

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

764



FROM: Economic Development Agency

SUBMITTAL DATE:
June 5, 2014

SUBJECT: Loan Agreement for the Use of HOME Funds for Los Vinedos Mobile Home Park in the Unincorporated Community of Mecca, and Affirming Environmental Assessment No. 42520 and Adopted Negative Declaration, District 4/District 4, [\$1,000,000], HOME Investment Partnerships Act Funds 100%

RECOMMENDED MOTION: That the Board of Supervisors:

1. Affirm Environmental Assessment No. 42520 and the Negative Declaration (ND) that was adopted by the Board of Supervisors on December 18, 2012 for the Los Vinedos Mobile Home Park pursuant to the California Environmental Quality Act (CEQA) and find that no new environmental documentation is required because all potentially significant effects of the Loan Agreement for Use of HOME Funds were adequately analyzed and mitigated all environmental impacts in the adopted ND and no substantial changes to the project or circumstances under which the project will be undertaken have occurred;

(Continued)

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 1,000,000	\$ 0	\$ 1,000,000	\$	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$	

SOURCE OF FUNDS: HOME Investment Partnerships Act Funds
100%
Budget Adjustment: No
For Fiscal Year: 2013/14

C.E.O. RECOMMENDATION:

APPROVE

BY:
Rohini Dasika

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

FORM APPROVED COUNTY COUNSEL
 DATE 6-2-14
 BY:
 J. HAILA R. BROWN
 Departmental Concurrence
 FISCAL PROCEDURES APPROVED
 PAUL ANGLIO, CPA, AUDITOR-CONTROLLER
 BY:
 Esteban Hernandez
 6/4/14

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.: 3-23 of 9/24/2013; 3-5 of 6/25/2013; 3-6 of 5/21/2013 | District: 4/4 | Agenda Number:

3-17

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

Economic Development Agency

FORM 11 Loan Agreement for the Use of HOME Funds for Los Vinedos Mobile Home Park in the Unincorporated Community of Mecca, and Affirming Environmental Assessment No. 42520 and Adopted Negative Declaration, District 4/District 4, [\$1,000,000], HOME Investment Partnerships Act Funds 100%

DATE: June 5, 2014

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RECOMMENDED MOTION: (Continued)

2. Affirm the Finding of No Significant Impact adopted by the Board of Supervisors on April 25, 2013 for the Los Vinedos Mobile Home Park concluding that the project is not an action which may affect the quality of the environment pursuant to the provisions of the National Environmental Policy Act of 1969 (NEPA) and under the implementing regulations at 24 CFR Parts 50 and 58;
3. Approve the attached Loan Agreement for the Use of HOME Funds, including all attachments thereto, in an amount up to \$1,000,000 (HOME Loan), between the County of Riverside and Desert Alliance for Community Empowerment, a California nonprofit public benefit corporation, for the development of an affordable mobile home park and installation of mobile home units in the unincorporated community of Mecca, County of Riverside (Loan Agreement);
4. Approve the attached Deed of Trust, Promissory Note and Covenant Agreement;
5. Authorize the Chairman of the Board of Supervisors to execute the attached Loan Agreement and Covenant Agreement;
6. Authorize the Assistant County Executive Officer/EDA, or designee to execute a Subordination Agreement subordinating the HOME Loan Deed of Trust to a Deed of Trust from the U.S Department of Agriculture Rural Development Section 514 Farm Labor Housing Program in connection with a loan in an amount up to \$2,300,000, subject to approval by County Counsel;
7. Authorize the Assistant County Executive Officer/EDA, or designee to execute a Subordination Agreement subordinating the HOME Loan Deed of Trust to a Deed of Trust from the Rural Community Assistance Corporation Agricultural Worker Health and Housing Program in connection with a loan in an amount up to \$1,000,000, subject to approval by County Counsel;
8. Authorize the Assistant County Executive Officer/EDA, or designee, to take all necessary steps to implement the Loan Agreement, Promissory Note, Deed of Trust, and Covenant Agreement including, but not limited to, signing subsequent necessary and relevant documents subject to approval by County Counsel; and
9. Direct the Clerk of the Board to file a Notice of Determination within 5 working days.

BACKGROUND:

Summary

(Commences on Page 3)

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

Economic Development Agency

FORM 11 Loan Agreement for the Use of HOME Funds for Los Vinedos Mobile Home Park in the Unincorporated Community of Mecca, and Affirming Environmental Assessment No. 42520 and Adopted Negative Declaration, District 4/District 4, [\$1,000,000], HOME Investment Partnerships Act Funds 100%

DATE: June 5, 2014

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BACKGROUND:

Summary

On June 25, 2013, the County of Riverside Board of Supervisors approved a Loan Agreement for the use of HOME Investment Partnerships Act Funds in the amount of \$1,000,000 (Original HOME Loan Agreement) with Desert Alliance for Community Empowerment (DACE), a California nonprofit public benefit corporation, for the development and construction of phase I of an 84 unit mobile home park for extremely low-income farmworkers in the unincorporated community of Mecca (Original Project). Phase I of the Original Project consisted of 41 mobile homes and included a 1,500 square foot community center, computer lab and open space (Original Phase I). Phase 2 of the Original Project consisted of the development of the remaining 43 units (Original Phase 2). The Original HOME Loan Agreement included financing conditions that required DACE to secure sufficient funding to develop the Original Project by September 30, 2013. DACE was not able to meet the September 30, 2013 deadline and requested a 3 month extension, which the Board granted on September 24, 2013. The extension was granted until December 30, 2013. The Original HOME Loan Agreement expired on December 30, 2013 as DACE was unable to timely satisfy the funding requirements. The Original Project was proposed to be located on a 13.76 acre lot located at the southeast corner of Hammond Road and 68th Avenue, in the unincorporated community of Mecca.

A funding application related to the Original Project was submitted to the United States Department of Agriculture (USDA) Rural Utilities Grant, and at no fault of DACE the funding application was not processed within the December 30, 2013 extension period. The USDA has since informed DACE that the funding application has been accepted and DACE expects to receive the funding needed to develop the Original Project. Since the County's Original HOME Loan Agreement has expired DACE has submitted a new HOME loan funding application requesting the same amount of financing that the County had originally committed to the Original Project (i.e., \$1,000,000 in HOME funds) and DACE proposes developing the Original Project, including the Original Phase 1 and the Original Phase 2. The terms of the proposed new agreement to fund a HOME loan in the amount of \$1,000,000 (New HOME Loan) relating to the development of phase I of an 84 unit mobile home park (New Project) are set forth in the attached Loan Agreement for Use of HOME Funds (New Home Loan Agreement).

Phase I of the New Project will consist of 41 mobile homes and include a 1,500 square foot community center, computer lab and open space and will be rented to and occupied by qualified extremely low income farmworker households for an affordable rent as determined under the HOME regulations (New Phase I). Phase I will be built on 5.66 acres of the 13.76 acre lot identified in Exhibit A of the attached New HOME Loan Agreement. Within the New Phase 1, a total of 11 units will be designated as HOME assisted units limited to occupancy by households whose incomes do not exceed 30% of area median income. The HOME assisted units will be restricted for a period of 33 years. The County will only be providing financing for the New Phase I of the development.

Staff has reviewed DACE's HOME funding application and is recommending approval of the \$1,000,000 HOME loan. The estimated total development cost for the New Phase 1 is \$7,691,100. In addition to the HOME funds, other funding will include a \$2,300,000 loan from the United States Department of Agriculture Rural Development Section 514 Farm Labor Housing Program (USDA), a \$700,000 grant from the United States Department of Agriculture Section 516 Farm Labor Housing Program; a \$900,000 grant from the United States Department of Agriculture Rural Utilities Grant; a \$1,000,000 loan from the Rural Community Assistance Corporation Agricultural Worker Health and Housing Program (RCAC); a \$990,000 loan from the Rural Community Assistance Corporation Ford Foundation; a \$391,100 grant from the Rural Community Assistance Corporation Agricultural Worker Health and Housing Program; and a \$410,000 deferred loan from the Federal Home Loan Affordable Housing Program.

(Continued)

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

Economic Development Agency

FORM 11 Loan Agreement for the Use of HOME Funds for Los Vinedos Mobile Home Park in the Unincorporated Community of Mecca, and Affirming Environmental Assessment No. 42520 and Adopted Negative Declaration, District 4/District 4, [\$1,000,000], HOME Investment Partnerships Act Funds 100%

DATE: June 5, 2014

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BACKGROUND:

Summary (Continued)

As a condition precedent to the funding of the USDA loan in the approximate amount of \$2,300,00 and the RCAC loan in the approximate amount of \$1,000,000, the USDA and RCAC are requiring the County to subordinate the lien of the New HOME Loan. As a result of such subordinations, the County's HOME Loan will be in a third priority lien position junior to the aforementioned USDA and RCAC loans. All subordination agreements shall be approved as to form by County Counsel.

The Riverside County Board of Supervisors adopted a Negative Declaration (ND) associated with Environmental Assessment No. 42520 for the Los Vinedos Mobile Home Park on December 18, 2012. The County, as a Responsible Agency for purposes of CEQA, is now considering the proposed HOME Loan Agreement that was also analyzed in Environmental Assessment No. 42520. The County has considered the ND and associated environmental assessment which analyzed a mobile home park consisting of up to 84 units. No new information has become known since the adoption of the ND and the proposed HOME Loan Agreement falls within the scope of the analysis because it is only proposing 41 mobile home units and associated amenities. Further, no substantial changes to the project or circumstances under which the project will be undertaken have occurred. Therefore, no new environmental documentation is required for the proposed HOME Loan Agreement. In addition, on April 25, 2013, the Board of Supervisors adopted a Finding of No Significant Impact (FONSI) for the Los Vinedos Mobile Home Park and concluded that the project is not an action which may affect the quality of the environment. The County has considered the FONSI which analyzed a mobile home park consisting of up to 84 units. No new information has become known since the adoption of the FONSI and the proposed HOME Loan Agreement and no substantial changes to the project or circumstances under which the project will be undertaken have occurred. Therefore, no new environmental documentation is required for the proposed HOME Loan Agreement pursuant to NEPA.

County Counsel has reviewed and approved the attached Loan Agreement for Use of HOME funds, Deed of Trust, Promissory Note and Covenant Agreement as to form. Staff recommends that the Board of Supervisors approve the Loan Agreement, Deed of Trust and Covenant Agreement.

Impact on Residents and Businesses

Approving this item will have a positive impact on the citizens and businesses of the Eastern Coachella Valley. The proposed Project is expected to generate construction, permanent maintenance and property management jobs, and provide affordable housing for residents of the County of Riverside.

SUPPLEMENTAL:

Additional Fiscal Information

No impact upon the County's General Fund; the County's contribution to the Project will be fully funded with HOME Investment Partnerships Act funds from the U.S. Department of Housing and Urban Development.

