan Terms	Start / End Date	9/1/15	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	9/1/30
Date of Terms:	TBD	UPB (Beg.):	\$175,000	\$175,000	\$167,876	\$160,610	\$153,189	\$145,640	\$137,929	\$130,064	\$122,042	\$113,859	\$105,512	\$96,998	\$88,316	\$79,458	\$70,424	-
UPB:	\$175,000	Interest:	\$3,500	\$3,500	\$3,358	\$3,212	\$3,064	\$2,913	\$2,759	\$2,601	\$2,441	\$2,277	\$2,110	\$1,940	\$1,766	\$1,589	\$1,408	\$38,439
LTPC:	54.7%	Principal:	\$0	\$7,124	\$7,266	\$7,411	\$7,560	\$7,711	\$7,865	\$8,022	\$8,183	\$8,346	\$8,513	\$8,684	\$8,857	\$9,034	\$9,215	\$113,791
Interest Rate:	2.00%	P & I:	\$3,500	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$162,230
Term (yrs):	15	UPB (End):	\$175,000	\$167,876	\$160,610	\$153,189	\$145,640	\$137,929	\$130,064	\$122,042	\$113,859	\$105,512	\$96,998	\$88,316	\$79,458	\$70,424	\$61,209	-
Amortization (mths):	240																	
I/O Period:	12																	

Total Fees	\$2,000	Date	2016	2016	2017	2018	2019	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	Total
Appraisal:	-	NOI:	\$12,453	\$13,811	\$15,600	\$15,797	\$16,009	\$16,561	\$17,129	\$17,477	\$18,079	\$18,700	\$19,078	\$19,737	\$20,415	\$20,826	\$21,546	\$161,615	
Origination:	-	Debt SVC:	\$3,500	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$10,624	\$99,112
Flood Cert:	-	Net Income:	\$8,953	\$3,187	\$4,976	\$5,173	\$5,386	\$5,937	\$6,505	\$6,853	\$7,456	\$8,076	\$8,455	\$9,113	\$9,791	\$10,203	\$10,922	\$62,503	
Attorney:	-																		
Mtg/Deed Rec'ing:	-																		

Asset Sale \$166,542  
 Cap Rate: 7.8%  
 Transaction Cost: 38.0%  
 Total Debt SVC (w/ fees): \$101,112  
 Payoff Amount: \$61,209  
 Net Proceeds: \$104,333

1.5 - Revenue + Expense Model

Emerge Development

531 West 5th Street

Start / End Date	2015e	2016e	2017e	2018e	2019e	2020e	2021e	2022e	2023e	2024e	2025e	2026e	2027e	2028e	2029e	2030e
Operating Revenue	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6	Yr 7	Yr 8	Yr 9	Yr 10	Yr 11	Yr 12	Yr 13	Yr 14	Yr 15	Total
Annual Rental Rate Increase	0%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	-
Annual Vacancy Rate	15%	10%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	5%	-
Market Rate Rental Revenue	\$13,260	\$14,461	\$15,723	\$16,194	\$16,680	\$17,180	\$17,696	\$18,227	\$18,774	\$19,337	\$19,917	\$20,514	\$21,130	\$21,764	\$22,417	\$273,273
Affordable Rate Rental Revenue	\$13,260	\$14,461	\$15,723	\$16,194	\$16,680	\$17,180	\$17,696	\$18,227	\$18,774	\$19,337	\$19,917	\$20,514	\$21,130	\$21,764	\$22,417	\$273,273
Gross Projected Revenue	\$26,520	\$28,922	\$31,445	\$32,388	\$33,360	\$34,361	\$35,392	\$36,453	\$37,547	\$38,673	\$39,834	\$41,029	\$42,260	\$43,527	\$44,833	\$546,545
Property Tax Expense	2015e	2016e	2017e	2018e	2019e	2020e	2021e	2022e	2023e	2024e	2025e	2026e	2027e	2028e	2029e	2030e
Tax Rate	1.1867%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
PVA Fair Cash Value	\$64,000	\$118,400	\$145,600	\$172,800	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000
Projected Property Tax	\$769	\$1,405	\$1,728	\$2,051	\$2,373	\$2,373	\$2,373	\$2,373	\$2,611	\$2,611	\$2,611	\$2,611	\$2,611	\$2,872	\$2,872	\$2,872
																\$35,829

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**EXHIBIT B**  
**(Executed Commitment Letter)**





**LEXINGTON - FAYETTE URBAN COUNTY GOVERNMENT**  
**Department of Planning, Preservation & Development**

**Jim Gray**  
**Mayor**

**Derek J. Paulsen, Ph.D.**  
**Commissioner**

September 21, 2015

Benjamin Clements, Partner  
Emerge Development  
941 National Avenue, Suite 120  
Lexington, KY. 40502

Dear Mr. Clements,

This letter serves as a contingent commitment of funds from the Affordable Housing Fund of Lexington Fayette Urban County Government (LFUCG) for the Smith Town Flats development described in your application dated August 3, 2015.

The Affordable Housing Fund Board has approved an allocation of a first mortgage loan totaling \$223,030 for the development. Of this amount, \$175,000 will be repaid at a rate of 2% with a 15 year term and 20 year amortization. The remaining \$48,030 will be forgiven over the 15 year period as long as the units remain affordable to households at or below 80% of area median income in Fayette County, Kentucky.

A 1% fee totaling \$2,230.30 will be charged and due at closing.

This funding commitment is contingent upon the following:

1. Emerge Development accepts a 15 year deed restriction that will ensure the rental units are leased to households whose income is less than 80% of area median income.

**H O R S E   C A P I T A L   O F   T H E   W O R L D**

101 East Vine Street, Suite 400   Lexington, KY 40507   (859) 258-3018   FAX (859) 258-3163   [www.lexingtonky.gov](http://www.lexingtonky.gov)

**EXHIBIT C**  
**(Schedule)**

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**EXHIBIT D**  
**(Executed Promissory Notes and Mortgages)**

**LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
AFFORDABLE HOUSING FUND  
FORGIVABLE LOAN PROMISSORY NOTE**

**\$48,030.00**

November 19, 2015

FOR VALUE RECEIVED, **EMERGE DEVELOPMENT, LLC**, A **KENTUCKY LIMITED LIABILITY COMPANY**, whose address is 941 National Avenue, Suite 120, Lexington, Kentucky 40502 (the "Maker") promises to pay to **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT ("LFUCG")**, an urban county government created pursuant to KRS Chapter 67A, whose principal address is 200 East Main Street, Lexington, Kentucky 40507, its successors and assigns, the principal sum of **FORTY-EIGHT THOUSAND AND THIRTY AND 00/100 DOLLARS (\$48,030.00)** or lesser amount as may be endorsed on this Forgivable Promissory Note on behalf of LFUCG, at the rate of zero percent (0%) per annum

- A. Payments shall be required as follows:
1. Interest on the outstanding principal *calculated in the manner set forth below* shall be due and payable in arrears on the 1<sup>st</sup> day of each month beginning on June 1, 2016 and continuing on the *first* day of each succeeding month thereafter until the principal balance shall be paid in full.
  2. Unless otherwise agreed to in writing, or otherwise required by applicable law, payments shall be applied first to accrued, unpaid interest, then to principal, and any remaining amount to any unpaid costs or charges. provided however, upon an Event of Default, LFUCG reserves the right to apply payments in its sole discretion;
  3. Any payment due under this Note on a day which is not a business day shall be made on the succeeding business day and any resulting extension of time shall be included in the computation of the interest payment amount.
  4. All interest hereunder shall be computed on the basis of a year of 360 days, and in each case shall be payable for the actual number of days elapsed.
  5. The entire principal balance, together with all interest accrued and unpaid thereon and all other sums due under this Note shall be due and payable on June 1, 2031, (the "Maturity Date")
- B. However, so long as the Maker ensures the Affordability Period of a minimum of fifteen (15) years from the date Funds are first expended on the Project as defined in Section 3.3 of the Loan Agreement AND that no event of breach or default as defined in Sections 5.1 and 5.2 of the Loan Agreement has occurred without cure or continues to occur without cure, the Maker's obligation to pay this Forgivable Loan Promissory Note shall be forgiven. The Loan shall be forgiven as follows:
1. 1/15<sup>th</sup> of the above-stated principal sum shall be forgiven beginning on June 1, 2017 and each year thereafter for each full year during the Affordability Period.
  2. The entire principal sum shall be forgiven in full on June 1, 2031, (the "Maturity Date"), as long as all terms and conditions of all Loan Documents have been satisfactorily complied and fulfilled.

If any payment required under this Note is not paid within ten (10) days after such payment is due, the undersigned will pay to LFUCG or the subsequent holder of this Note a late charge equal to five percent (5%) of the amount of such payment or Twenty-five Dollars (\$25.00), whichever is greater, up to a maximum of One Thousand Five Hundred Dollars (\$1,500.00) per late charge to compensate LFUCG for administrative expenses and other costs of delinquent payments. This late charge may be assessed without notice, shall be immediately due and payable and shall be in addition to all other rights and remedies available to LFUCG.

This Note evidences indebtedness incurred under, and is subject to the terms and provisions of, a Commitment Letter (the "Commitment Letter") dated September 21, 2015, and a Housing Rehabilitation Loan Agreement between the undersigned and LFUCG ("Rehabilitation Loan Agreement"), of even date herewith, providing a Forgivable loan of **FORTY-EIGHT THOUSAND AND THIRTY AND 00/100 DOLLARS (\$48,030.00)** and this Note is expressly subject to and will be bound by the terms and conditions set forth in such Commitment and Rehabilitation Loan Agreement as if all of such terms and conditions were expressly set forth herein.

If (1) any installment of interest or the payment of principal required by this Note remains unpaid for more than 10 days after the due date thereof, (2) the undersigned or any guarantor should be the subject of any voluntary or involuntary bankruptcy, receivership or other insolvency proceeding, (3) the undersigned fails to observe or perform any of the terms of this Note or (4) there is any default by undersigned under the Rehabilitation Loan Agreement, the Mortgage or any other document, instrument or agreement providing any security for this Note, then, in any of those events, LFUCG or the holder of this Note may declare the remaining principal balance of this Note (or so much thereof as may have been advanced) to be immediately due and payable. In the event of default under this Promissory Note, interest shall accrue on the entire unpaid balance at a rate of twelve percent (12%) per annum from the date the default is declared until the default has been cured.