Attachments:

Loan Agreement for Use of HOME funds
Deed of Trust with Assignment of Rents
Promissory Note
Covenant Agreement

1 NO FEE FOR RECORDING PURSUANT
2 TO GOVERNMENT CODE SECTION 6103

3 Order No.
4 Escrow No.
5 Loan No.

6 RECORDING REQUESTED BY AND
7 WHEN RECORDED MAIL TO:

8 County of Riverside
9 Economic Development Agency
10 5555 Arlington Avenue
11 Riverside, CA 92504
12 Attn: Juan Garcia

13 SPACE ABOVE THIS LINE FOR RECORDERS USE

14 LOAN AGREEMENT FOR THE USE OF
15 HOME FUNDS

16 This Loan Agreement for the Use of HOME Funds (“Agreement”) is made and
17 entered into this ____ day of _____, 2014 by and between the COUNTY OF
18 RIVERSIDE, a political subdivision of the State of California (“COUNTY”), and DESERT
19 ALLIANCE FOR COMMUNITY EMPOWERMENT, a California nonprofit public benefit
20 corporation (“DACE”). The COUNTY and DACE may be individually referred to herein as a
21 “Party” and collectively as the “Parties.”

22 RECITALS:

23 WHEREAS, the County was qualified by the United States Department of
24 Housing and Urban Development (“HUD”) as an “Urban County” and an approved
25 participating jurisdiction that has received funds from HUD pursuant to the HOME Investment
26 Partnerships Act and HOME Investment Partnerships Program, Title II of the Cranston-
27 Gonzalez National Affordable Housing Act , as amended (commencing at 42 U.S.C. 12701 et
28 seq.), and the implementing regulations thereto (24 CFR Part 92) (collectively, the “HOME
Program” or “HOME”), for the purposes of providing decent, safe, sanitary, and affordable
housing with primary attention to rental housing, for low-income families; to strengthen
public-private partnerships to carry out affordable housing programs; and to provide for
coordinated assistance to participants in the development of affordable low-income housing;

1 WHEREAS, DACE has proposed to develop and construct an 84 unit affordable
2 mobile home park identified as “Los Vinedos Mobile Home Park.” The development will
3 consist of two phases, phase I (“Phase 1”) will have 41 units and phase II (“Phase 2”) will have
4 43 units. The mobile home park will be built on approximately 13.76 acres on land located in
5 the unincorporated area of the County in the community of Mecca, legally described in the
6 legal description set forth in **Exhibit A** (hereinafter referred to as “Project Site”) for
7 extremely low income farmworker households and set aside certain units as HOME-assisted
8 units as further described in **Exhibit A**, which is attached hereto and by this reference
9 incorporated herein. All HOME-assisted units shall be rented to and occupied by Qualified
10 Households (as defined below) for affordable rent as set forth in the HOME Program
11 regulations; and

12 WHEREAS, Phase I will be built on 5.66 acres of the 13.76 acre lot, which is
13 further described in **Exhibit A-1**; and

14 WHEREAS, the COUNTY will only be providing financing in the form of
15 HOME Program funds for Phase I of the development, hereafter Phase I will be referred to as
16 (the “Project”);

17 WHEREAS, the purpose of this Agreement is, among other things, for the
18 County to reserve and commit up to One Million Dollars (\$1,000,000.00) consisting of HOME
19 Program funds, to provide financial assistance to DACE to fund Phase I to pay for a portion
20 of the acquisition and installation of the mobile homes related to the Project, as more fully
21 described herein; and

22 WHEREAS, the HOME-assisted activities described herein comply with the
23 objectives as required under 24 CFR Part 92 and are consistent with the County’s Consolidated
24 Plan.

25 NOW, THEREFORE, based upon the foregoing Recitals and for good and
26 valuable consideration, the receipt and sufficiency of which is acknowledged by all Parties, the
27 COUNTY and DACE hereby agree as follows:

- 28 1. PURPOSE. COUNTY has agreed to lend up to One Million Dollars

1 (\$1,000,000) of HOME funds to DACE for the Project upon the satisfaction of the terms and
2 conditions set forth herein (the "HOME Loan"). Subject to **Section 52**, Conditional HOME
3 Commitment, of this Agreement, DACE shall utilize the HOME Loan for the limited purpose
4 of paying costs for acquiring the mobile homes and hard costs for the Project pursuant to the
5 HOME Program, as set forth in this Agreement, and the scope of development set forth in
6 **Exhibit A**. Once the Project is completed, during the Affordability Period of this Agreement,
7 the Project shall be rented to and occupied by households that qualify as extremely low-income
8 households (as required herein) pursuant to 24 CFR Section 92.2 ("Qualified Household") for
9 an affordable rent pursuant to 24 CFR Section 92.252 ("Affordable Rent"). To remain a
10 Qualified Household, such household shall occupy their respective unit within the Project as
11 their principal residence.

12 2. DACE'S OBLIGATIONS. Upon the first disbursement of the HOME
13 Funds to DACE from the County and continuing throughout the term of this Agreement,
14 DACE shall undertake and complete the following activities:

- 15 a. Develop the Project in accordance with the timeline set forth in
16 the Implementation Schedule, attached hereto as **Exhibit A** and
17 incorporated herein by this reference.
- 18 b. Obtain legal title of the property as legally described in **Exhibit**
19 **A**, hereinafter referred to as the ("Property" or "Project Site").
- 20 c. Operate the Project in such a manner so that it will remain
21 affordable to Qualified Households for the Affordability Period as
22 defined in **Section 15** herein.
- 23 d. Maintain the Project in compliance with applicable local, state,
24 federal laws, codes and regulations for the duration of the
25 Affordability Period, including, but not limited to the applicable
26 HOME Program regulations.
- 27 e. Adhere to the terms of this Agreement, the HOME Note, HOME
28 Deed of Trust, Covenant Agreement, the Senior Loan(s) and any

1 other loan agreement or security agreement relating to the Project
2 and/or encumbering the project Site, or any portion thereof.

3 3. COUNTY'S OBLIGATIONS. COUNTY shall complete the following
4 activities, subject to its receipt of HOME funds from HUD and DACE's satisfactory
5 completion of the conditions precedent to disbursement set forth below:

- 6 a. Provide the HOME Loan to DACE to be used to pay a portion of
7 the costs associated with the acquisition and installation of the
8 mobile homes and hard costs of the Project.
9 b. Comply with all of its obligations as participating jurisdiction
10 under the applicable regulations set forth in 24 CFR Part 92.

11 4. HOME Loan. Subject to the satisfaction of the conditions precedent to
12 disbursement of the HOME Funds set forth in **Section 13** below, County shall provide
13 financing to DACE in the form of a loan in the amount of the HOME Loan, pursuant to the
14 following terms and conditions:

- 15 a. Term. The maturity date of the HOME Loan shall be thirty three
16 (33) years from the date of the recordation of the Notice of
17 Completion for the Project in in the Official Records of the
18 County of Riverside (the "HOME Loan Term"). COUNTY
19 HOME Loan shall be forgiven at the end of thirty three (33) years
20 from the recordation of the Notice of Completion, provided that
21 DACE has fulfilled all its other obligations under the terms of this
22 Agreement. In the event of DACE's default, as more specifically
23 set forth in Section 32 herein below, the entire HOME loan
24 amount shall become due and payable.
25 b. Principal. The principal of the HOME Loan shall not exceed the
26 amount of One Million Dollars (\$1,000,000) and shall be
27 evidenced by a Promissory Note, substantially conforming in
28 form and substance to the Promissory Note attached hereto as

1 **Exhibit C** and incorporated herein by this reference (“HOME
2 Note”), which note shall be secured by a Deed of Trust with
3 Assignment of Rents, substantially conforming in form and
4 substance to the Deed of Trust with Assignment of Rents attached
5 hereto as **Exhibit B** and incorporated herein by this reference
6 (“HOME Deed of Trust”).

7 c. Interest. The interest rate shall be zero percent (0%) per annum
8 simple interest.

9 d. Repayment. It is intended that the full amount of the HOME Loan
10 will be forgiven upon the expiration of the HOME Loan Term,
11 provided that DACE has fulfilled all its other obligations under
12 the terms of this Agreement and further provided that DACE is
13 not in default under this Agreement, the HOME Note, HOME
14 Deed of Trust, and Covenant Agreement. However, in the event
15 of DACE’s default, as more specifically set forth in Section 32
16 herein below, the entire HOME loan amount shall be
17 immediately payable in full to the County.

18 e. Security. The HOME Deed of Trust and the terms of this
19 Agreement shall be subordinated to the following deeds of trust:
20 1) a deed of trust and regulatory agreement in connection with a
21 loan in the amount not to exceed \$2,300,000, in favor of the
22 USDA Rural Development Section 514 Farm Labor Housing
23 Loan; and (2) a deed of trust and regulatory agreement in
24 connection with a loan in the amount not to exceed \$1,000,000, in
25 favor of the RCAC Agricultural Worker Health and Housing
26 Program (AWHHP) Loan (collectively, the “Senior Loans”). In
27 addition, COUNTY agrees to execute any and all documents
28 necessary to effectuate subordination of this Agreement and the

1 HOME Deed of Trust to the deeds of trust securing the Senior
2 Loans provided such agreements are first approved as to form and
3 substance by the County and County Counsel.

4 f. Prepayment. Prepayment of principal and/or interest may occur at
5 any time without penalty. The requirements of **Section 18**,
6 Compliance with Laws and Regulations, however, shall remain in
7 full force and effect for a term specified in **Section 6** hereof.

8 5. PRIOR COUNTY APPROVAL. DACE shall obtain COUNTY'S written
9 approval, through its Economic Development Agency ("EDA"), of all items requiring such
10 approvals as described in this Agreement. EDA shall not unreasonably withhold or delay any
11 such approval.

12 6. TERM OF AGREEMENT. This Agreement shall become effective upon
13 execution as more specifically discussed in Section 55 below, and unless terminated earlier
14 pursuant to the terms hereof, shall continue in full force and effect for a period of thirty three
15 (33) years from the recordation of the Notice of Completion for the Project in the Official
16 Records of the County of Riverside.

17 7. DACE'S REPRESENTATIONS. DACE represents and warrants to
18 COUNTY as follows:

19 a. Authority. DACE is a duly organized non-profit public benefit
20 corporation in good standing under the laws of the State of
21 California. The copies of the documents evidencing the
22 organization of DACE, which have been delivered to COUNTY,
23 are true and complete copies of the originals, amended to the date
24 of this Agreement. DACE is the legal owner of the Project Site,
25 as defined in **Exhibit A**, and undertakes all obligations as
26 provided herein and the execution, performance and delivery of
27 this Agreement by DACE has been fully authorized by all
28 requisite actions on the part of DACE.

- 1 b. No Conflict. To the best of DACE's knowledge, DACE's
2 execution, delivery and performance of its obligations under this
3 Agreement will not constitute a default or a breach under contract,
4 agreement or order to which DACE is a party or by which it is
5 bound.
- 6 c. No Owner Bankruptcy. DACE is not the subject of a bankruptcy
7 proceeding.
- 8 d. Prior to Closing. DACE shall upon learning of any fact or
9 condition which would cause any of the warranties and
10 representations in this **Section 7** not to be true as of the date of the
11 closing, immediately give written notice of such fact or condition
12 to COUNTY. Such exception(s) to a representation shall not be
13 deemed a breach by DACE hereunder, but shall constitute an
14 exception which COUNTY shall have the right to approve or
15 disapprove if such exception would have an effect on the value
16 and/or operation of the Project Site.

17 8. COMPLETION SCHEDULE. DACE shall proceed with the
18 implementation of this Agreement consistent with the implementation schedule
19 ("Implementation Schedule") set forth in **Exhibit A**, as the same may be amended by the
20 parties from time to time, and subject to Force Majeure Delays, as defined in **Section 9**.

21 9. FORCE MAJEURE DELAYS. "Force Majeure" means event(s) beyond
22 the reasonable control of DACE, and which could not have been reasonably anticipated, which
23 prevent(s) DACE from complying with any of its obligations under this Agreement, including,
24 but not limited to: acts of God, acts of war, acts or threats of terrorism, civil disorders, strikes,
25 labor disputes, flood, fire, explosion, earthquake or other similar acts.

26 "Force Majeure Delay" is delay due to Force Majeure that, in each case, (i)
27 materially adversely affects the performance by DACE of its obligations hereunder, (ii) is not
28 reasonably foreseeable and is beyond DACE's reasonable control, (iii) despite the exercise of

1 reasonable diligence, cannot be prevented, avoided or removed by DACE and is not
2 attributable to the negligence, willful misconduct or bad faith of DACE, and (iv) is not the
3 result of the failure of DACE to perform any of its obligations under this Agreement.
4 Notwithstanding the foregoing, a Force Majeure Delay shall not be deemed to have occurred
5 unless DACE has notified COUNTY in writing of such occurrence of Force Majeure Delay
6 within fifteen (15) days after such occurrence and has provided COUNTY with the details of
7 such event and the length of the anticipated delay within an additional fifteen (15) days
8 thereafter. DACE shall diligently attempt to remove, resolve, or otherwise eliminate such
9 event, keep COUNTY advised with respect thereto, and shall commence performance of its
10 obligations hereunder immediately upon such removal, resolution or elimination. During the
11 occurrence and continuance of a Force Majeure Delay, DACE shall be excused from
12 performance of its obligations under this Agreement to the extent the Force Majeure Delay
13 prevents DACE from performing such obligations.

14 10. EXTENSION OF TIME. COUNTY may grant, in its sole discretion, an
15 extension to the Implementation Schedule for the purpose of completing DACE's activities
16 which cannot be completed as outlined in **Exhibit A**. DACE shall request said extension in
17 writing, stating the reasons therefore, and may be granted only by receiving written approval
18 from COUNTY. Every term, condition, covenant, and requirement of this Agreement shall
19 continue in full force and effect during the period of any such extension.

20 11. FUNDING SOURCES FOR OFF-SITE IMPROVEMENTS. When the
21 Project Site was subdivided it was subdivided for the purpose of building a 96 unit farm
22 worker shelter (San Cristobal) on a separate legal parcel in order to obtain financing for the San
23 Cristobal housing project. However, the financing that is being provided by the United States
24 Department of Agriculture Rural Utilities Grant for the offsite improvements for both projects
25 is being awarded as one grant, and which DACE has broken down the shared costs of the off-
26 site improvements for both projects as designated in Exhibit A. HOME funds are not to be used
27 for any of the off-site improvement costs. In the event any HOME funds are used to pay for
28 any off-site improvement costs, DACE shall immediately re-pay such amounts to the County.

1 12. REALLOCATION OF FUNDS. If DACE fails to meet (1) the Financing
2 Deadline as set forth in **Section 51(a)**; (2) the Construction Start Deadline as set forth in
3 **Section 51(b)**; (3) the Completion Deadline as set forth in **Section 51(c)**; or (4) the Lease
4 Deadline as set forth in **Section 20(a)**, all of which are herein (collectively, the “Performance
5 Deadlines”), subject to the notice and cure periods as set forth in **Section 33** herein, then the
6 funds allocated, reserved, or placed in a HOME Investment Trust Fund may be reallocated by
7 COUNTY after at least thirty (30) days’ prior written notice is given to DACE. Upon such
8 reallocation and repayment of funds, this Agreement shall be terminated and be of no further
9 force and effect and DACE shall be released and discharged from any obligations under this
10 Agreement.

11 13. CONDITIONS PRECEDENT TO DISTRIBUTION OF HOME LOAN
12 FUNDS. COUNTY, through its EDA, shall: (1) make payments of the HOME funds to DACE
13 as designated in **Exhibit A**, **subject** to DACE’s satisfaction of the conditions precedent to
14 HOME Loan distribution set forth in this Agreement, and (2) monitor the Project to ensure
15 compliance with applicable federal regulations and the terms of this Agreement.

16
17 The County shall distribute the HOME Loan funds to DACE after DACE’s satisfaction of the
18 following conditions precedent:

- 19 a. Dace obtains financing from the Rural Community Assistance
20 Corporation (RCAC) Worker Health and Housing Program,
21 RCAC Ford Foundation, United States Department of Agriculture
22 Rural Development Section 514 Labor Housing Program
23 (USDA), USDA Section 516 Farm Labor Housing Program,
24 USDA Rural Utilities Grant, and Affordable Housing Program
25 (AHP) in accordance with the timeline set forth in **Exhibit A**.
- 26 b. In accordance with the Implementation Schedule, DACE submits
27 to COUNTY for approval evidence that DACE has obtained
28 sufficient equity capital or has obtained signed financing

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agreements for construction and permanent financing necessary to undertake the development and completion of the Project.

- c. DACE submits all signed final financing agreements and documents required to cause the proceeds of the construction loan to be committed and available, in an amount sufficient, when combined with the HOME Loan, USDA 514 Loan, USDA 516 Grant, USDA Rural Utilities Grant, RCAC Loan, RCAC Grant, RCAC Ford Loan, Federal Home Loan Affordable Housing Program Loan, and a Conventional Loan, to pay for development costs.
- d. DACE provides the County with the data Universal Number as assigned by the Data Universal Number System (DUNS) assigned to DACE as required by the Federal Funding Accountability and Transparency Act of 2006.
- e. DACE executes and records this Agreement in the Official Records.
- f. DACE provides evidence of insurance as required herein.
- g. DACE executes the HOME Deed of Trust, substantially conforming in form and substance to the Deed of Trust with Assignment of Rents attached hereto as **Exhibit B**, and recordable form.
- h. DACE executes the HOME Note substantially conforming in form and substance to the Promissory Note attached hereto as **Exhibit C**.
- i. DACE executes the Covenant Agreement, substantially conforming in form and substance to the Covenant Agreement attached hereto as **Exhibit J** and incorporated herein by this reference.

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- j. DACE records this Agreement, as identified in **Exhibit A**, in the Official Records of the County of Riverside.
- k. DACE records the HOME Deed of Trust, as shown in **Exhibit A**, in the Official Records of the County of Riverside.
- l. DACE records the Covenant Agreement, as shown in **Exhibit A**, in the Official Records of the County of Riverside.
- m. DACE executes, records, and delivers the Request for Notice as shown in **Exhibit H**.
- n. DACE provides, at its expense, an ALTA lender's policy insuring the lien priority of the HOME Deed of Trust upon the close of escrow.
- o. DACE provides documentation showing that matching funds of not less than twenty-five percent (25%) of the total HOME funds allocated under this Agreement have been provided.
- p. COUNTY will retain ten percent (10%) of the total HOME Loan amount and release final draw down of HOME Loan funds upon the County's receipt of all of the following:
 - 1) Conditional lien release from general contractor;
 - 2) recorded Notice of Completion;
 - 3) Certificate of Occupancy;
 - 4) final Contract and Subcontract Activity report, Minority Business Enterprise/Women Business Enterprise ("MBE/WBE") report, HUD form 2516;
 - 5) submission of documentation that shows compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and 24 CFR Part 42.
 - 6) submission of a Project completion report including Tenant Checklist as shown in **Exhibit F** which is attached

1 hereto and by this reference incorporated herein;

2 7) Affirmative Fair Housing Marketing Plan – Multifamily
3 Housing, HUD form 935.2A, as described in **Section**
4 **18(c)**;

5 8) Tenant Selection Policy;

6 9) Management Plan;

7 10) final development costs; and

8 11) final sources and uses of funds. A final Certified Public
9 Accountant’s construction cost certification must be
10 provided within 6 months of the Notice of Completion
11 (but not as a condition to release HOME Loan retention).

12 q. DACE provides satisfactory evidence that it has secured any and
13 all land use entitlements, permits, approvals which may be
14 required for construction of the Project pursuant to the applicable
15 rules and regulations of, COUNTY, or any other governmental
16 agency affected by such construction work. DACE shall, without
17 limitation, secure all entitlement, change of zone, lot line
18 adjustment, any and all necessary studies required including but
19 not limited to archaeological, cultural, environmental, traffic
20 studies and lead-based paint surveys, as applicable, and pay all
21 costs, charges and fees associated therewith, all conditions
22 precedent to the issuance of all permits necessary for the
23 construction of the development and all such permits are available
24 for issuance, other than payment of fees.

25 r. DACE provides duly executed documents and instruments
26 showing the ownership of the Project Site as specifically
27 identified in **Exhibit A**.

28 s. DACE is not in default under the terms of this Agreement.

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- t. DACE provides documentation of a Payment and Performance Bond or an aggregate of Payment and Performance bonds or letter of credit to secure performance under the construction contract issued by a bonding company or financial institution reasonably approved by COUNTY. Such policy shall name COUNTY as Co-Obligee.
- u. DACE submits copies of approved plans by Riverside County Transportation and Land Management Agency (Grading Plans, Building Plans, and Landscape Plans)
- v. DACE provides satisfactory evidence that it has satisfied all conditions precedent to the issuance of all permits necessary for the construction of the development and all such permits are available for issuance, other than payment of fees.
- w. If Davis Bacon and/or prevailing wages are required to be paid, DACE shall hire a qualified professional firm to review and monitor Davis Bacon wage compliance for all submissions of contractors certified payrolls to COUNTY. Prior to hiring the Davis Bacon wage monitor, the COUNTY shall certify the wage monitor's qualifications. In the event that the Project requires prevailing wages, DACE shall comply with any applicable labor regulations and all other State Laws in connection with the construction of the improvements which compromise the Project, including if applicable, requirements relating to prevailing wages. DACE agrees and acknowledges that it is the responsibility of DACE to obtain legal determination, at DACE's sole cost and expense, as to whether prevailing wages must be paid during the construction of the Project. If the Project is subject to prevailing wage, then DACE shall be solely responsible to pay its

1 contractors and subcontractors the required prevailing wage rates.
2 DACE agrees to indemnify, defend, and hold COUNTY harmless
3 from and against any and all liability arising out of and related to
4 DACE's failure to comply with any and all applicable Davis
5 Bacon and/or prevailing wage requirements.