Any waiver of any default hereunder or under the instruments securing this Note at any time will not, at any other time, constitute a waiver of the terms of this Note or the instruments securing it, and the acceptance of payments upon the indebtedness evidenced hereby will not constitute a waiver of the option of LFUCG or the holder of this note to accelerate repayment of the entire unpaid balance, unless LFUCG or the holder expressly grants such waiver in writing.

This Note is also secured by and is the same Note mentioned in a real estate Mortgage of even date herewith executed in favor of LFUCG by the undersigned, and this Note is expressly made subject to and will be bound by the terms and conditions set forth in said Mortgage as if all of such terms and conditions were expressly set forth herein. All sums which shall or may become due and payable by the Maker in accordance with the provisions of this Note shall be deemed to constitute additional interest on, and shall be evidenced by this Note, shall be secured by the Mortgage and the other Loan Documents.

The undersigned and all persons now or hereafter liable, whether primarily or secondarily, for the whole or any part of the indebtedness evidenced by this Note jointly and severally:

(a) agree to remain and continue to be responsible for the payment of the principal of and interest on this note notwithstanding any extension or extensions of time of the payment of the principal or interest, or any change or changes by way of release or surrender of any collateral, real or personal, held as security for the payment of this Note, and waive all and every kind of notice of such extension or extensions, change or changes and agree that the same may be made without the joinder of any such persons;

(b) waive presentment, notice of dishonor, protest, notice of protest and diligence in collection and all exemptions, whether homestead or otherwise, to which they or any of them may

now or hereafter be entitled under the laws of Kentucky or any other state; and

(c) agree, upon default, to pay all costs of collection, securing or attempting to collect or secure this Note, including a reasonable attorney's fee, whether same be collected or secured by suit or otherwise, providing the collection of such costs and fees is permitted by applicable law.

This Note may be assigned in whole or in part by LFUCG or any other holder hereof.

The undersigned may prepay the principal amount outstanding in whole or in part at any time without penalty.

The Maker (and the undersigned representative(s) of the Maker) represents that the Maker has full power, authority and legal right to execute and deliver this Note and that this Note constitutes a valid and binding obligation of the Maker.

This Note will be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.

The undersigned shall have no personal liability under this note or any other Loan Document for the repayment of the indebtedness evidenced by this note or for the performance of any other obligations of the undersigned under the Loan Documents (collectively, the "Indebtedness"), and LFUCG's only recourse for the satisfaction of the Indebtedness and the performance of such obligations shall be LFUCG's exercise of its rights and remedies under the Loan Documents with respect to the Premises (as defined in the Mortgage) and any other collateral held by LFUCG as security for the Indebtedness. This limitation on the undersigned's liability shall not limit or impair LFUCG's enforcement of its rights against any indemnitor or guarantor pursuant to any agreement of indemnity or guaranty. Notwithstanding the foregoing provisions, the undersigned shall be fully and personally liable for damages to LFUCG resulting from (i) the undersigned's fraud or misrepresentation, whether affirmative or by omission; (ii) the misapplication of (a) proceeds of insurance covering any portion of the Premises, or (b) proceeds of condemnation of any portion of the Premises or proceeds from the sale or conveyance of any portion of the Premises in lieu of condemnation; (iii) all reasonable costs and expenses including court costs and reasonable attorney's fees incurred in collecting any of the foregoing.

Emerge Development, LLC

By:

Title:

[Signature]  
Partner - Emerge Development

COMMONWEALTH OF KENTUCKY )

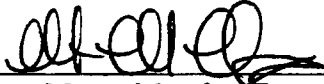
COUNTY OF Fayette )

Subscribed, sworn to and acknowledged before me this 19 day of November, 2015, by Ben Clemente, as Partner of Emerge Development, LLC, a Kentucky limited liability company, for and on behalf of said Emerge Development, LLC.

My commission expires: 11/29/2015

[Signature]  
Notary Public

THIS INSTRUMENT PREPARED BY:



\_\_\_\_\_  
Melissa Moore Murphy, Esq.  
Attorney Senior  
Lexington-Fayette Urban County Government  
200 East Main Street  
Lexington, Kentucky 40507  
(859) 258-3500

**LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
AFFORDABLE HOUSING FUND  
PROMISSORY NOTE**

**\$175,000.00**

November 19, 2015

FOR VALUE RECEIVED, EMERGE DEVELOPMENT, LLC, a Kentucky limited liability company, whose address is 941 National Avenue, Suite 120, Lexington, Kentucky 40502 (the "Maker") promises to pay to LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT ("LFUCG"), an urban county government created pursuant to KRS Chapter 67A, whose principal address is 200 East Main Street, Lexington, Kentucky 40507, its successors and assigns, the principal sum of **ONE HUNDRED AND SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$175,000.00)** or so much thereof as may be advanced under the Loan Documents (as defined in the Loan Agreement) and outstanding, together with interest thereon at the rate of two percent (2%) per annum to be computed from the date of each disbursement, calculated and paid in the manner hereinafter set forth, as follows:

- A. Interest on the outstanding principal *calculated in the manner set forth below* shall be due and payable in arrears on the 1<sup>st</sup> day of each month beginning on June 1, 2016 and continuing on the *first* day of each succeeding month thereafter until the principal balance shall be paid in full.
- B. Unless otherwise agreed to in writing, or otherwise required by applicable law, payments shall be applied first to accrued, unpaid interest, then to principal, and any remaining amount to any unpaid costs or charges, provided however, upon an Event of Default, without cure, LFUCG reserves the right to apply payments in its sole discretion;
- C. Any payment due under this Note on a day which is not a business day shall be made on the succeeding business day and any resulting extension of time shall be included in the computation of the interest payment amount.
- D. All interest hereunder shall be computed on the basis of a year of 360 days, and in each case shall be payable for the actual number of days elapsed.
- E. The entire principal balance, together with all interest accrued and unpaid thereon and all other sums due under this Note shall be due and payable on June 1, 2031. (the "Maturity Date")

If any payment required under this Note is not paid within ten (10) days after such payment is due, the undersigned will pay to LFUCG or the subsequent holder of this Note a late charge equal to five percent (5%) of the amount of such payment or Twenty-five Dollars (\$25.00), whichever is greater, up to a maximum of One Thousand Five Hundred Dollars (\$1,500.00) per late charge to compensate LFUCG for administrative expenses and other costs of delinquent payments. This late charge may be assessed without notice, shall be immediately due and payable and shall be in addition to all other rights and remedies available to LFUCG.

This Note evidences indebtedness incurred under, and is subject to the terms and provisions of, a Commitment Letter (the "Commitment Letter") dated September 21, 2015, and a Housing Rehabilitation Loan Agreement between the undersigned and LFUCG ("Rehabilitation Loan Agreement"), of even date herewith, providing for an amortizing loan of **ONE HUNDRED AND SEVENTY-FIVE THOUSAND AND 00/DOLLARS (\$175,000.00)** and this Note is expressly subject to and will be bound by the terms and conditions set forth in such Commitment and Rehabilitation



Loan Agreement as if all of such terms and conditions were expressly set forth herein.

If (1) any installment of interest or the payment of principal required by this Note remains unpaid for more than 10 days after the due date thereof, (2) the undersigned or any guarantor should be the subject of any voluntary or involuntary bankruptcy, receivership or other insolvency proceeding, (3) the undersigned fails to observe or perform any of the terms of this Note or (4) there is any default by undersigned under the Rehabilitation Loan Agreement, the Mortgage or any other document, instrument or agreement providing any security for this Note, then, in any of those events, LFUCG or the holder of this Note may declare the remaining principal balance of this Note (or so much thereof as may have been advanced) to be immediately due and payable. In the event of default under this Promissory Note, interest shall accrue on the entire unpaid balance at a rate of twelve percent (12%) per annum from the date the default is declared until the default has been cured.

Any waiver of any default hereunder or under the instruments securing this Note at any time will not, at any other time, constitute a waiver of the terms of this Note or the instruments securing it, and the acceptance of payments upon the indebtedness evidenced hereby will not constitute a waiver of the option of LFUCG or the holder of this note to accelerate repayment of the entire unpaid balance, unless LFUCG or the holder expressly grants such waiver in writing.

This Note is also secured by and is the same Note mentioned in a real estate Mortgage of even date herewith executed in favor of LFUCG by the undersigned, and this Note is expressly made subject to and will be bound by the terms and conditions set forth in said Mortgage as if all of such terms and conditions were expressly set forth herein. All sums which shall or may become due and payable by the Maker in accordance with the provisions of this Note shall be deemed to constitute additional interest on, and shall be evidenced by this Note, shall be secured by the Mortgage and the other Loan Documents.

The undersigned and all persons now or hereafter liable, whether primarily or secondarily, for the whole or any part of the indebtedness evidenced by this Note jointly and severally:

(a) agree to remain and continue to be responsible for the payment of the principal of and interest on this note notwithstanding any extension or extensions of time of the payment of the principal or interest, or any change or changes by way of release or surrender of any collateral, real or personal, held as security for the payment of this Note, and waive all and every kind of notice of such extension or extensions, change or changes and agree that the same may be made without the joinder of any such persons;

(b) waive presentment, notice of dishonor, protest, notice of protest and diligence in collection and all exemptions, whether homestead or otherwise, to which they or any of them may now or hereafter be entitled under the laws of Kentucky or any other state; and

(c) agree, upon default, to pay all costs of collection, securing or attempting to collect or secure this Note, including a reasonable attorney's fee, whether same be collected or secured by suit or otherwise, providing the collection of such costs and fees is permitted by applicable law.

This Note may be assigned in whole or in part by LFUCG or any other holder hereof.

The undersigned may prepay the principal amount outstanding in whole or in part at any time without penalty.

The Maker (and the undersigned representative(s) of the Maker) represents that the Maker has full power, authority and legal right to execute and deliver this Note and that this Note constitutes a valid and binding obligation of the Maker.

This Note will be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.

The undersigned shall have no personal liability under this note or any other Loan

Document for the repayment of the indebtedness evidenced by this note or for the performance of any other obligations of the undersigned under the Loan Documents (collectively, the "Indebtedness"), and LFUCG's only recourse for the satisfaction of the Indebtedness and the performance of such obligations shall be LFUCG's exercise of its rights and remedies under the Loan Documents with respect to the Premises (as defined in the Mortgage) and any other collateral held by LFUCG as security for the Indebtedness. This limitation on the undersigned's liability shall not limit or impair LFUCG's enforcement of its rights against any indemnitor or guarantor pursuant to any agreement of indemnity or guaranty. Notwithstanding the foregoing provisions, the undersigned shall be fully and personally liable for damages to LFUCG resulting from (i) the undersigned's fraud or misrepresentation, whether affirmative or by omission; (ii) the misapplication of (a) proceeds of insurance covering any portion of the Premises, or (b) proceeds of condemnation of any portion of the Premises or proceeds from the sale or conveyance of any portion of the Premises in lieu of condemnation; and (iii) all reasonable costs and expenses including court costs and reasonable attorney's fees incurred in collecting any of the foregoing.

Emerge Development, LLC

By: 


Title: Emerge Development

COMMONWEALTH OF KENTUCKY )

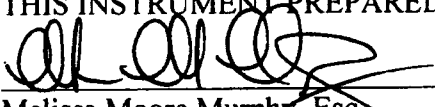
COUNTY OF Fayette )

Subscribed, sworn to and acknowledged before me this 19 day of November, 2015, by Ben Champs, as Partner of EmERGE Development, LLC, a Kentucky limited liability company, for and on behalf of said EmERGE Development, LLC.

My commission expires: 11/29/2015

  
\_\_\_\_\_  
Notary Public

THIS INSTRUMENT PREPARED BY:

  
\_\_\_\_\_  
Melissa Moore Murphy, Esq.  
Attorney Senior  
Lexington-Fayette Urban County Government  
200 East Main Street  
Lexington, Kentucky 40507  
(859) 258-3500

**EXHIBIT E**  
**(Property Description)**

A certain tract or parcel lying in Lexington, Fayette County, Kentucky on the North corner of Fifth and Smith Streets, fronting on Fifth Street thirty (30) feet and extending back in a Northerly direction One Hundred Seven (107) feet on Smith Street; said property being designated as 531-535 West Fifth Street and 509 Smith Street.

Being the same property conveyed to Warren D. McIntyre, Trustee under the Warren D. McIntyre Revocable Trust Agreement dated August 28, 1997, by Warren D. McIntyre as Trustor and Trustee, and Donna D. McIntyre, Trustee under the Donna D. McIntyre Revocable Trust Agreement dated August 28, 1997, by Donna D. McIntyre as Trustor and Trustee, by deed dated September 25, 1997, of record in Deed Book 1940, Page 498, in the Fayette County Clerk's Office.

**LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
AFFORDABLE HOUSING FUND  
MORTGAGE**

This **MORTGAGE** ("Mortgage"), is made and entered into this **21** day of November, 2015 by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government created pursuant to KRS 67A, whose principal address is 200 East Main Street, Lexington, Kentucky 40507 (herein "LFUCG") through its **OFFICE OF AFFORDABLE HOUSING**, and **EMERGE DEVELOPMENT, LLC, A KENTUCKY LIMITED LIABILITY COMPANY**, whose principal address is 941 National Avenue, Suite 120, Lexington, Kentucky 40502 (herein "Mortgagor").

**WITNESSETH:**

Mortgagor hereby recites and agrees as follows, which recitations and agreements constitute a part of this Mortgage:

**WHEREAS**, Mortgagor is indebted to LFUCG for monies loaned or to be loaned to Mortgagor under the terms of an Affordable Housing Fund Rehabilitation Loan Agreement (the "Loan Agreement") of even date herewith, between Mortgagor and LFUCG providing for an Affordable Housing Fund loan in the amount of **FORTY-EIGHT THOUSAND AND THIRTY AND 00/100 DOLLARS (\$48,030.00)** (the "Loan"); and

A. Mortgagor has determined that it is to Mortgagor's direct and indirect economic benefit that LFUCG make the Loan to Mortgagor, and therefore have agreed to execute and deliver this Mortgage in order to secure repayment of the Loan.

Terms used herein and not otherwise defined shall have the meaning set forth in the Loan Agreement.

**NOW, THEREFORE, MORTGAGOR**, in consideration of the Loan, hereby conveys to LFUCG, with covenant of general warranty all of Mortgagor's right, title and interest in and to certain real estate located in Fayette County, Kentucky (more particularly described in Exhibit A attached hereto and incorporated herein by reference) (the "Property");

**TOGETHER** with all privileges and appurtenances thereunto belonging, Mortgagor's interest as lessor in any leases affecting the premises, and all revenues, rents, issues and profits from the premises (whether payable under a lease or otherwise), and all the estate, right, title and interest of Mortgagor, at law or in equity, of, in and to the Mortgagor's leasehold interest in the Property herein described, and every part thereof, and together with all buildings and improvements now existing or hereafter constructed or placed thereon; and together with all heating, ventilating, and air conditioning equipment relative thereto and all fixtures, now or hereafter located in or upon or affixed to the Property, and all machinery, apparatus, equipment and articles of personal property of every kind and description belonging to Mortgagor, now or hereafter located in or upon or affixed to the Property, all of which are and shall be a part of said Property and a portion of the security for the Loan; and together with all insurance or

condemnation proceeds accruing or arising or relative to any of the foregoing during the term of this Mortgage;

ALL the foregoing property, interests and rights encumbered by this Mortgage are hereafter collectively referred to as the "Premises".

**TO HAVE AND TO HOLD** the Premises with the privileges and appurtenances thereunto belonging, and all rents, revenues, issues and profits therefrom, unto LFUCG, its successors and assigns, forever, for the uses and purposes herein expressed. Mortgagor covenants that Mortgagor is well seized of the Premises and each portion thereof, and has full right and power to grant, bargain, sell, convey, mortgage and warrant the Mortgagor's interest in the same in the manner and form written. Mortgagor represents and warrants to LFUCG that the granting of this Mortgage has been and is duly authorized. Mortgagor covenants that the Premises are free from all liens and encumbrances whatsoever, excepting; (i) the lien of general taxes not yet due and payable, easements and restrictions of record, and restrictions and zoning laws affecting the Premises, if any; (ii) Permitted Encumbrances (as hereinafter defined); and (iii) any leases as may now or hereafter affect any portion of the Premises. Mortgagor warrants and will defend the Premises, with the privileges and appurtenances thereunto belonging, to LFUCG, its successors and assigns forever, against all claims and demands whatsoever adverse to the interest of LFUCG, at Mortgagor's sole expense.

**THIS MORTGAGE** is given to secure: (a) Payment of the Loan, if required, same being evidenced by a promissory note of even date herewith and any modifications, extensions or renewals thereof, executed and delivered by Mortgagor to LFUCG, in the principal amount of **FORTY-EIGHT THOUSAND AND THIRTY AND 00/100 DOLLARS (\$48,030.00)** (hereafter the "Note"), and payment of interest thereon at the rate(s) and in the manner provided therein; the entire principal amount advanced and all interest thereon, if not sooner paid, being due and payable by Mortgagor on June 1, 2031 as more particularly described in the Note; and (b) payment by Mortgagor of its obligations to LFUCG of all sums expended or advanced by LFUCG pursuant to any provisions and performance of each and every of LFUCG's and Mortgagor's respective covenants, conditions and agreements contained in this Mortgage, the Note, the Loan Agreement and any other instrument or agreement evidencing, securing or otherwise pertaining to the Loan (hereafter collectively, the "Loan Documents"). (Hereafter all references to the "Loan" where appropriate shall include all advances made and expenses incurred by LFUCG pursuant to this Mortgage for the protection of the Premises and all other security for the Loan.)

**AND MORTGAGOR, AND EACH OF THEM, AND WHEN AND AS APPLICABLE, HEREBY COVENANTS AND AGREES THAT:**

1. Mortgagor agrees to pay the principal of and interest on the Loan evidenced by the Note and secured hereby, to be paid at the times and in the manner provided in the Note.
2. Mortgagor will pay or will have paid all taxes, assessments, and other similar charges levied upon the Premises before the same become delinquent, and will promptly deliver to LFUCG, if requested, receipts of the proper officers therefor; Mortgagor's failure to pay or to have paid any such charges shall at LFUCG's election constitute a default hereunder. Or. at

LFUCG's sole option in the event of delinquency, LFUCG may pay such delinquent taxes, assessments, and charges, including any penalties or interest thereon (of which payment, amount and validity thereof, the receipt of the proper officer shall be conclusive evidence) and any amount so paid by LFUCG shall become immediately due and payable by Mortgagor, shall be secured by this Mortgage and shall bear interest from date of advance until paid at an annual rate equal to twelve percent per cent (12%).

3. Mortgagor hereby assigns to LFUCG all leases and rents, revenues, issues and profits of the Premises (whether or not payable under a lease) as further security for the payment of all amounts by Mortgagor and performance of all Mortgagor's obligations under the Loan Documents, and grants LFUCG the right to enter on the Premises for the purpose of collecting same, and to promote, manage and/or operate the Premises or any part thereof in such manner as LFUCG may elect, and to apply the revenues received therefrom, after payment of all necessary charges and expenses, to the obligations secured by this Mortgage, upon Mortgagor's default under any covenants, conditions, or agreements contained in the Note, herein or in any other Loan Document. While this is a present assignment, LFUCG will not exercise its rights hereunder unless and until Mortgagor shall be in default hereunder or Mortgagor shall be in default under any other Loan Document. Mortgagor shall, and hereby agrees that it will, indemnify LFUCG, its officers, agents and employees for and hold each of them harmless from any and all claims and demands whatsoever which may be asserted against LFUCG, its officers, agents or employees by reason of any actual or alleged undertakings or obligations on LFUCG's part to perform or discharge any terms, covenants or agreements relative to use or occupancy of the Premises or any part thereof or for waste committed or permitted on the Premises, or by reason of any actual or allegedly dangerous or defective condition or conditions of the Premises resulting in loss or injury to any lessee or to any other person, including LFUCG's reasonable costs and attorney's fees incurred by reason of any of the foregoing. Provided, that said obligation to indemnify LFUCG shall not apply to any loss, injury or damage caused by the gross negligence or willful misconduct of LFUCG, its officers, agents or employees.