6 x. DACE provides satisfactory evidence that it has satisfied all
7 conditions precedent to the issuance of all permits necessary for
8 the construction of the development and all such permits are
9 available for issuance, other than payment of fees.

10 y. Irrespective of events (a) through (e), DACE is allowed to draw
11 down up to and not-to-exceed Five Thousand (\$5,000) Dollars for
12 eligible soft costs incurred for the Project. Should the Project be
13 cancelled, all funds drawn down are to be paid back by DACE
14 within thirty (30) calendar days from termination of the
15 Agreement.

16 z. Pursuant to 24 CFR, Part 5, DACE agrees to verify that DACE,
17 and its principals, or any/all persons, contractors, consultants,
18 businesses, etc. ("Developer Associates"), that DACE is
19 conducting business with, are not presently debarred, proposed for
20 debarment, suspended, declared ineligible, or voluntarily excluded
21 from participation or from receiving federal contracts or federally
22 approved subcontracts or from certain types of federal financial
23 and nonfinancial assistance and benefits with the Excluded Parties
24 Listing System ("EPLS"). EPLS records are located at
25 www.sam.gov. DACE shall search and provide a single
26 comprehensive list of Developer Associates (individuals and
27 firms) and print and maintain evidence of the search results of
28 each Developer Associate as verification of compliance with this

1 requires as provided in **Exhibit "H"**, which is attached hereto and
2 by this reference incorporated herein.

3 aa. Copies of all agreements in connection with the United States
4 Department of Agriculture Rural Utilities Grant are provided. The
5 agreement for the funding between USDA and the Coachella
6 Valley Water District (CVWD) and the tri party agreement
7 between DACE, USDA and CVWD.

8 bb. DACE obtains and submits at DACE's sole cost and expense the
9 following documents for COUNTY's review and acceptance of
10 in its sole and absolute discretion:

- 11 1) Copies of Phase I Environmental audit prepared by
12 licensed entity in accordance with State of California
13 requirements.
- 14 2) Copies of Phase II Environmental audit prepared by
15 licensed entity, if the audit on Phase I indicates the
16 possible presence of hazardous substances.
- 17 3) Copies of soil reports.
- 18 4) Any findings identified in the soil, Phase I and Phase II
19 reports shall be fully remediated by DACE at its sole cost
20 and expense.

21 14. HOME LOAN DISBURSEMENT PROCEDURES. The HOME
22 Investment Trust Fund account established in the United States Treasury is managed through
23 HUD, Integrated Disbursement and Information System (IDIS) for the HOME Investment
24 Partnerships Program. The IDIS System is a computerized system which manages, disburses,
25 collects, and reports information on the use of HOME funds in the United States Treasury
26 Account.

27 Disbursement of HOME Loan funds for acquisition and installation of the mobile homes
28 and hard costs for the Project is expressly conditioned upon the satisfaction of conditions set

1 forth in **Section 13**. COUNTY shall pay DACE the sum specified in **Section 1** above on a
2 “cost-as-incurred” basis for all eligible approved costs pursuant to the following schedule:

3 a. Up to an amount not-to-exceed of Five Thousand Dollars
4 (\$5,000.00) may be reimbursed to the DACE for eligible costs for
5 the Project.

6 b. Up to forty percent (40%) of the HOME Loan to secure and place
7 an order for fabrication of the HOME assisted units and related
8 project structures to operate the Project as certified by an architect
9 or engineer. The project architect or engineer must certify that the
10 project is designed to be constructed in accordance with the
11 Uniform Federal Accessibility Standards (UFAS) in compliance
12 with Section 504 of the Rehabilitation Act of 1973, and must also
13 identify units that are accessible to individuals with mobility
14 impairments and units that are accessible to individuals with
15 sensory impairments in compliance with Section 504 of the
16 Rehabilitation Act of 1973, as described in **Section 18**.

17 c. Up to fifty (50%) of the HOME Loan for the release, delivery and
18 placement of manufactured units and related project structures.

19 d. COUNTY shall release final draw down of ten percent (10%) of
20 the HOME Loan following receipt of all of the items listed in
21 **Section 13**.

22 15. TERMS OF AFFORDABILITY. The Project, including the HOME-
23 Assisted Units, shall remain affordable to qualified extremely low-income tenants for a period
24 of thirty-three (33) years commencing from and after the recordation of the Notice of
25 Completion for the Project (“Affordability Period”) without regard to the HOME Loan Term,
26 the Agreement Term, repayment of the HOME investment, or the transfer of ownership.

27 16. INSURANCE. Without limiting or diminishing DACE’S obligation to
28 indemnify or hold COUNTY harmless, DACE shall procure and maintain or cause to be

1 maintained, at its sole cost and expense, the following insurance coverage's during the term of
2 this Agreement.

3 a. Worker's Compensation Insurance.

4 If DACE has employees as defined by the State of California,
5 DACE shall maintain statutory Workers' Compensation Insurance
6 (Coverage A) as prescribed by the laws of the State of California.
7 Policy shall include Employers' Liability (Coverage B) including
8 Occupational Disease with limits not less than \$1,000,000 per
9 person per accident. The policy shall be endorsed to waive
10 subrogation in favor of The County of Riverside, and, if
11 applicable, to provide a Borrowed Servant/Alternate Employer
12 Endorsement.

13 b. Commercial General Liability Insurance.

14 Commercial General Liability insurance coverage, including but
15 not limited to, premises liability, contractual liability, products
16 and completed operations liability, personal and advertising
17 injury, and cross liability coverage, covering claims which may
18 arise from or out of DACE'S performance of its obligations
19 hereunder. Policy shall name the County of Riverside, its
20 Agencies, Districts, Special Districts, and Departments, their
21 respective directors, officers, Board of Supervisors, employees,
22 elected or appointed officials, agents or representatives as
23 Additional Insured. Policy's limit of liability shall not be less
24 than \$1,000,000 per occurrence combined single limit. If such
25 insurance contains a general aggregate limit, it shall apply
26 separately to this agreement or be no less than two (2) times the
27 occurrence limit.

28 c. Vehicle Liability Insurance.

1 If vehicles or mobile equipment are used in the performance of
2 the obligations under this Agreement, then DACE shall maintain
3 liability insurance for all owned, non-owned or hired vehicles so
4 used in an amount not less than \$1,000,000 per occurrence
5 combined single limit. If such insurance contains a general
6 aggregate limit, it shall apply separately to this agreement or be
7 no less than two (2) times the occurrence limit. Policy shall name
8 the County of Riverside, its Agencies, Districts, Special Districts,
9 and Departments, their respective directors, officers, Board of
10 Supervisors, employees, elected or appointed officials, agents or
11 representatives as Additional Insured or provide similar evidence
12 of coverage approved by COUNTY's Risk Manager.

13 d. General Insurance Provisions – All Lines.

14 1) Any insurance carrier providing insurance coverage
15 hereunder shall be admitted to the State of California and have an
16 A M BEST rating of not less than A: VIII (A:8) unless such
17 requirements are waived, in writing, by COUNTY Risk Manager.
18 If COUNTY's Risk Manager waives a requirement for a
19 particular insurer such waiver is only valid for that specific
20 insurer and only for one policy term.

21 2) DACE's insurance carrier(s) must declare its insurance
22 self-insured retentions. If such self-insured retentions exceed
23 \$500,000 per occurrence such retentions shall have the prior
24 written consent of COUNTY Risk Manager before the
25 commencement of operations under this Agreement. Upon
26 notification of self-insured retention unacceptable to COUNTY,
27 and at the election of COUNTY's Risk Manager, DACE's carriers
28 shall either: (a) reduce or eliminate such self-insured retention as

1 respects this Agreement with COUNTY, or (b) procure a bond
2 which guarantees payment of losses and related investigations,
3 claims administration, and defense costs and expenses.

4 3) DACE shall cause DACE's insurance carrier(s) to
5 furnish the County of Riverside with copies of the Certificate(s)
6 of Insurance and Endorsements effecting coverage as required
7 herein, and 2) if requested to do so orally or in writing by
8 COUNTY Risk Manager, provide copies of policies including all
9 Endorsements and all attachments thereto, showing such
10 insurance is in full force and effect. Further, said Certificate(s)
11 and policies of insurance shall contain the covenant of the
12 insurance carrier(s) that thirty (30) days written notice shall be
13 given to the County of Riverside prior to any material
14 modification, cancellation, expiration or reduction in coverage of
15 such insurance. In the event of a material modification,
16 cancellation, expiration, or reduction in coverage, this Agreement
17 shall terminate forthwith, unless the County of Riverside receives,
18 prior to such effective date, another Certificate of Insurance and
19 copies of endorsements, including all endorsements and
20 attachments thereto evidencing coverage's set forth herein and the
21 insurance required herein is in full force and effect. DACE shall
22 not commence operations until COUNTY has been furnished
23 Certificate(s) of Insurance and copies of endorsements and if
24 requested, copies of policies of insurance including all
25 endorsements and any and all other attachments as required in this
26 Section. An individual authorized by the insurance carrier to do
27 so on its behalf shall sign the original endorsements for each
28 policy and the Certificate of Insurance.

1 4) It is understood and agreed to by the parties hereto that
2 DACE's insurance shall be construed as primary insurance, and
3 COUNTY's insurance and/or deductibles and/or self-insured
4 retention's or self-insured programs shall not be construed as
5 contributory.

6 5) If, during the term of this Agreement or any extension
7 thereof, there is a material change in the scope of services; or,
8 there is a material change in the equipment to be used in the
9 performance of the scope of work which will add additional
10 exposures (such as the use of aircraft, watercraft, cranes, etc.); or,
11 the term of this Agreement, including any extensions thereof,
12 exceeds five (5) years COUNTY reserves the right to adjust the
13 types of insurance required under this Agreement and the
14 monetary limits of liability for the insurance coverage's currently
15 required herein, if; in COUNTY Risk Manager's reasonable
16 judgment, the amount or type of insurance carried by DACE has
17 become inadequate.

18 6) DACE shall pass down the insurance obligations
19 contained herein to all tiers of subcontractors working under this
20 Agreement.

21 7) The insurance requirements contained in this
22 Agreement may be met with a program(s) of self-insurance
23 acceptable to COUNTY.

24 8) DACE agrees to notify COUNTY of any claim by a
25 third party or any incident or event that may give rise to a claim
26 arising from the performance of this Agreement.

27 17. FINANCIAL RECORDS. DACE shall maintain financial, programmatic,
28 statistical, and other supporting records of its operations and financial activities in accordance

1 with the requirements of the HOME Investment Partnerships Program Final Rule, and the
2 regulations as amended promulgated thereunder, which records shall be open to inspection and
3 audit by authorized representatives of COUNTY, HUD, and the Comptroller General of the
4 United States during regular working hours. COUNTY, HUD, and the Comptroller General, or
5 any of their representatives, have the right of access with at least forty-eight (48) hours prior
6 notice, to any pertinent books, documents, papers, or other records of DACE, in order to make
7 audits, examinations, excerpts, and transcripts. Said records shall be retained for such time as
8 may be required by the regulations of the HOME Program, but in no event no less than five (5)
9 years after the Project completion date; except that records of individual tenant income
10 verifications, project rents, and project inspections must be retained for the most recent five (5)
11 year period, until five (5) years after the Affordability Period terminates. If any litigation,
12 claim, negotiation, audit, or other action has been started before the expiration of the regular
13 period specified, the records must be retained until completion of the action and resolution of
14 all issues which arise from it, or until the end of the regular period, whichever is later.