4. Mortgagor, at its own expense will maintain with admitted insurers authorized to do business in the Commonwealth of Kentucky against claims for bodily injury, personal injury, death or property damage occurring on, in or about the Premises or as a result of ownership of the improvements located on the Premises in amounts not less than as set forth in the Loan Agreement. Mortgagor further covenants to keep the improvements now existing or hereafter erected on or in the Premises insured against loss or damage by, or abatement of rental income, resulting from fire and "all risk" perils. Mortgagor covenants to maintain flood insurance as required by the Flood Disaster Protection Act of 1973, as amended and any additional flood insurance required by LFUCG. All perils insured, with the exception of flood, shall be in an amount not less than the full replacement value of the property. Mortgagor agrees to promptly pay or have paid when due all premiums on such insurance and further agrees, if requested by LFUCG, to furnish a certificate from the company carrying such insurance acknowledging that such insurance is adequate in an amount to prevent the operation of any coinsurance provision contained therein. All such insurance shall be carried by companies approved by LFUCG in its reasonable discretion and, the policies and renewals thereof shall be deposited with and held by LFUCG. All policies of insurance required to be maintained by Mortgagor pursuant to this paragraph 4 shall name as the insured parties Mortgagor and LFUCG, shall be reasonably

satisfactory to LFUCG and shall: (a) provide for the benefit of such holder or holders, that thirty (30) days' prior written notice of suspension, cancellation, termination, modification, non renewal or lapse or material change of coverage shall be given to all insured parties and that such insurance shall be given to all insured parties and that such insurance shall not be invalidated by any act or neglect of Mortgagor or LFUCG or any owner of the Premises, nor by any foreclosure or other proceedings or notices thereof relating to the Premises or any interest therein, nor by occupation of the Premises for purposes more hazardous than are permitted by such policy and (b) not contain a provision relieving the insurer thereunder of liability for any loss by reason of the existence of other policies of insurance covering the Premises against the peril involved, whether collectible or not.

The originals of all such policies shall be delivered to LFUCG. In the event of Mortgagor's failure to comply with any of the requirements of this paragraph, same shall at LFUCG's option constitute a default hereunder. Or, LFUCG may, in its discretion, obtain any insurance required hereunder and pay the premiums due therefor, and any amounts so paid by LFUCG shall become immediately due and payable by Mortgagor with interest thereon at the rate specified in numerical paragraph (2) hereof until paid, and same shall be secured by this Mortgage.

In the event of any loss or damage to the Premises or any portion thereof, Mortgagor will give immediate notice thereof to LFUCG, and LFUCG may thereupon make proof of claim relative to such loss or damage, if same is not promptly made by Mortgagor. Mortgagor hereby authorizes LFUCG (should LFUCG so elect) to settle, adjust, or compromise any claims for loss, damage, or destruction under any such policy or policies of insurance and collect the proceeds thereof, and to this end hereby grants LFUCG the Mortgagor's power of attorney for such purposes (which power of attorney is a power coupled with an interest, same being irrevocable for the term of this Mortgage); provided, that LFUCG will exercise its rights under this sentence only in the event Mortgagor is in default on the Loan or under the Loan Documents. All such proceeds of fire and extended coverage insurance, to the full extent of the Loan, are hereby assigned to LFUCG and shall be payable to LFUCG if LFUCG should so elect, and Mortgagor hereby authorizes and directs any affected insurance company to make payment thereof directly to LFUCG. All such insurance proceeds or any portion thereof shall be applied in whole or in part to restoration, repair, replacement, or rebuilding of the Premises. The delivery to LFUCG of any such policies or certificates of insurance, or renewals thereof, shall constitute an assignment to LFUCG of all unearned premiums thereon as further security for the payment of the Loan. In the event of foreclosure of this Mortgage or other transfer of title to the Premises in extinguishment of the, Loan, all right, title and interest of Mortgagor in and to any insurance policies then in force shall pass to LFUCG.

5. Mortgagor will have maintained or will maintain the Premises in good condition and repair and will not commit or allow any waste or destruction, reasonable wear and tear excepted. Mortgagor will comply with, or cause to be complied with, any applicable statutes, ordinances, regulations, or requirement of any governmental authority relative to the Premises and the use and maintenance thereof, and will promptly repair, restore, replace, or rebuild any part of the Premises now or hereafter subject to the lien of this Mortgage which may be damaged or destroyed by any casualty or as the result of any proceeding referred to in paragraph (7) hereof.

No buildings, structures, or improvements hereafter erected on the Premises shall be removed, demolished, or substantially or structurally altered in any respect by Mortgagor, on Mortgagor's behalf, or by any tenant or by any other party without the prior written consent of LFUCG by its duly authorized officer, LFUCG, and any person authorized by LFUCG, may enter upon and inspect the Premises at all reasonable times.

6. Mortgagor will not create, suffer or allow any charge, lien or encumbrance (whether superior or inferior to the lien of this Mortgage) upon the Premises or any part thereof, leases as have been approved by LFUCG and the lien of general and special taxes duly levied and assessed but not yet -due and payable, without prior written consent of LFUCG by its duly authorized officer. Mortgagor will pay or will have paid promptly when due any charges for utilities or services including but not limited to electricity, gas and water; should Mortgagor or any tenant fail to pay such charges, LFUCG may pay the same, and any amount so paid by LFUCG shall become immediately due and payable by Mortgagor with interest at the rate specified in numerical paragraph (2) hereof until paid, and same shall be secured by this Mortgage.

7. If all or any part of the Premises are damaged, taken, or acquired, either temporarily or permanently, in any condemnation proceeding, or by exercise of the right of eminent domain, or by the alteration of the grade of any street affecting the Premises, the amount of any award or other payment for such taking or damages made in consideration thereof, to the extent of the full amount of the Loan then remaining unpaid, is hereby assigned by Mortgagor to LFUCG, who may collect and receive the same and give proper receipts therefor in the name of Mortgagor, and the same shall be paid forthwith to LFUCG. To such end, Mortgagor hereby grants to LFUCG the Mortgagor's power of attorney (which power of attorney is a power coupled with an interest and shall be irrevocable for the term of this Mortgage). Any award or payment so received by LFUCG during the continuation of any default or threatened default may, at the sole option of LFUCG, be retained and applied, in whole or in part, to the Loan (whether or not then due and payable), in such manner as LFUCG may determine and/or released, in whole or in part, to Mortgagor for the purpose of altering, restoring, or rebuilding any part of the Premises which may have been affected by such taking, alteration, or proceeding. Provided that absent the continuation of default or threatened default LFUCG will release said sums to Mortgagor, to be applied to restoration of the Premises. LFUCG shall not be obligated to see to the application of any amounts so released to Mortgagor. In the event of a material and adverse effect upon the value of the Premises by reason of any such damage, taking or acquisition, and should the proceeds or award payable therefor not satisfy in full the Loan, same shall constitute an event of default hereunder and on the Loan and Note.

8. If LFUCG shall incur or expend any sums, including reasonable attorneys' fees, to sustain the lien of this Mortgage or its priority, or to protect or enforce any of LFUCG's rights hereunder or under any other Loan Document, to protect the Premises as collateral for the Loan, or to recover any portion of the Loan, all such sums shall become immediately due and payable by Mortgagor with interest thereon at the rate specified in numerical paragraph (2) hereof until paid. All such sums shall be secured by this Mortgage and shall be a lien on the Premises prior to any right, title, interest, or claim, in, to or upon the Premises attaching or accruing subsequent to the lien of this Mortgage.



9. Mortgagor will not hereafter lease the Premises, except leases executed in Mortgagor's ordinary course of business, nor will Mortgagor assign, alter, terminate or otherwise materially modify the terms of any lease affecting the Premises to which Mortgagor is a party, nor further encumber or assign (in whole or in part) the rents, revenues, income, or profits arising from the Premises or any portion thereof (except in connection with the Permitted Encumbrances) without the prior written consent of LFUCG by its duly authorized officer, or in any other manner impair the value of the Premises or the security of this Mortgage for the payment of the Loan.

10. Mortgagor will observe and perform all covenants, conditions, and agreements imposed on it by any lease or leases now or hereafter affecting the Premises, or any portion thereof. If Mortgagor shall default in its performance of any of the terms, covenants, conditions, or obligations imposed upon it by any such lease or leases, which default would give the other party or parties thereto the right to terminate or cancel said lease or leases and if same may have a material adverse effect on the value of the Premises as security or the Loan then, at the sole option of LFUCG, the entire Loan shall become immediately payable and collectible by foreclosure or otherwise, without notice or demand. Provided, that in the event of any such default by Mortgagor (whether as lessor, lessee, sub lessee or otherwise), LFUCG shall have the right but not the obligation to cure any such default of Mortgagor, in such manner and to the extent LFUCG may deem advisable to protect its interest in the Premises. In the event that LFUCG should so elect, then any and all sums so expended by LFUCG relative to effecting any such cure shall become immediately due and owing LFUCG by Mortgagor, shall be secured hereby and shall bear interest at the rate specified in numerical paragraph (2) hereof until paid.

11. With respect to the Premises and the operation and promotion thereof, Mortgagor will keep or will cause to be kept proper books of record and account in accordance with generally accepted accounting principles consistently applied. LFUCG shall have the right to examine said books of record and account at such reasonable times and intervals as LFUCG may elect.

12. In the event that LFUCG (a) grants any extension of time or forbearance for payment of any portion of the Loan; (b) takes, or realizes, other additional security for the payment thereof, (c) waives or does not exercise any right granted herein, under the Note or under any other Loan Document; (d) grants any release, with or without consideration, of all or any part of the security held for the payment of the Loan; (e) amends or modifies in any respect with the consent of Mortgagor any of the terms and provisions hereof or of the Note; then and in any such event, such act or failure to act shall not release Mortgagor or (if applicable) any of its principals or any co-maker, sureties, or guarantors of this Mortgage or of the Note, under any covenant of this Mortgage, the Note or other Loan Documents nor preclude LFUCG from exercising any right or privilege herein or therein granted or intended to be granted in the event of any other existing or subsequent default and without in any manner impairing or affecting the lien or priority of this Mortgage.

13. Mortgagor will not hereafter make or permit, without the prior written consent of LFUCG by its duly authorized officer (a) any sale of the Premises, or the execution of any contract for deed relative to the Premises, or any assumption of the Loan, any condominium conversion or any use of the Premises or any part thereof for any purpose other than that presently contemplated by the parties hereto; (b) after completion of the renovations contemplated by the Plans and Specifications, any material alteration, removal or demolition of any buildings,

improvements, fixtures, apparatus, machinery, and equipment now or hereafter located or erected upon the Premises except in the ordinary course of business; (c) any purchase or conditional sale, lease or agreement under which title is reserved in the vendor of any fixtures, apparatus, machinery, equipment or personal property in or upon any of the buildings or improvements comprising a part of the Premises; (d) except in connection with the Permitted Encumbrances, any assignment of the revenues, rents, income or profits from the Premises; (e) except for the Permitted Encumbrances, any mortgage, lien or encumbrance upon the Premises, or any part thereof (whether prior or inferior to the lien of this Mortgage) affecting or adverse to the lien hereof, general and special taxes duly levied and assessed and not yet due and payable and any lease now or hereafter affecting any portion of the Premises. Any of the foregoing without LFUCG's prior written consent shall be and constitute a default by Mortgagor on this Mortgage and on the Loan.

14. In the event of Mortgagor's default in the performance of any of the covenants and conditions contained in this Mortgage or in the event of Mortgagor's default in payment of the Loan or any part thereof, or in the Note or under any other Loan Document and (absent an express contrary grace or curative period) shall such failure, omission or default not have been fully corrected by Mortgagor, as applicable, to the complete satisfaction of LFUCG within thirty (30) days after LFUCG gives Mortgagor written notice of the occurrence of any such default; or any of them and shall such default remain uncured beyond any applicable grace or curative period; or in the event any representation or warranty of the Mortgagor herein contained, or in the event any representation or warranty of the Mortgagor contained in any other Loan Document shall prove to be untrue or misleading in any material respect; or in the event of any petition in bankruptcy, receivership, or reorganization filed by or against Mortgagor and shall same not be vacated within sixty (60) days), any assignment or composition for the benefit of creditors made or entered into by Mortgagor, or in the event of any judgment or proceeding entered or brought against Mortgagor or the Premises or to foreclose any lien thereon or on any part thereof; or in the event of a substantial adverse change in financial position of Mortgagor; or in the event of an unauthorized encumbrance or change in ownership of the Premises or of any other security for the Loan; or if in the opinion of LFUCG there is any material decline in the value of the Premises or any other security for the Loan; or should Mortgagor default on any other indebtedness now or hereafter owing LFUCG by Mortgagor beyond any applicable grace or curative period; then, and in such event, at LFUCG's sole option, without further notice or demand, the same being hereby expressly waived by Mortgagor as evidenced by Mortgagor's execution of this Mortgage, the Loan shall become due, payable and collectible. Upon the happening of any such event (hereinafter an "Event of Default"), in addition to any other right of remedy which LFUCG may now or hereafter have at law or in equity, and not by way of limitation, LFUCG shall have the right and power to exercise any or all or any combination of the following remedies: (a) to declare the Loan due and payable (and same shall thereupon be due and payable and to foreclose upon this Mortgage and the lien hereof; (b) to sell the Premises according to law as an entirety or in separate parcels; (c) to apply without notice (same being hereby expressly waived by Mortgagor) for the appointment of a receiver to collect the revenues and profits of the Premises and to preserve the security hereof as a matter of right, either before or after any foreclosure sale, without regard to the value of the Premises or any other property as security for the amount due LFUCG, or the solvency of any entity liable for the payment of such amounts; (d) to enter upon and take possession of the Premises without application to any court,

with the irrevocable consent of Mortgagor as evidenced by Mortgagor's execution of this Mortgage, and collect the revenues, issues and profits thereof, and, without the appointment of any receiver or application being made therefor, to manage, promote and/or operate the Premises, either in LFUCG's name or Mortgagor's name, by whatever means LFUCG may elect, and receive all the revenues, issues and profits therefrom, and apply the same, after payment of all necessary charges and expenses deemed by LFUCG to be necessary, to payment of the Loan. All the foregoing rights and powers are effective and may be enforced by LFUCG either in conjunction with or without any action to foreclose this Mortgage, and without applying at any time for a receiver for the Premises. The foregoing rights and remedies are independent of and in addition to any statutory right to appointment of a receiver. Written notices required by the foregoing paragraph shall be sent by certified mail to the addresses provided in the Loan Agreement.

15. Any sale under this Mortgage shall operate to divest all right, title and interest of Mortgagor in and to the Premises and rights so sold; shall be a perpetual bar both in law and equity against the Mortgagor; and shall be in bar of any equity or right of redemption, the same being expressly waived by Mortgagor.

16. Mortgagor represents and warrants that no hazardous substances are present on the Premises. Furthermore, Mortgagor represents, warrants and agrees that Mortgagor will not use, generate, treat, store, dispose of or otherwise introduce any such hazardous substances into or on the Premises. Mortgagor represents, warrants and agrees that there is no current and will be no future unlawful physical (including environmental, natural, artificial, structural or chemical) hazard or potential hazard (including, without limitation, the presence, accumulation or storage of any toxin, toxic waste, toxic affluent or discharge) or condition in or on or affecting the Premises or affecting the health of any person in or on the Premises. The Mortgagor shall pay immediately when due the cost of removal of any such wastes or substances, and shall keep the Premises free of any lien imposed pursuant to laws, rules, regulations and orders pertaining to hazardous wastes or substances and the removal thereof; in the event Mortgagor fails to do so, it shall be deemed an Event of Default. The Mortgagor shall indemnify LFUCG and hold LFUCG harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and cost incurred in the investigation, defense and/or settlement of claims) that LFUCG may incur as a result of or in connection with the assertion against LFUCG of any claim relating to the presence or removal of any hazardous waste or substance referred to in this paragraph, or compliance with any federal, state or local laws, rules, regulations or orders relating thereto. The obligations of Mortgagor under this paragraph to indemnify LFUCG and hold LFUCG harmless shall survive payment of the Loan and Note and shall survive release of this Mortgage and shall extend to the representatives, successors and assigns of LFUCG.

17. Whenever used in this Mortgage, unless the context shall otherwise clearly require, the term "Mortgagor" shall include the heirs, representatives, successors and assigns, as the case may be, of Mortgagor and all persons claiming by, through, or under Mortgagor; the term "Mortgagor" shall include the successors and assigns, as the case may be, of Mortgagor and all persons claiming by, through, or under Mortgagor; the term "person" shall include any individual, partnership, corporation, trustee, or unincorporated association. The singular shall include the plural and the plural, the singular; the gender used shall include the other genders.

The invalidity or unenforceability of any one (1) or more phrases, sentences, clauses or paragraphs of this Mortgage shall not affect the validity or enforceability of the remaining portions of this Mortgage or of any part hereof. If this Mortgage is invalid or unenforceable as to any part of the Loan, or if this Mortgage is invalid or unenforceable as to any part of the Premises, the unsecured or partially unsecured portion of the Loan shall be completely paid prior to the payment of the remaining secured or partially secured portion of the Loan; and all payments made on the Loan, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the Loan which is not secured or fully secured by this Mortgage.

18. All the terms, covenants, conditions and agreements herein set forth shall be binding upon and inure to the benefit of the respective heirs, executors, administrators, attorneys, representatives, successors and assigns, as the case may be, of the parties hereto.

19. No delay or omission on the part of LFUCG in exercising any right or remedy hereunder or under any other Loan Documents shall operate as a waiver of such right or remedy or any other right or remedy. A waiver by LFUCG on any one occasion shall not be a bar to or waiver of any right or remedy on any further occasion. The rights and remedies provided herein and in the other Loan Documents are cumulative, and LFUCG may resort to any other right or remedy or any combination thereof available under the other Loan Documents or at law or in equity without first exhausting and without affecting or impairing the security of or any right or remedy afforded by this Mortgage. No waiver shall be effective as to LFUCG unless same shall be in writing by its duly authorized officer; any such waiver shall be construed strictly according to its terms.

20. In the event of any inconsistency, in the terms and provisions of this Mortgage or any other Loan Document as to the rights and remedies of LFUCG, or in the event of any such inconsistency as between or among any two (2) or more Loan Documents, then in any such event LFUCG shall have the right at its sole option to elect which of such provisions shall govern.

If Mortgagor shall pay to LFUCG all sums due LFUCG under the Note and the interest thereon, in the manner and at the times mentioned in the Note, or otherwise in connection with the Loan, and Mortgagor shall pay LFUCG any and all other sums due from Mortgagor to LFUCG under this Mortgage and shall fully keep and perform the terms, covenants, conditions and agreements under this Mortgage or otherwise due LFUCG relative to the Loan, then this Mortgage and the estate granted thereby shall cease and be void, and this Mortgage shall thereupon be released by LFUCG at the cost and expense of Mortgagor.

This Mortgage may be executed by the parties in any number of counterparts, each of which shall be an original, but such counterparts together shall constitute one and the same instrument.

This Mortgage is taken, in part, to secure a loan made for the purpose of erecting, improving or adding to a building.

IN TESTIMONY WHEREOF, LFUCG and the Mortgagor have caused this instrument to be executed by LFUCG and the Mortgagor's duly authorized officers this day and date first hereinabove appearing.

Emerge Development, LLC

By:

Title:

[Signature]  
Partner

COMMONWEALTH OF KENTUCKY )  
 )  
COUNTY OF Fayette )

Subscribed, sworn to and acknowledged before me this 19 day of November, 2015, by Ben Clements, as Partner of Emerge Development, a Kentucky limited liability company, for and on behalf of said Emerge Development, LLC.

My commission expires: 11/29/2015

[Signature]  
Notary Public

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

By:

[Signature]  
Jim Gray, Mayor

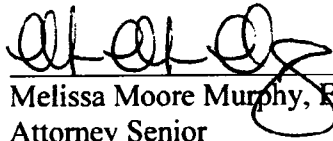
COMMONWEALTH OF KENTUCKY )  
 )  
COUNTY OF Fayette )

Subscribed, sworn to and acknowledged before me this 24<sup>th</sup> day of Nov., 2015, by Jim Gray, as Mayor of Lexington-Fayette Urban County Government, for and on behalf of said Lexington-Fayette Urban County Government.

My commission expires: 1/9/16

[Signature]  
Notary Public  
ID #457846

THIS INSTRUMENT PREPARED BY:

A handwritten signature in black ink, appearing to read 'Melissa Moore Murphy', written over a horizontal line.

Melissa Moore Murphy, Esq.  
Attorney Senior

Lexington-Fayette Urban County Government  
200 East Main Street  
Lexington, Kentucky 40507  
(859) 258-3500

**EXHIBIT "A"**

The Property:

A certain tract or parcel lying in Lexington, Fayette County, Kentucky on the North corner of Fifth and Smith Streets, fronting on Fifth Street thirty (30) feet and extending back in a Northerly direction One Hundred Seven (107) feet on Smith Street; said property being designated as 531-535 West Fifth Street and 509 Smith Street.