15 18. COMPLIANCE WITH LAWS AND REGULATIONS. By executing
16 this Agreement, DACE hereby certifies that it will adhere to and comply with all federal, state
17 and local laws, regulations and ordinances. In particular, DACE shall comply with the
18 following as they may be applicable to DACE:

- 19 a. The HOME Program and its implementing regulations set forth in
20 the Final Rule, as it now exists and may hereafter be amended.
- 21 b. Section 92.350 Other Federal requirements and
22 nondiscrimination. As set forth in 24 CFR part 5, sub part A,
23 DACE is required to include the following requirements:
24 nondiscrimination and equal opportunity under Section 282 of the
25 Act; disclosure; debarred, suspended, or ineligible contractors;
26 and drug-free workplace.
- 27 c. Section 92.351 Affirmative marketing and minority outreach
28 program. DACE must adopt affirmative marketing procedures

1 and requirements. These must include:

- 2 (1) Methods for informing the public, owners, and potential
3 tenants about Federal fair housing laws and the affirmative
4 marketing policy (e.g., the use of the Equal Housing
5 Opportunity logotype or slogan in press releases and
6 solicitations for owners, and written communication to fair
7 housing and other groups).
- 8 (2) Requirements and practices that DACE must adhere to in
9 order to carry out the affirmative marketing procedures
10 and requirements (e.g., use of commercial media, use of
11 community contacts, use of the Equal Housing
12 Opportunity logotype or slogan, and display of fair
13 housing poster).
- 14 (3) Procedures to be used by DACE to inform and solicit
15 applications from persons in the housing market area who
16 are not likely to apply without special outreach (e.g., use
17 of community organizations, employment centers, fair
18 housing groups, or housing counseling agencies).
- 19 (4) Records that will be kept describing actions taken by
20 DACE to affirmatively market units and records to assess
21 the results of these actions.
- 22 (5) A description of how DACE will annually assess the
23 success of affirmative marketing actions and what
24 corrective actions will be taken where affirmative
25 marketing requirements are not met.
- 26 (6) DACE must prescribe procedures to establish and oversee
27 a minority outreach program to ensure the inclusion, to the
28 maximum extent possible, of minorities and women, and

1 entities owned by minorities and women, including,
2 without limitation, real estate firms, construction firms,
3 appraisal firms, management firms, financial institutions,
4 investment banking firms, underwriters, accountants, and
5 providers of legal services, in all contracts entered into by
6 DACE with such persons or entities, public and private, in
7 order to facilitate the activities of COUNTY to provide
8 affordable housing authorized under this Act or any other
9 Federal housing law. Section 24 CFR 85.36(e) provided
10 affirmative steps to assure that minority business
11 enterprises and women business enterprises are used when
12 possible in the procurement of property and services. The
13 steps include:

- 14 (i) Placing qualified small and minority businesses
15 and women's business enterprises on solicitation
16 lists.
- 17 (ii) Assuring that small and minority businesses, and
18 women's business enterprises are solicited
19 whenever they are potential sources.
- 20 (iii) Dividing total requirements, when economically
21 feasible, into smaller tasks or quantities to permit
22 maximum participation by small and minority
23 business, and women's business enterprises.
- 24 (iv) Establishing delivery schedules, where the
25 requirement permits, which encourage
26 participation by small and minority business, and
27 women's business enterprises.
- 28 (v) Using the services and assistance of the Small

1 Business Administration, and the Minority
2 Business Development Agency of the Department
3 of Commerce.

4 (vi) Requiring the prime contractor, if subcontracts are
5 to be let, to take the affirmative steps listed in (i)
6 through (v) above of this section.

7 d. Section 92.352 Environmental review. The environmental effects
8 of each activity carried out with HOME funds must be assessed in
9 accordance with the provisions of the National Environmental
10 Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and the related
11 authorities listed in HUD's implementing regulations at 24 CFR
12 Parts 50 and 58.

13 e. Section 92.353 Displacement, relocation, and acquisition. The
14 relocation requirements of Title II and the acquisition
15 requirements of Title III of the Uniform Relocation Assistance
16 and Real Property Acquisition Policies Act of 1970, and the
17 implementing regulations at 24 CFR Part 42. DACE must ensure
18 that it has taken all reasonable steps to minimize the displacement
19 of persons as a result of this project assisted with HOME Funds.

20 f. Section 92.355 Lead-based paint. Housing assisted with HOME
21 funds is subject to the lead-based paint requirements of 24 CFR
22 Part 35 issued pursuant to the Lead-Based Paint Poisoning
23 Prevention Act (42 U.S.C. 4821, et seq.). The lead-based paint
24 provisions of 24 CFR 982.401 (j), except 24 CFR 982.401
25 (j)(1)(i), also apply, irrespective of the applicable property
26 standard under §92.251.

27 g. Section 92.354 Labor. Every contract for the construction of
28 housing that includes twelve (12) or more units assisted with

1 HOME funds must contain a provision requiring the payment of
2 not less than the wages prevailing in the locality, as
3 predetermined by the Secretary of Labor pursuant to the Davis-
4 Bacon Act (40 U.S.C. 276a-276a-5), to all laborers and mechanics
5 employed in the development of any part of the housing. Such
6 contracts must also be subject to the overtime provisions, as
7 applicable, of the Contract Work Hours and Safety Standards Act
8 (40 U.S.C. 327-332).

9 h. Section 92.356 Conflict of Interest. In the procurement of
10 property and services by DACE, the conflict of interest provisions
11 in 24 CFR 85.36 and 24 CFR 85.42, respectively shall apply.
12 Section 92.356 shall cover all cases not governed by 24 CFR
13 85.36 and 24 CFR 84.42.

14 i. Section 504 of the Rehabilitation Act of 1973. Housing
15 accessibility requirement at 24 CFR Part 8, implementing Section
16 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). The
17 design and construction of multi-family dwellings as defined at 24
18 CFR 100.201 must comply with the requirements set forth in 24
19 CFR 100.205 implementing the Fair Housing Act. Dwelling units
20 must be designed and constructed in accordance with the Uniform
21 Federal Accessibility Standards (UFAS) will be deemed to
22 comply with the Section 504 regulation.

23 1. 24 CFR Part 8.22 New construction—housing facilities.
24 For new construction of multi-family projects, 5 percent
25 (5%) of the units (but not less than one unit) must be
26 accessible to individuals with mobility impairments, and
27 an additional 2 percent (2%) of the units (but not less than
28 one unit) must be accessible to individuals with sensory

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impairments.

2. 24 CFR Part 8.23 Alterations of existing housing facilities.

If alterations are undertaken to a project that has 15 or more units and the cost of the alterations is 75 percent or more of the replacement cost of the completed facility, then the provisions of §8.22 shall apply. Alterations to dwelling units in a multifamily housing project shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with handicaps. If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the entire dwelling unit shall be made accessible. Once 5 percent (5%) of the dwelling units in a project are readily accessible to and usable by individuals with mobility impairments, then no additional elements of dwelling units, or entire dwelling units, are required to be accessible under this paragraph. Alterations to common areas or parts of facilities that affect accessibility of existing housing facilities shall, to the maximum extent feasible, be made to be accessible to and usable by individuals with handicaps. For purposes of this paragraph, the phrase to the maximum extent feasible shall not be interpreted as requiring that a recipient make a dwelling unit, common area, facility or element thereof accessible if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing project.

j. Manufacture Home HUD Code Requirements. Manufactured

1 homes are subject to the Manufactured Home Construction and
2 Safety Standards (“HUD Code”). The HUD code is a set of
3 manufactured home industry standards published and maintained
4 by HUD that establishes standards for design and construction,
5 strength and durability, fire resistance, energy efficiency,
6 transportability, and quality control. It also sets performance
7 standards for the heating and air conditioning, plumbing, thermal,
8 and electrical systems.

9 k. Section 3 of the Housing and Urban Development Act of 1968.

10 To the greatest extent feasible, opportunities for training and
11 employment arising from HOME funds will be provided to low-
12 income persons residing in the program service area. To the
13 greatest extent feasible, contracts for work to be performed in
14 connection with HOME funds will be awarded to business
15 concerns that are located in or owned by persons residing in the
16 program service area as outlined in the Riverside County EDA
17 Section 3 Contract Requirements attached hereto as **Exhibit “D”**
18 attached hereto and incorporated herein by this reference. All
19 contracts funded from Section 3 covered funding sources must
20 abide by the Section 3 Clause prescribed at 24 CFR 135.38 and
21 include the Section 3 Clause verbatim that is contained in 24 CFR
22 135.38, a copy of which is attached hereto as Exhibit “E” and
23 incorporated herein by this reference.

24 l. Section 92.358 Consultant Activities. No person providing
25 consultant services in an employer-employee type relationship
26 shall receive more than a reasonable rate of compensation for
27 personal services paid with HOME funds.

28 m. DACE shall carry out its activity pursuant to this Agreement in

1 compliance with all federal laws and regulations described in
2 Subpart E of Part 92 of the Code of Federal Regulations, except
3 that:

- 4 (1) DACE does not assume COUNTY'S environmental
5 responsibilities described at 24 CFR Part 92.352; and
6 (2) DACE does not assume COUNTY's responsibility for
7 initiating the review process under the provisions of 24
8 CFR Part 92.352

9 n. Uniform Administrative Requirements of 24 CFR 92.505 Part 84
10 and 85 "Common Rule", OMB Circular Nos. A-87 (for
11 government entities), A-122 (for non-profit organizations), and
12 the following §§85.6, 85.12, 85.20, 85.22, 85.26, 85.32 through
13 85.34, 85.36, 85.44, 85.51 and 85.52 (for government entities),
14 and the following §§84.2, 84.5, 84.13 through 84.16, 84.21,
15 84.22, 84.26 through 84.28, 84.30, 84.31, 84.34 through 84.37,
16 84.40 through 84.48, 84.51, 84.60 through 84.62, 84.72, and
17 84.73 (for non-profit organizations). Federal awards expended as
18 a recipient or a subrecipient, as defined by HUD, would be
19 subject to single audit. The payments received for goods or
20 services provided as a vendor would not be considered Federal
21 awards.

22 o. DACE shall include written agreements that include all provisions
23 of **Section 18** if DACE provides HOME funds to for-profit
24 owners or developers, non-profit owners or developers, sub-
25 recipients, homeowners, homebuyers, tenants receiving tenant-
26 based rental assistance, or contractors.