Being the same property conveyed to Warren D. McIntyre, Trustee under the Warren D. McIntyre Revocable Trust Agreement dated August 28, 1997, by Warren D. McIntyre as Trustor and Trustee, and Donna D. McIntyre, Trustee under the Donna D. McIntyre Revocable Trust Agreement dated August 28, 1997, by Donna D. McIntyre as Trustor and Trustee, by deed dated September 25, 1997, of record in Deed Book 1940, Page 498, in the Fayette County Clerk's Office.

**LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT  
AFFORDABLE HOUSING FUND  
MORTGAGE**

This **MORTGAGE** ("Mortgage"), is made and entered into this 24<sup>th</sup> day of November, 2015 by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government created pursuant to KRS 67A, whose principal address is 200 East Main Street, Lexington, Kentucky 40507 (herein "LFUCG") through its **OFFICE OF AFFORDABLE HOUSING**, and **EMERGE DEVELOPMENT, LLC**, a **KENTUCKY LIMITED LIABILITY COMPANY**, whose principal address is 941 National Avenue, Suite 120, Lexington, Kentucky 40508 (herein "Mortgagor").

**WITNESSETH:**

Mortgagor hereby recites and agrees as follows, which recitations and agreements constitute a part of this Mortgage:

**WHEREAS**, Mortgagor is indebted to LFUCG for monies loaned or to be loaned to Mortgagor under the terms of an Affordable Housing Fund Rehabilitation Loan Agreement (the "Loan Agreement") of even date herewith, between Mortgagor and LFUCG providing for an Affordable Housing Fund loan in the amount of **ONE HUNDRED AND SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$175,000.00)**, (the "Loan"); and

A. Mortgagor has determined that it is to Mortgagor's direct and indirect economic benefit that LFUCG make the Loan to Mortgagor, and therefore have agreed to execute and deliver this Mortgage in order to secure repayment of the Loan.

Terms used herein and not otherwise defined shall have the meaning set forth in the Loan Agreement.

**NOW, THEREFORE, MORTGAGOR**, in consideration of the Loan, hereby conveys to LFUCG, with covenant of general warranty all of Mortgagor's right, title and interest in and to certain real estate located in Fayette County, Kentucky (more particularly described in Exhibit A attached hereto and incorporated herein by reference) (the "Property");

**TOGETHER** with all privileges and appurtenances thereunto belonging, Mortgagor's interest as lessor in any leases affecting the premises, and all revenues, rents, issues and profits from the premises (whether payable under a lease or otherwise), and all the estate, right, title and interest of Mortgagor, at law or in equity, of, in and to the Mortgagor's leasehold interest in the Property herein described, and every part thereof, and together with all buildings and improvements now existing or hereafter constructed or placed thereon; and together with all heating, ventilating, and air conditioning equipment relative thereto and all fixtures, now or hereafter located in or upon or affixed to the Property, and all machinery, apparatus, equipment and articles of personal property of every kind and description belonging to Mortgagor, now or hereafter located in or upon or affixed to the Property, all of which are and shall be a part of said Property and a portion of the security for the Loan; and together with all insurance or condemnation proceeds accruing or arising or relative to any of the foregoing during the term of this Mortgage;



ALL the foregoing property, interests and rights encumbered by this Mortgage are hereafter collectively referred to as the "Premises".

**TO HAVE AND TO HOLD** the Premises with the privileges and appurtenances thereunto belonging, and all rents, revenues, issues and profits therefrom, unto LFUCG, its successors and assigns, forever, for the uses and purposes herein expressed. Mortgagor covenants that Mortgagor is well seized of the Premises and each portion thereof, and has full right and power to grant, bargain, sell, convey, mortgage and warrant the Mortgagor's interest in the same in the manner and form written. Mortgagor represents and warrants to LFUCG that the granting of this Mortgage has been and is duly authorized. Mortgagor covenants that the Premises are free from all liens and encumbrances whatsoever, excepting; (i) the lien of general taxes not yet due and payable, easements and restrictions of record, and restrictions and zoning laws affecting the Premises, if any; (ii) Permitted Encumbrances (as hereinafter defined); and (iii) any leases as may now or hereafter affect any portion of the Premises. Mortgagor warrants and will defend the Premises, with the privileges and appurtenances thereunto belonging, to LFUCG, its successors and assigns forever, against all claims and demands whatsoever adverse to the interest of LFUCG, at Mortgagor's sole expense.

**THIS MORTGAGE** is given to secure: (a) Payment of the Loan, same being evidenced by a promissory note of even date herewith and any modifications, extensions or renewals thereof, executed and delivered by Mortgagor to LFUCG, in the principal amount of **ONE HUNDRED AND SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$175,000.00)** (hereafter the "Note"), and payment of interest thereon at the rate(s) and in the manner provided therein; the entire principal amount advanced and all interest thereon, if not sooner paid, being due and payable by Mortgagor on June 1, 2031, as more particularly described in the Note; and (b) payment by Mortgagor of its obligations to LFUCG of all sums expended or advanced by LFUCG pursuant to any provisions and performance of each and every of LFUCG's and Mortgagor's respective covenants, conditions and agreements contained in this Mortgage, the Note, the Loan Agreement and any other instrument or agreement evidencing, securing or otherwise pertaining to the Loan (hereafter collectively, the "Loan Documents"). (Hereafter all references to the "Loan" where appropriate shall include all advances made and expenses incurred by LFUCG pursuant to this Mortgage for the protection of the Premises and all other security for the Loan.)

**AND MORTGAGOR, AND EACH OF THEM, AND WHEN AND AS APPLICABLE, HEREBY COVENANTS AND AGREES THAT:**

1. Mortgagor agrees to pay the principal of and interest on the Loan evidenced by the Note and secured hereby, to be paid at the times and in the manner provided in the Note.
2. Mortgagor will pay or will have paid all taxes, assessments, and other similar charges levied upon the Premises before the same become delinquent, and will promptly deliver to LFUCG, if requested, receipts of the proper officers therefor; Mortgagor's failure to pay or to have paid any such charges shall at LFUCG's election constitute a default hereunder. Or, at LFUCG's sole option in the event of delinquency, LFUCG may pay such delinquent taxes, assessments, and charges, including any penalties or interest thereon (of which payment, amount and validity thereof, the receipt of the proper officer shall be conclusive evidence) and any

amount so paid by LFUCG shall become immediately due and payable by Mortgagor, shall be secured by this Mortgage and shall bear interest from date of advance until paid at an annual rate equal to twelve percent per cent (12%).

3. Mortgagor hereby assigns to LFUCG all leases and rents, revenues, issues and profits of the Premises (whether or not payable under a lease) as further security for the payment of all amounts by Mortgagor and performance of all Mortgagor's obligations under the Loan Documents, and grants LFUCG the right to enter on the Premises for the purpose of collecting same, and to promote, manage and/or operate the Premises or any part thereof in such manner as LFUCG may elect, and to apply the revenues received therefrom, after payment of all necessary charges and expenses, to the obligations secured by this Mortgage, upon Mortgagor's default under any covenants, conditions, or agreements contained in the Note, herein or in any other Loan Document. While this is a present assignment, LFUCG will not exercise its rights hereunder unless and until Mortgagor shall be in default hereunder or Mortgagor shall be in default under any other Loan Document. Mortgagor shall, and hereby agrees that it will, indemnify LFUCG, its officers, agents and employees for and hold each of them harmless from any and all claims and demands whatsoever which may be asserted against LFUCG, its officers, agents or employees by reason of any actual or alleged undertakings or obligations on LFUCG's part to perform or discharge any terms, covenants or agreements relative to use or occupancy of the Premises or any part thereof or for waste committed or permitted on the Premises, or by reason of any actual or allegedly dangerous or defective condition or conditions of the Premises resulting in loss or injury to any lessee or to any other person, including LFUCG's reasonable costs and attorney's fees incurred by reason of any of the foregoing. Provided, that said obligation to indemnify LFUCG shall not apply to any loss, injury or damage caused by the gross negligence or willful misconduct of LFUCG, its officers, agents or employees.

4. Mortgagor, at its own expense will maintain with admitted insurers authorized to do business in the Commonwealth of Kentucky against claims for bodily injury, personal injury, death or property damage occurring on, in or about the Premises or as a result of ownership of the improvements located on the Premises in amounts not less than as set forth in the Loan Agreement. Mortgagor further covenants to keep the improvements now existing or hereafter erected on or in the Premises insured against loss or damage by, or abatement of rental income, resulting from fire and "all risk" perils. Mortgagor covenants to maintain flood insurance as required by the Flood Disaster Protection Act of 1973, as amended and any additional flood insurance required by LFUCG. All perils insured, with the exception of flood, shall be in an amount not less than the full replacement value of the property. Mortgagor agrees to promptly pay or have paid when due all premiums on such insurance and further agrees, if requested by LFUCG, to furnish a certificate from the company carrying such insurance acknowledging that such insurance is adequate in an amount to prevent the operation of any coinsurance provision contained therein. All such insurance shall be carried by companies approved by LFUCG in its reasonable discretion and, the policies and renewals thereof shall be deposited with and held by LFUCG. All policies of insurance required to be maintained by Mortgagor pursuant to this paragraph 4 shall name as the insured parties Mortgagor and LFUCG, shall be reasonably satisfactory to LFUCG and shall: (a) provide for the benefit of such holder or holders, that thirty (30) days' prior written notice of suspension, cancellation, termination, modification, non renewal or lapse or material change of coverage shall be given to all insured parties and that such

insurance shall be given to all insured parties and that such insurance shall not be invalidated by any act or neglect of Mortgagor or LFUCG or any owner of the Premises, nor by any foreclosure or other proceedings or notices thereof relating to the Premises or any interest therein, nor by occupation of the Premises for purposes more hazardous than are permitted by such policy and (b) not contain a provision relieving the insurer thereunder of liability for any loss by reason of the existence of other policies of insurance covering the Premises against the peril involved, whether collectible or not.

The originals of all such policies shall be delivered to LFUCG. In the event of Mortgagor's failure to comply with any of the requirements of this paragraph, same shall at LFUCG's option constitute a default hereunder. Or, LFUCG may, in its discretion, obtain any insurance required hereunder and pay the premiums due therefor, and any amounts so paid by LFUCG shall become immediately due and payable by Mortgagor with interest thereon at the rate specified in numerical paragraph (2) hereof until paid, and same shall be secured by this Mortgage.

In the event of any loss or damage to the Premises or any portion thereof, Mortgagor will give immediate notice thereof to LFUCG, and LFUCG may thereupon make proof of claim relative to such loss or damage, if same is not promptly made by Mortgagor. Mortgagor hereby authorizes LFUCG (should LFUCG so elect) to settle, adjust, or compromise any claims for loss, damage, or destruction under any such policy or policies of insurance and collect the proceeds thereof, and to this end hereby grants LFUCG the Mortgagor's power of attorney for such purposes (which power of attorney is a power coupled with an interest, same being irrevocable for the term of this Mortgage); provided, that LFUCG will exercise its rights under this sentence only in the event Mortgagor is in default on the Loan or under the Loan Documents. All such proceeds of fire and extended coverage insurance, to the full extent of the Loan, are hereby assigned to LFUCG and shall be payable to LFUCG if LFUCG should so elect, and Mortgagor hereby authorizes and directs any affected insurance company to make payment thereof directly to LFUCG. All such insurance proceeds or any portion thereof shall be applied in whole or in part to restoration, repair, replacement, or rebuilding of the Premises. The delivery to LFUCG of any such policies or certificates of insurance, or renewals thereof, shall constitute an assignment to LFUCG of all unearned premiums thereon as further security for the payment of the Loan. In the event of foreclosure of this Mortgage or other transfer of title to the Premises in extinguishment of the, Loan, all right, title and interest of Mortgagor in and to any insurance policies then in force shall pass to LFUCG.

5. Mortgagor will have maintained or will maintain the Premises in good condition and repair and will not commit or allow any waste or destruction, reasonable wear and tear excepted. Mortgagor will comply with, or cause to be complied with, any applicable statutes, ordinances, regulations, or requirement of any governmental authority relative to the Premises and the use and maintenance thereof, and will promptly repair, restore, replace, or rebuild any part of the Premises now or hereafter subject to the lien of this Mortgage which may be damaged or destroyed by any casualty or as the result of any proceeding referred to in paragraph (7) hereof. No buildings, structures, or improvements hereafter erected on the Premises shall be removed, demolished, or substantially or structurally altered in any respect by Mortgagor, on Mortgagor's behalf, or by any tenant or by any other party without the prior written consent of LFUCG by its

duly authorized officer, LFUCG, and any person authorized by LFUCG, may enter upon and inspect the Premises at all reasonable times.

6. Mortgagor will not create, suffer or allow any charge, lien or encumbrance (whether superior or inferior to the lien of this Mortgage) upon the Premises or any part thereof, leases as have been approved by LFUCG and the lien of general and special taxes duly levied and assessed but not yet due and payable, without prior written consent of LFUCG by its duly authorized officer. Mortgagor will pay or will have paid promptly when due any charges for utilities or services including but not limited to electricity, gas and water; should Mortgagor or any tenant fail to pay such charges, LFUCG may pay the same, and any amount so paid by LFUCG shall become immediately due and payable by Mortgagor with interest at the rate specified in numerical paragraph (2) hereof until paid, and same shall be secured by this Mortgage.

7. If all or any part of the Premises are damaged, taken, or acquired, either temporarily or permanently, in any condemnation proceeding, or by exercise of the right of eminent domain, or by the alteration of the grade of any street affecting the Premises, the amount of any award or other payment for such taking or damages made in consideration thereof, to the extent of the full amount of the Loan then remaining unpaid, is hereby assigned by Mortgagor to LFUCG, who may collect and receive the same and give proper receipts therefor in the name of Mortgagor, and the same shall be paid forthwith to LFUCG. To such end, Mortgagor hereby grants to LFUCG the Mortgagor's power of attorney (which power of attorney is a power coupled with an interest and shall be irrevocable for the term of this Mortgage). Any award or payment so received by LFUCG during the continuation of any default or threatened default may, at the sole option of LFUCG, be retained and applied, in whole or in part, to the Loan (whether or not then due and payable), in such manner as LFUCG may determine and/or released, in whole or in part, to Mortgagor for the purpose of altering, restoring, or rebuilding any part of the Premises which may have been affected by such taking, alteration, or proceeding. Provided that absent the continuation of default or threatened default LFUCG will release said sums to Mortgagor, to be applied to restoration of the Premises. LFUCG shall not be obligated to see to the application of any amounts so released to Mortgagor. In the event of a material and adverse effect upon the value of the Premises by reason of any such damage, taking or acquisition, and should the proceeds or award payable therefor not satisfy in full the Loan, same shall constitute an event of default hereunder and on the Loan and Note.

8. If LFUCG shall incur or expend any sums, including reasonable attorneys' fees, to sustain the lien of this Mortgage or its priority, or to protect or enforce any of LFUCG's rights hereunder or under any other Loan Document, to protect the Premises as collateral for the Loan, or to recover any portion of the Loan, all such sums shall become immediately due and payable by Mortgagor with interest thereon at the rate specified in numerical paragraph (2) hereof until paid. All such sums shall be secured by this Mortgage and shall be a lien on the Premises prior to any right, title, interest, or claim, in, to or upon the Premises attaching or accruing subsequent to the lien of this Mortgage.

9. Mortgagor will not hereafter lease the Premises, except leases executed in Mortgagor's ordinary course of business, nor will Mortgagor assign, alter, terminate or otherwise materially modify the terms of any lease affecting the Premises to which Mortgagor is a party, nor further

encumber or assign (in whole or in part) the rents, revenues, income, or profits arising from the Premises or any portion thereof (except in connection with the Permitted Encumbrances) without the prior written consent of LFUCG by its duly authorized officer, or in any other manner impair the value of the Premises or the security of this Mortgage for the payment of the Loan.

10. Mortgagor will observe and perform all covenants, conditions, and agreements imposed on it by any lease or leases now or hereafter affecting the Premises, or any portion thereof. If Mortgagor shall default in its performance of any of the terms, covenants, conditions, or obligations imposed upon it by any such lease or leases, which default would give the other party or parties thereto the right to terminate or cancel said lease or leases and if same may have a material adverse effect on the value of the Premises as security or the Loan then, at the sole option of LFUCG, the entire Loan shall become immediately payable and collectible by foreclosure or otherwise, without notice or demand. Provided, that in the event of any such default by Mortgagor (whether as lessor, lessee, sub lessee or otherwise), LFUCG shall have the right but not the obligation to cure any such default of Mortgagor, in such manner and to the extent LFUCG may deem advisable to protect its interest in the Premises. In the event that LFUCG should so elect, then any and all sums so expended by LFUCG relative to effecting any such cure shall become immediately due and owing LFUCG by Mortgagor, shall be secured hereby and shall bear interest at the rate specified in numerical paragraph (2) hereof until paid.

11. With respect to the Premises and the operation and promotion thereof, Mortgagor will keep or will cause to be kept proper books of record and account in accordance with generally accepted accounting principles consistently applied. LFUCG shall have the right to examine said books of record and account at such reasonable times and intervals as LFUCG may elect.

12. In the event that LFUCG (a) grants any extension of time or forbearance for payment of any portion of the Loan; (b) takes, or realizes, other additional security for the payment thereof, (c) waives or does not exercise any right granted herein, under the Note or under any other Loan Document; (d) grants any release, with or without consideration, of all or any part of the security held for the payment of the Loan; (e) amends or modifies in any respect with the consent of Mortgagor any of the terms and provisions hereof or of the Note; then and in any such event, such act or failure to act shall not release Mortgagor or (if applicable) any of its principals or any co-maker, sureties, or guarantors of this Mortgage or of the Note, under any covenant of this Mortgage, the Note or other Loan Documents nor preclude LFUCG from exercising any right or privilege herein or therein granted or intended to be granted in the event of any other existing or subsequent default and without in any manner impairing or affecting the lien or priority of this Mortgage.

13. Mortgagor will not hereafter make or permit, without the prior written consent of LFUCG by its duly authorized officer (a) any sale of the Premises, or the execution of any contract for deed relative to the Premises, or any assumption of the Loan, any condominium conversion or any use of the Premises or any part thereof for any purpose other than that presently contemplated by the parties hereto; (b) after completion of the renovations contemplated by the Plans and Specifications, any material alteration, removal or demolition of any buildings, improvements, fixtures, apparatus, machinery, and equipment now or hereafter located or erected upon the Premises except in the ordinary course of business; (c) any purchase or conditional sale, lease or agreement under which title is reserved in the vendor of any fixtures, apparatus,

machinery, equipment or personal property in or upon any of the buildings or improvements comprising a part of the Premises; (d) except in connection with the Permitted Encumbrances, any assignment of the revenues, rents, income or profits from the Premises; (e) except for the Permitted Encumbrances, any mortgage, lien or encumbrance upon the Premises, or any part thereof (whether prior or inferior to the lien of this Mortgage) affecting or adverse to the lien hereof, general and special taxes duly levied and assessed and not yet due and payable and any lease now or hereafter affecting any portion of the Premises. Any of the foregoing without LFUCG's prior written consent shall be and constitute a default by Mortgagor on this Mortgage and on the Loan.