27 p. Immigration requirements of Federal Register, Vol. 62, No. 221,
28 Department of Justice Interim Guidance on Verification of

1 Citizenship, Qualified Alien Status and Eligibility Under Title IV
2 of the Personal Responsibility and Work Opportunity
3 Reconciliation Act of 1996 ("PRWORA"). Final Attorney
4 General's Order issued pursuant to PRWORA is specified under
5 Federal Register Vol. 66, No. 10, Department of Justice Final
6 Specification of Community Programs Necessary for Protection
7 of Life or Safety Under Welfare Reform Legislation.

8 q. DACE shall comply with all applicable local, state and federal
9 laws in addition to the above mentioned laws.

10 19. INCOME TARGETING REQUIREMENTS. DACE shall set aside and
11 designate eleven (11) units (10 - 3 Bedroom and 1- 4 Bedroom units) of the Project as
12 "Floating" Low HOME rent units, as defined under 24 CFR 92.252(j) (the "HOME-Assisted
13 Units"). All eleven (11) of the HOME-Assisted Units shall be limited to extremely low-
14 income households whose incomes do not exceed thirty percent (30%) of the area median
15 income for the County of Riverside, adjusted by family size at the time of occupancy.

16 20. RENT LIMITATIONS. DACE shall comply with the rent limitations set
17 forth under 24 CFR 92.252. COUNTY shall review and approve proposed rents to the extent
18 required under this section. DACE shall ensure that the HOME-assisted units are rented to
19 qualified applicants at the Low HOME rent levels, adjusted by family size at the time of
20 occupancy, published by HUD from time to time.

21 a. Initial Occupancy of Vacant Units: Within four (4) months from
22 the recordation of the Notice of Completion, if a HOME-Assisted Unit remains unoccupied or
23 not leased to an eligible tenant, DACE must provide to COUNTY information about current
24 marketing efforts and an enhanced plan for marketing the unit so that it is leased as quickly as
25 possible.

26 Within twelve (12) months from the recordation of the Notice of Completion (the "Lease
27 Deadline"), if a HOME-assisted unit remains unoccupied or not leased to an eligible tenant,
28 DACE may request an extension of the Lease Deadline from COUNTY if DACE can provide

1 to COUNTY evidence showing efforts of aggressive marketing efforts and proof that the
2 circumstances that led to the failure to lease the HOME-Assisted Unit(s) by the Lease Deadline
3 were beyond the DACE's control.

4 The extension and time of extension is subject to COUNTY's approval and not
5 guaranteed. The Assistant County Executive Officer/EDA, or designee, has the authority, at
6 his or her discretion, to consent to an extension of the Lease Deadline. If DACE is unable to
7 meet this requirement, then DACE agrees to repay HOME funds for any HOME-Assisted Unit
8 that is not rented to eligible tenants. Repayment of HOME funds shall be required for any unit
9 that is not rented to eligible tenants within 18 months of the recordation of the Notice of
10 Completion for the Project.

11 The amount of HOME funds to be repaid is based on the HOME Loan, defined in
12 Section 1, prorated by the number of HOME-Assisted Units that are rented to eligible tenants.
13 If all HOME-Assisted Units are not rented to eligible tenants, then COUNTY and DACE
14 mutually agree that this Agreement will self-terminate and any HOME Loan funds drawn shall
15 be returned within thirty (30) calendar days. Upon such termination, this
16 Agreement shall become null and void. COUNTY and DACE shall be released
17 and discharged respectively from their obligations under this Agreement. All cost
18 incurred by each party on the Project will be assumed respectively.



19 b. Low HOME and High HOME Rent Limitations: The
20 current HUD published Low HOME rent, effective March 1, 2014, for 3 bedroom units is \$828
21 and \$923 for 4 bedroom units. In order to calculate net rent to be charged, an applicable utility
22 allowance must be subtracted from the gross rents listed. Rent limitations for HOME-assisted
23 units shall be as set forth under 24 CFR 92.252 and such units shall be rented and occupied by
24 income qualified applicants at the HOME rent levels for the County of Riverside, which are
25 published periodically by HUD.

26 c. Initial rent schedule and utility allowance: The maximum
27 monthly allowances for utilities and services (excluding telephone) shall not exceed the utility
28 allowance as set by the Housing Authority of the County of Riverside. COUNTY shall review

1 and approve rents proposed by DACE for HOME-Assisted Units subject to the maximum rent
2 limitations to ensure that the rents do not exceed the maximum rent minus the monthly
3 allowances for utilities and services.

4 21. TENANT PROTECTIONS. DACE shall provide protection to the tenants
5 of the HOME-Assisted Units in accordance to the requirements set forth at 24 CFR 92.253 and
6 described as follows:

7 a. Provide written lease agreement for not less than one year, unless
8 by mutual agreement between the tenant and DACE. COUNTY
9 shall review the initial form of the lease agreement prior to DACE
10 executing any leases and, provided that DACE uses the approved
11 lease form, DACE shall be permitted to enter into residential
12 leases without COUNTY's prior written consent.

13 b. Prohibited Lease Terms. The rental agreement/lease may not
14 contain any of the following provisions:

15 (1) *Agreement to be sued*. Agreement by the tenant to be sued,
16 to admit guilt or to a judgment in favor of DACE in a
17 lawsuit brought in connection with the lease.

18 (2) *Treatment of property*. Agreements by tenant that DACE
19 may take, hold, or sell personal property of household
20 members without notice to the tenant and a court decision
21 on the rights of the parties. This prohibition, however,
22 does not apply to an agreement by the tenant concerning
23 disposition of personal property remaining in the housing
24 unit after the tenant has moved out of the unit. DACE
25 may dispose of this personal property in accordance with
26 State law.

27 (3) *Excusing DACE from responsibility*. Agreement by the
28 tenant not to hold DACE or DACE's agents legally

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responsible for any action or failure to act, whether intentional or negligent.

(4) *Waiver of notice.* Agreement of the tenant that DACE may institute a lawsuit without notice to the tenant.

(5) *Waiver of legal proceeding.* Agreement by the tenant that the DACE may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.

(6) *Waiver of a jury trial.* Agreement by the tenant to waive any right to a trial by jury.

(7) *Waiver of right to appeal court decision.* Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.

(8) *Tenant chargeable with cost of legal actions regardless of outcome.* Agreement by the tenant to pay attorneys' fees or other legal costs even if the tenant wins in a court proceeding by DACE against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

(9) *Mandatory supportive services.* Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

c. Violence Against Women Reauthorization Act of 2013. (Pub. L. 113-4, 127 Stat. 54) ("VAWA 2013"). VAWA 2013 reauthorizes and amends the Violence Against Women Act of 1994, as previously amended, (title IV, sec. 40001-40703 of Pub. L. 103-322, 42 U.S.C. 13925 et seq.) VAWA 2013, among other things,

1 bars eviction and termination due to a tenant's status as a victim of
2 domestic violence, dating violence, or stalking, and requires
3 landlords to maintain survivor-tenant confidentiality. VAWA
4 2013 prohibits a tenant who is a survivor of domestic violence,
5 dating violence, sexual assault, and stalking from being denied
6 assistance, tenancy, or occupancy rights based solely on criminal
7 activity related to an act of violence committed against them. It
8 extends housing protections to survivors of sexual assault, and
9 adds "intimate partner" to the list of eligible relationships in the
10 domestic violence definition. Protections also now cover an
11 "affiliated individual," which includes any lawful occupant living
12 in the survivor's household, or related to the survivor by blood or
13 marriage including the survivor's spouse, parent, brother, sister,
14 child, or any person to whom the survivor stands in loco parentis.
15 VAWA 2013 allows a lease bifurcation so a tenant or lawful
16 occupant who engages in criminal activity directly relating to
17 domestic violence, dating violence, sexual assault, or stalking
18 against an affiliated individual or other individual, or others may
19 be evicted or removed without evicting or removing or otherwise
20 penalizing a victim who is a tenant or lawful occupant. If victim
21 cannot establish eligibility, DACE must give a reasonable amount
22 of time to find new housing or establish eligibility under another
23 covered housing program. A Notice of Rights under VAWA 2013
24 for tenants must be provided at the time a person applies for
25 housing, when a person is admitted as a tenant of a housing unit,
26 and when a tenant is threatened with eviction or termination of
27 housing benefits. Tenants must request an emergency transfer and
28 reasonably believe that they are threatened with imminent harm

1 from further violence if the tenant remains in the same unit. The
2 provisions of VAWA 2013 that are applicable to HUD programs
3 are found in title VI of VAWA 2013, which is entitled "Safe
4 Homes for Victims of Domestic Violence, Dating Violence,
5 Sexual Assault, and Stalking." Section 601 of VAWA 2013
6 amends subtitle N of VAWA (42 U.S.C. 14043e et seq.) to add a
7 new chapter entitled "Housing Rights."

8 22. FEDERAL REQUIREMENTS. DACE shall comply with the provisions
9 of the HOME Program and any amendments thereto and all applicable federal regulations and
10 guidelines now or hereafter enacted pursuant to the HOME Program, and all implementing
11 regulations.

12 23. REPAYMENT INCOME. COUNTY must record the receipt and
13 expenditure of HOME repayment income in accordance with the standards specified in 24 CFR
14 92.503.

15 24. SALE, ASSIGNMENT OR TRANSFER OF THE PROJECT. DACE
16 hereby covenants and agrees not to sell, transfer, assign or otherwise dispose of the Project or
17 any portion thereof, without obtaining the prior written consent of COUNTY, which consent
18 shall be conditioned upon receipt by COUNTY of reasonable evidence satisfactory to
19 COUNTY, in its sole discretion, that transferee has assumed in writing and in full, and is
20 reasonably capable of performing and complying with DACE's duties and obligations under
21 this Agreement, provided, however DACE shall not be released of all obligations hereunder
22 which accrue from and after the date of such sale.

23 25. INDEPENDENT CONTRACTOR. DACE and its agents, servants and
24 employees shall act at all times in an independent capacity during the term of this Agreement,
25 and shall not act as, shall not be, nor shall they in any manner be construed to be agents,
26 officers, or employees of COUNTY.

27 26. NONDISCRIMINATION. DACE shall abide by 24 CFR 570.602 which
28 requires that no person in the United States shall on the grounds of race, color, national origin,

1 religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to
2 discrimination under any program or activity receiving Federal financial assistance made
3 available pursuant to the HOME Program. Under the HOME Program, Section 109 directs that
4 the prohibitions against discrimination of the basis of age under the Age Discrimination Act
5 and the prohibitions against discrimination of the basis of disability under Section 504 shall
6 apply to programs or activities receiving Federal financial assistance under Title I programs.
7 The policies and procedures necessary to ensure enforcement of Section 109 are codified in 24
8 CFR Part 6.

9 In addition to the obligations and duties of DACE set forth herein, DACE shall, upon
10 notice from County, promptly pay to COUNTY all fees and costs, including administrative
11 and attorneys' fees, incurred by COUNTY in connection with responding to or defending any
12 discrimination claim brought by any third party and/or local, state or federal government entity,
13 arising out of or in connection with this Agreement, the Project and/or COUNTY's role as
14 lender and/or participating jurisdiction in connection with this Agreement and/or the Project.

15 27. PROHIBITION AGAINST CONFLICTS OF INTEREST:

- 16 a. DACE and its assigns, employees, agents, consultants, officers
17 and elected and appointed officials shall become familiar with and
18 shall comply with the conflict of interest provisions in OMB
19 Circular A-110, 24 CFR 85.36, 24 CFR 84.42, 24 CFR 92.356
20 and Policy Manual #A-11, attached hereto as **Exhibit E** and by
21 this reference incorporated herein.
- 22 b. DACE understands and agrees that no waiver or exception can be
23 granted to the prohibition against conflict of interest except upon
24 written approval of HUD pursuant to 24 CFR 92.356(d). Any
25 request by DACE for an exception shall first be reviewed by
26 COUNTY to determine whether such request is appropriate for
27 submission to HUD. In determining whether such request is
28 appropriate for submission to HUD, COUNTY will consider the

factors listed in 24 CFR 92.356(e).

c. Prior to any funding under this Agreement, DACE shall provide COUNTY with a list of all employees, agents, consultants, officers and elected and appointed officials who are in a position to participate in a decision-making process, exercise any functions or responsibilities, or gain inside information with respect to the HOME activities funded under this Agreement. DACE shall also promptly disclose to COUNTY any potential conflict, including even the appearance of conflict that may arise with respect to the HOME activities funded under this Agreement.

d. Any violation of this section shall be deemed a material breach of this Agreement, and this Agreement shall be immediately terminated by COUNTY.

28. RELIGIOUS ACTIVITIES. Under federal regulations, 24 CFR 92.257 HOME funds may not be provided to primarily religious organizations, such as churches, for any activity including secular activities. In addition, HOME funds may not be used to rehabilitate or construct housing owned by primarily religious organizations or to assist primarily religious organizations in acquiring housing. However, HOME funds may be used by a secular entity to acquire housing from a primarily religious organization, and a primarily religious entity may transfer title to property to a wholly secular entity and the entity may participate in the HOME program in accordance with the requirements set forth at 24 CFR 92.257. The entity may be an existing or newly established entity, which may be an entity established by the religious organization. The completed housing project must be used exclusively by the DACE/participant entity for secular purposes, available to all persons regardless of religion. In particular, there must be no religious or membership criteria for tenants of the property.

29. PROJECT MONITORING AND EVALUATION.

a. Tenant Checklist. DACE shall submit a Tenant Checklist Form to

1 COUNTY, as shown in **Exhibit G** which is attached hereto and by this reference is
2 incorporated herein and may be revised by COUNTY, summarizing the racial/ethnic
3 composition, number and percentage of extremely low-income households who are tenants of
4 the HOME-assisted units. The Tenant Checklist Form shall be submitted upon completion of
5 the construction and thereafter, on a semi-annual basis on or before March 31 and September
6 30. DACE shall maintain financial, programmatic, statistical and other supporting records of its
7 operations and financial activities in accordance with the requirements of the HOME Program
8 under 24 CFR 92.508, including the submission of Tenant Checklist Form. Except as otherwise
9 provided for in this Agreement, DACE shall maintain and submit records to COUNTY within
10 ten business days of COUNTY's request which clearly documents DACE's performance under
11 each requirement of the HOME Program. A list of document submissions and timeline are
12 shown in **Exhibit A** and such list may be amended from time to time subject to HUD and
13 COUNTY reporting requirements.

14 b. Inspections. Pursuant to 24 CFR 92.504(d)(ii), during the period
15 of affordability, COUNTY must perform on-site inspections of HOME-assisted rental housing
16 to determine compliance with the property standards of §92.251 and to verify the information
17 submitted by the owners in accordance with the requirements of §92.252. The inspections must
18 be in accordance with the inspection procedures that the participating jurisdiction establishes to
19 meet the inspection requirements of §92.251. The on-site inspections must occur within 12
20 months after Notice of Completion and at least once every 3 years thereafter during the period
21 of affordability. If there are observed deficiencies for any of the inspectable items in the
22 property standards established by COUNTY, in accordance with the inspection requirements of
23 §92.251, a follow-up on-site inspection to verify that deficiencies are corrected must occur
24 within 12 months. COUNTY may establish a list of non-hazardous deficiencies for which
25 correction can be verified by third party documentation (e.g., paid invoice for work order)
26 rather than re-inspection. Health and safety deficiencies must be corrected immediately, in
27 accordance with §92.251. COUNTY must adopt a more frequent inspection schedule for
28 properties that have been found to have health and safety deficiencies. The property owner

1 must annually certify to the COUNTY that each building and all HOME- assisted units in the
2 project are suitable for occupancy, taking into account State and local health, safety, and other
3 applicable codes, ordinances, and requirements, and the ongoing property standards established
4 by the participating jurisdiction to meet the requirements of §92.251. Inspections must be
5 based on a statistically valid sample of units appropriate for the size of the HOME-Assisted
6 project, as set forth by HUD through notice. For projects with one-to-four HOME-Assisted
7 Units, COUNTY must inspect 100 percent of the HOME-Assisted Units and the inspectable
8 items (site, building exterior, building systems, and common areas) for each building housing
9 HOME-assisted units.

10 30. MONITORING FEE. DACE shall be responsible for paying an annual
11 compliance monitoring fee to the COUNTY in the amount of \$4,100 due on July 1st of each
12 year for the monitoring period of July 1st to June 30th commencing July 1, 2016 (the
13 "Monitoring Fee"). The Monitoring Fee is to be adjusted upwards annually, increased by an
14 amount equal to the increase in CPI for the Los Angeles-Riverside-Orange County, CA area.
15 In the event of a decrease in the applicable CPI, the Monitoring Fee currently in effect shall
16 remain the same and shall not decrease.

17 31. ACCESS TO PROJECT SITE. COUNTY and HUD shall have the right
18 to visit the Project site at all reasonable times, and upon completion of the Project upon
19 reasonable written notice to DACE, to review the operation of the Project in accordance with
20 this HOME Agreement.

21 32. EVENTS OF DEFAULT. The occurrence of any of the following events
22 shall constitute an "Event of Default" under this Agreement:

- 23 a. Monetary Default. (1) DACE's failure to pay when due any sums
24 payable under the Note or any advances made by COUNTY under
25 this Agreement; (2) DACE's or any agent of DACE's use of
26 HOME funds for costs other than costs or for uses inconsistent
27 with terms and restrictions set forth in this Agreement; (3)
28 DACE's or any agent of DACE's failure to make any other

1 payment of any assessment or tax due under this Agreement, and
2 /or (4) default under the terms of any Junior Loan documents or
3 any other instrument or document secured against the Property;

4 b. Non-Monetary Default - Operation. (1) Discrimination by DACE
5 or DACE's agent on the basis of characteristics prohibited by this
6 Agreement or applicable law; (2) the imposition of any
7 encumbrances or liens on the Project without COUNTY's prior
8 written approval, including, but not limited to those liens or
9 encumbrances expressly prohibited under this Agreement or that
10 have the effect of reducing the priority or invalidating the HOME
11 Deed of Trust; (3) DACE's failure to obtain and maintain the
12 insurance coverage required under this Agreement; (4) any
13 material default under this Agreement; (5) any default under the
14 HOME Note, HOME Deed of Trust, and/or Covenant Agreement;
15 and/or (5) any default under the terms of any Senior Loan
16 documents, junior loan documents or any other instrument or
17 document secured against the Project Site;

18 c. General Performance of Loan Obligations. Any substantial or
19 continuous or repeated breach by DACE or DACE's agents of any
20 material obligations on DACE imposed in the HOME Agreement;

21 d. General Performance of Other Obligations. Any substantial or
22 continuous or repeated breach by DACE or DACE's agents of any
23 material obligations on the Project imposed by any other
24 agreement with respect to the financing, development, or
25 operation of the Project; whether or not COUNTY is a party to
26 such agreement; but only following any applicable notice and
27 cure periods with respect to any such obligation;

28 e. Representations and Warranties. A determination by COUNTY

1 that any of DACE's representations or warranties made in this
2 Agreement, any statements made to COUNTY by DACE, or any
3 certificates, documents, or schedules supplied to COUNTY by
4 DACE were untrue in any material respect when made, or that
5 DACE concealed or failed to disclose a material fact from
6 COUNTY.

7 f. Damage to Project. In the event that the Project is materially
8 damaged or destroyed by fire or other casualty, and DACE
9 receives an award or insurance proceeds sufficient for the repair
10 or reconstruction of the Project, and DACE does not use such
11 award or proceeds to repair or reconstruct the Project.

12 g. Bankruptcy, Dissolution and Insolvency. DACE's or any general
13 partner of DACE's (1) filing for bankruptcy, dissolution, or
14 reorganization, or failure to obtain a full dismissal of any such
15 involuntary filing brought by another party before the earlier of
16 final relief or sixty (60) days after such filing; (2) making a
17 general assignment for the benefit of creditors; (3) applying for
18 the appointment of a receiver, trustee, custodian, or liquidator, or
19 failure to obtain a full dismissal of any such involuntary
20 application brought by another party before the earlier of final
21 relief or seventy-five (75) days after such filing; (4) insolvency; or
22 (5) failure, inability or admission in writing of its inability to pay
23 its debts as they become due.

24 33. NOTICE OF DEFAULT AND OPPORTUNITY TO CURE. For
25 monetary and non-monetary Events of Default, COUNTY shall give written notice to DACE,
26 at the address listed in Section 53 below, of any Event of Default by specifying: (a) the nature
27 of the Event of Default or the deficiency giving rise to the default, (b) the action required to
28 cure the deficiency, and (c) a date, which shall not be more than sixty (60) calendar days from

1 the date of the mailing of the notice for a monetary default, or a date, which shall not be more
2 than forty-five (45) calendar days from the mailing of the notice for a non-monetary default, by
3 which such action to cure must be taken. COUNTY agrees that DACE shall have the right to
4 cure any and all defaults under this Agreement no later than sixty (60) calendar days from the
5 date of the mailing of the notice of default.

6 34. COUNTY REMEDIES. Upon the occurrence of an Event of Default and
7 a failure by DACE to cure said default within the time period specified in the notice of default
8 (if an action to cure is specified in said notice), COUNTY's obligation to disburse HOME Loan
9 funds shall terminate, and COUNTY may also in addition to other rights and remedies
10 permitted by this Agreement or applicable law, proceed with any or all of the following
11 remedies in any order or combination COUNTY may choose in its sole discretion:

- 12 a. Terminate this Agreement, in which event the entire amount as
13 well as any other monies advanced to DACE by COUNTY under
14 this Agreement including administrative costs, shall immediately
15 become due and payable at the option of COUNTY.
- 16 b. Bring an action in equitable relief (1) seeking the specific
17 performance by DACE of the terms and conditions of this
18 Agreement, and/or (2) enjoining, abating, or preventing any
19 violation of said terms and conditions, and/or (3) seeking
20 declaratory relief.
- 21 c. Accelerate the HOME Loan, and demand immediate full payment
22 of the principal payment outstanding and all accrued interest under
23 the Note, as well as any other monies advanced to DACE by
24 COUNTY under this Agreement.
- 25 d. Enter the Project and take any remedial actions necessary in its
26 judgment with respect to hazardous materials that COUNTY
27 deems necessary to comply with hazardous materials laws or to
28 render the Project suitable for occupancy.