14. In the event of Mortgagor's default in the performance of any of the covenants and conditions contained in this Mortgage or in the event of Mortgagor's default in payment of the Loan or any part thereof, or in the Note or under any other Loan Document and (absent an express contrary grace or curative period) shall such failure, omission or default not have been fully corrected by Mortgagor, as applicable, to the complete satisfaction of LFUCG within thirty (30) days after LFUCG gives Mortgagor written notice of the occurrence of any such default; or any of them and shall such default remain uncured beyond any applicable grace or curative period; or in the event any representation or warranty of the Mortgagor herein contained, or in the event any representation or warranty of the Mortgagor contained in any other Loan Document shall prove to be untrue or misleading in any material respect; or in the event of any petition in bankruptcy, receivership, or reorganization filed by or against Mortgagor and shall same not be vacated within sixty (60) days), any assignment or composition for the benefit of creditors made or entered into by Mortgagor, or in the event of any judgment or proceeding entered or brought against Mortgagor or the Premises or to foreclose any lien thereon or on any part thereof; or in the event of a substantial adverse change in financial position of Mortgagor; or in the event of an unauthorized encumbrance or change in ownership of the Premises or of any other security for the Loan; or if in the opinion of LFUCG there is any material decline in the value of the Premises or any other security for the Loan; or should Mortgagor default on any other indebtedness now or hereafter owing LFUCG by Mortgagor beyond any applicable grace or curative period; then, and in such event, at LFUCG's sole option, without further notice or demand, the same being hereby expressly waived by Mortgagor as evidenced by Mortgagor's execution of this Mortgage, the Loan shall become due, payable and collectible. Upon the happening of any such event (hereinafter an "Event of Default"), in addition to any other right of remedy which LFUCG may now or hereafter have at law or in equity, and not by way of limitation, LFUCG shall have the right and power to exercise any or all or any combination of the following remedies: (a) to declare the Loan due and payable (and same shall thereupon be due and payable and to foreclose upon this Mortgage and the lien hereof; (b) to sell the Premises according to law as an entirety or in separate parcels; (c) to apply without notice (same being hereby expressly waived by Mortgagor) for the appointment of a receiver to collect the revenues and profits of the Premises and to preserve the security hereof as a matter of right, either before or after any foreclosure sale, without regard to the value of the Premises or any other property as security for the amount due LFUCG, or the solvency of any entity liable for the payment of such amounts; (d) to enter upon and take possession of the Premises without application to any court, with the irrevocable consent of Mortgagor as evidenced by Mortgagor's execution of this Mortgage, and collect the revenues, issues and profits thereof, and, without the appointment of any receiver or application being made therefor, to manage, promote and/or operate the

Premises, either in LFUCG's name or Mortgagor's name, by whatever means LFUCG may elect, and receive all the revenues, issues and profits therefrom, and apply the same, after payment of all necessary charges and expenses deemed by LFUCG to be necessary, to payment of the Loan. All the foregoing rights and powers are effective and may be enforced by LFUCG either in conjunction with or without any action to foreclose this Mortgage, and without applying at any time for a receiver for the Premises. The foregoing rights and remedies are independent of and in addition to any statutory right to appointment of a receiver. Written notices required by the foregoing paragraph shall be sent by certified mail to the addresses provided in the Loan Agreement.

15. Any sale under this Mortgage shall operate to divest all right, title and interest of Mortgagor in and to the Premises and rights so sold; shall be a perpetual bar both in law and equity against the Mortgagor; and shall be in bar of any equity or right of redemption, the same being expressly waived by Mortgagor.

16. Mortgagor represents and warrants that no hazardous substances are present on the Premises. Furthermore, Mortgagor represents, warrants and agrees that Mortgagor will not use, generate, treat, store, dispose of or otherwise introduce any such hazardous substances into or on the Premises. Mortgagor represents, warrants and agrees that there is no current and will be no future unlawful physical (including environmental, natural, artificial, structural or chemical) hazard or potential hazard (including, without limitation, the presence, accumulation or storage of any toxin, toxic waste, toxic affluent or discharge) or condition in or on or affecting the Premises or affecting the health of any person in or on the Premises. The Mortgagor shall pay immediately when due the cost of removal of any such wastes or substances, and shall keep the Premises free of any lien imposed pursuant to laws, rules, regulations and orders pertaining to hazardous wastes or substances and the removal thereof; in the event Mortgagor fails to do so, it shall be deemed an Event of Default. The Mortgagor shall indemnify LFUCG and hold LFUCG harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and cost incurred in the investigation, defense and/or settlement of claims) that LFUCG may incur as a result of or in connection with the assertion against LFUCG of any claim relating to the presence or removal of any hazardous waste or substance referred to in this paragraph, or compliance with any federal, state or local laws, rules, regulations or orders relating thereto. The obligations of Mortgagor under this paragraph to indemnify LFUCG and hold LFUCG harmless shall survive payment of the Loan and Note and shall survive release of this Mortgage and shall extend to the representatives, successors and assigns of LFUCG.

17. Whenever used in this Mortgage, unless the context shall otherwise clearly require, the term "Mortgagor" shall include the heirs, representatives, successors and assigns, as the case may be, of Mortgagor and all persons claiming by, through, or under Mortgagor; the term "Mortgagor" shall include the successors and assigns, as the case may be, of Mortgagor and all persons claiming by, through, or under Mortgagor; the term "person" shall include any individual, partnership, corporation, trustee, or unincorporated association. The singular shall include the plural and the plural, the singular; the gender used shall include the other genders. The invalidity or unenforceability of any one (1) or more phrases, sentences, clauses or paragraphs of this Mortgage shall not affect the validity or enforceability of the remaining portions of this Mortgage or of any part hereof. If this Mortgage is invalid or unenforceable as to

any part of the Loan, or if this Mortgage is invalid or unenforceable as to any part of the Premises, the unsecured or partially unsecured portion of the Loan shall be completely paid prior to the payment of the remaining secured or partially secured portion of the Loan; and all payments made on the Loan, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the Loan which is not secured or fully secured by this Mortgage.

18. All the terms, covenants, conditions and agreements herein set forth shall be binding upon and inure to the benefit of the respective heirs, executors, administrators, attorneys, representatives, successors and assigns, as the case may be, of the parties hereto.

19. No delay or omission on the part of LFUCG in exercising any right or remedy hereunder or under any other Loan Documents shall operate as a waiver of such right or remedy or any other right or remedy. A waiver by LFUCG on any one occasion shall not be a bar to or waiver of any right or remedy on any further occasion. The rights and remedies provided herein and in the other Loan Documents are cumulative, and LFUCG may resort to any other right or remedy or any combination thereof available under the other Loan Documents or at law or in equity without first exhausting and without affecting or impairing the security of or any right or remedy afforded by this Mortgage. No waiver shall be effective as to LFUCG unless same shall be in writing by its duly authorized officer; any such waiver shall be construed strictly according to its terms.

20. In the event of any inconsistency, in the terms and provisions of this Mortgage or any other Loan Document as to the rights and remedies of LFUCG, or in the event of any such inconsistency as between or among any two (2) or more Loan Documents, then in any such event LFUCG shall have the right at its sole option to elect which of such provisions shall govern.

If Mortgagor shall pay to LFUCG all sums due LFUCG under the Note and the interest thereon, in the manner and at the times mentioned in the Note, or otherwise in connection with the Loan, and Mortgagor shall pay LFUCG any and all other sums due from Mortgagor to LFUCG under this Mortgage and shall fully keep and perform the terms, covenants, conditions and agreements under this Mortgage or otherwise due LFUCG relative to the Loan, then this Mortgage and the estate granted thereby shall cease and be void, and this Mortgage shall thereupon be released by LFUCG at the cost and expense of Mortgagor.

This Mortgage may be executed by the parties in any number of counterparts, each of which shall be an original, but such counterparts together shall constitute one and the same instrument.

This Mortgage is taken, in part, to secure a loan made for the purpose of erecting, improving or adding to a building.

IN TESTIMONY WHEREOF, LFUCG and the Mortgagor have caused this instrument to be executed by LFUCG and the Mortgagor's duly authorized officers this day and date first hereinabove appearing.



Emerge Development, LLC

By: \_\_\_\_\_

Title: Partner Emerge Development

COMMONWEALTH OF KENTUCKY )

COUNTY OF Fayette )

Subscribed, sworn to and acknowledged before me this 19 day of November, 2015, by Ben Clements, as Partner of Emerge Development, a Kentucky limited liability company, for and on behalf of said Emerge Development, LLC.

My commission expires: 11/29/2015

Dust I Cole

Notary Public

**LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**

By: \_\_\_\_\_

Jim Gray, Mayor

COMMONWEALTH OF KENTUCKY )

COUNTY OF Fayette )

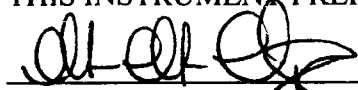
Subscribed, sworn to and acknowledged before me this 24<sup>th</sup> day of Nov., 2015, by Jim Gray, as Mayor of Lexington-Fayette Urban County Government, for and on behalf of said Lexington-Fayette Urban County Government.

My commission expires: 1/9/16

Mark Mall  
Notary Public

107457846

THIS INSTRUMENT PREPARED BY:



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Melissa Moore Murphy, Esq.  
Attorney Senior  
Lexington-Fayette Urban County Government  
200 East Main Street  
Lexington, Kentucky 40507  
(859) 258-3500

**EXHIBIT "A"**

The Property:

A certain tract or parcel lying in Lexington, Fayette County, Kentucky on the North corner of Fifth and Smith Streets, fronting on Fifth Street thirty (30) feet and extending back in a Northerly direction One Hundred Seven (107) feet on Smith Street; said property being designated as 531-535 West Fifth Street and 509 Smith Street.

Being the same property conveyed to Warren D. McIntyre, Trustee under the Warren D. McIntyre Revocable Trust Agreement dated August 28, 1997, by Warren D. McIntyre as Trustor and Trustee, and Donna D. McIntyre, Trustee under the Donna D. McIntyre Revocable Trust Agreement dated August 28, 1997, by Donna D. McIntyre as Trustor and Trustee, by deed dated September 25, 1997, of record in Deed Book 1940, Page 498, in the Fayette County Clerk's Office.

**EXHIBIT B**  
**(Updated Commitment Letter)**

MAYOR JIM GRAY



**LEXINGTON**

RICHARD MCQUADY  
DIRECTOR  
AFFORDABLE HOUSING

March 28, 2017

Benjamin Clements, Partner  
Emerge Development  
941 National Avenue, Suite 120  
Lexington, KY. 40502

Dear Mr. Clements,

The Board of Directors of the Affordable Housing Fund has approved an amendment to the loan agreement dated November 24, 2015 and two promissory notes dated November, 19, 2015 regarding the acquisition and rehabilitation of a 4-unit complex located at 531 West 5<sup>th</sup> Street in Lexington, Ky. The Board approved an additional allocation of \$42,970; \$37,000 of which is in the form of an amortizing loan and \$5,970 in the form of a forgivable loan. This additional funding will result in \$266,000 in affordable housing fund dollars being allocated to the development. Of the \$266,000 allocation, \$212,000 will be in the form of a 15 year, 2% loan with a 25 year amortization. A balloon payment will be due at the end of year 15. Payments on this loan will be scheduled to begin on June 1, 2017. The remaining \$54,000 will be in the form a forgivable loan over the same 15 year term. As long as the development remains in compliance with the affordable housing fund policies and guidelines, one-fifteenth (1/15) of the loan will be forgiven annually.

A 1% fee totaling \$2,660 will be due at closing.

All other provisions in the original loan agreement will still be applicable.




Please indicate below your acceptance of this commitment. I look forward to working with you to complete this development.

Sincerely,



Richard L. McQuady  
Affordable Housing Manager

Accepted by:



Emergent Development

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