- 1 e. Enter upon, take possession of, and manage the Project, either in
2 person, by agent, or by a receiver appointed by a court, and collect
3 rents and other amounts specified in the assignment of rents in the
4 Deed of Trust and apply them to operate the Project or to pay off
5 the HOME Loan or any advances made under this Agreement, as
6 provided for by the Deed of Trust.
- 7 f. Pursue any other remedy allowed at law or in equity.

8 35. Reserved.

9 36. DACE'S WARRANTIES. DACE represents and warrants (1) that it has
10 access to professional advice and support to the extent necessary to enable DACE to fully
11 comply with the terms of this Agreement, and to otherwise carry out the Project, (2) that it is
12 duly organized, validly existing and in good standing under the laws of the State of California,
13 (3) that it has the full power and authority to undertake the Project and to execute this
14 Agreement, (4) that the persons executing and delivering this Agreement are authorized to
15 execute and deliver such documents on behalf of DACE and (5) that neither DACE nor any of
16 its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or
17 voluntarily excluded from participation in connection with the transaction contemplated by this
18 Agreement.

19 37. DACE'S CERTIFICATION. DACE certifies, to the best of its
20 knowledge and belief, that:

- 21 a. No federally appropriated funds have been paid or will be paid, by
22 or on behalf of the undersigned, to any person for influencing or
23 attempting to influence an officer or employee of any agency, a
24 member of Congress, an officer or employee of Congress, or an
25 employee of a member of Congress in connection with the
26 awarding of any federal contract, the making of any federal grant,
27 the making of any federal loan, the entering into of any cooperative
28 agreement, and the extension, continuation, review, amendment, or

1 modification of any federal contract, grant, loan, or cooperative
2 agreement.

3 b. If any funds other than federally appropriated funds have been paid
4 or will be paid to any person for influencing or attempting to
5 influence an officer or employee of any agency, a member of
6 Congress, an officer or employee of Congress, or an employee of a
7 member of Congress in connection with this federal contract,
8 grant, loan, or cooperative agreement, the undersigned shall
9 complete and submit Standard Form-LLL, "Disclosure Form to
10 Report Lobbying," in accordance with its instructions.

11 c. The undersigned shall require that the language of this certification
12 be included in the award documents for all sub-awards at all tiers
13 (including subcontracts, sub-grants, and contracts under grants,
14 loans, and cooperative agreements) and that DACE shall certify
15 and disclose accordingly. This certification is a material
16 representation of fact upon which reliance was placed when this
17 transaction was made or entered into.

18 38. HOLD HARMLESS AND INDEMNIFICATION. DACE shall
19 indemnify and hold harmless the County of Riverside, its Agencies, Boards, Districts, Special
20 Districts and Departments, their respective directors, officers, Board of Supervisors, elected and
21 appointed officials, employees, agents and representatives from any liability whatsoever, based
22 or asserted upon any services of DACE, its officers, employees, subcontractors, agents or
23 representatives arising out of their performance under this Agreement, including but not limited
24 to property damage, bodily injury, or death or any other element of any kind or nature
25 whatsoever arising from the performance of DACE, its officers, agents, employees,
26 subcontractors, agents or representatives under this Agreement. DACE shall defend, at its sole
27 expense, all costs and fees including, but not limited, to attorney fees, cost of investigation,
28 defense and settlements or awards, the County of Riverside, its Agencies, Districts, Special

1 Districts and Departments, their respective directors, officers, Board of Supervisors, elected and
2 appointed officials, employees, agents and representatives in any claim or action based upon
3 such alleged acts or omissions.

4 With respect to any action or claim subject to indemnification herein by DACE, DACE
5 shall, at their sole cost, have the right to use counsel of their own choice and shall have the right
6 to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY;
7 provided, however, that any such adjustment, settlement or compromise in no manner
8 whatsoever limits or circumscribes DACE'S indemnification to COUNTY as set forth herein.

9 DACE's obligation hereunder shall be satisfied when DACE has provided to COUNTY
10 the appropriate form of dismissal relieving COUNTY from any liability for the action or claim
11 involved.

12 The specified insurance limits required in this Agreement shall in no way limit or
13 circumscribe DACE's obligations to indemnify and hold harmless COUNTY herein from third
14 party claims.

15 In the event there is conflict between this clause and California Civil Code Section 2782,
16 this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not
17 relieve DACE from indemnifying COUNTY to the fullest extent allowed by law.

18 39. TERMINATION.

19 a. DACE. DACE may terminate this Agreement consistent with the
20 applicable HOME Program regulations, and 24 CFR 85.44. In
21 addition, County may terminate this Agreement in accordance with
22 **Section 52** and **Section 53** of this Agreement.

23 b. COUNTY. Notwithstanding the provisions of **Section 39(a)**,
24 COUNTY may suspend or terminate this Agreement upon written
25 notice to DACE of the action being taken and the reason for such
26 action in the event one of the following events occur:

27 (1) In the event DACE fails to perform the covenants herein
28 contained at such times and in such manner as provided in

1 this Agreement after the applicable notice and cure
2 provision hereof; or

3 (2) In the event there is a conflict with any federal, state or
4 local law, ordinance, regulation or rule rendering any
5 material provision, in the judgment of COUNTY of this
6 Agreement invalid or untenable; or

7 (3) In the event the funding from HUD to in **Section 1** above is
8 terminated or otherwise becomes unavailable.

9 c. This Agreement may be terminated or funding suspended in whole
10 or in part for cause in accordance with 24 CFR 85.43. Cause shall
11 be based on the failure of DACE to materially comply with either
12 the terms or conditions of this Agreement after the expiration of all
13 applicable notice and cure provisions hereof. Upon suspension of
14 funding, DACE agrees not to incur any costs related thereto, or
15 connected with, any area of conflict from which COUNTY has
16 determined that suspension of funds is necessary. The award may
17 be terminated for convenience in accordance with 24 CFR 85.44.

18 d. Upon expiration of this Agreement, DACE shall transfer to
19 COUNTY any unexpended HOME funds in its possession at the
20 time of expiration of the Agreement as well as any accounts
21 receivable held by DACE which are attributable to the use of
22 HOME funds awarded pursuant to this Agreement.

23 40. AFFORDABILITY RESTRICTIONS. COUNTY and DACE hereby
24 declare their express intent that the restrictions set forth in this Agreement shall be affordable
25 for a period of thirty three (33) years from the recordation of the Notice of Completion for the
26 Project, and shall bind all successors in interest to title to the project Site until the expiration of
27 the term of this Agreement. Each and every contract, deed or other instrument hereafter
28 executed covering and conveying the Property or any portion thereof shall be held conclusively

1 to have been executed, delivered and accepted subject to such restrictions, regardless of whether
2 or not such restrictions are set forth in such contract, deed or other instrument. DACE shall
3 execute and record as a lien against the Property, a Covenant Agreement, substantially
4 conforming in form and substance to the Covenant Agreement attached hereto as **Exhibit J** and
5 incorporated herein by this reference, setting forth in the affordability and income restriction
6 required in this Agreement.

7 41. MECHANICS LIENS AND STOP NOTICES. If any claim of
8 mechanics lien is filed against the Project or a stop notice affecting the HOME Loan is served
9 on COUNTY, DACE must, within twenty (20) days of such filing or service, either pay and
10 fully discharge the lien or stop notice, obtain a release of the lien or stop notice by delivering to
11 COUNTY a surety bond in sufficient form and amount, or provide COUNTY with other
12 assurance reasonably satisfactory to COUNTY that the lien or stop notice will be paid or
13 discharged.

14 42. ENTIRE AGREEMENT. It is expressly agreed that this Agreement
15 embodies the entire agreement of the parties in relation to the subject matter hereof, and that no
16 other agreement or understanding, verbal or otherwise, relative to this subject matter, exists
17 between the parties at the time of execution.

18 43. AUTHORITY TO EXECUTE. The persons executing this
19 Agreement or exhibits attached hereto on behalf of the parties to this Agreement hereby warrant
20 and represent that they have the authority to execute this Agreement and warrant and represent
21 that they have the authority to bind the respective parties to this Agreement to the performance
22 of its obligations hereunder.

23 44. WAIVER. Failure by a party to insist upon the strict performance of
24 any of the provisions of this Agreement by the other party, or the failure by a party to exercise
25 its rights upon the default of the other party, shall not constitute a waiver of such party's rights
26 to insist and demand strict compliance by the other party with the terms of this Agreement
27 thereafter.

28 45. INTERPRETATION AND GOVERNING LAW. This Agreement

1 and any dispute arising hereunder shall be governed by and interpreted in accordance with the
2 laws of the State of California. This Agreement shall be construed as a whole according to its
3 fair language and common meaning to achieve the objectives and purposes of the parties
4 hereto, and the rule of construction to the effect that ambiguities are to be resolved against the
5 drafting party shall not be employed in interpreting this Agreement, all parties having been
6 represented by counsel in the negotiation and preparation hereof.

7 46. JURISDICTION AND VENUE. Any action at law or in equity
8 arising under this Agreement or brought by a party hereto for the purpose of enforcing,
9 construing or determining the validity of any provision of this Agreement shall be filed in the
10 Superior Courts of Riverside County, State of California, and the parties hereto waive all
11 provisions of law providing for the filing, removal or change of venue to any other court or
12 jurisdiction.

13 47. SEVERABILITY. Each paragraph and provision of this Agreement
14 is severable from each other provision, and if any provision or part thereof is declared invalid,
15 the remaining provisions shall nevertheless remain in full force and effect.


16 48. MINISTERIAL ACTS. COUNTY's Assistant County Executive
17 Officer/Economic Development Agency or designee(s) are authorized to take such ministerial
18 actions as may be necessary or appropriate to implement the terms, provisions, and conditions
19 of this Agreement as it may be amended from time to time by both parties.

20 49. MODIFICATION OF AGREEMENT. COUNTY or DACE may
21 consider it in its best interest to change, modify or extend a term or condition of this
22 Agreement provided such change, modification or extension is agreed to in writing by the other
23 Party. Any such change, extension or modification, which is mutually agreed upon by
24 COUNTY and DACE shall be incorporated in written amendments to this Agreement. Such
25 amendments shall not invalidate this Agreement, nor relieve or release COUNTY or DACE
26 from any obligations under this Agreement, except for those parts thereby amended. No
27 amendment to this Agreement shall be effective and binding upon the parties, unless it
28 expressly makes reference to this Agreement, is in writing and is signed and acknowledged by

1 duly authorized representatives of all parties.

2 50. MEDIA RELEASES. DACE agrees to allow COUNTY to provide
3 input regarding all media releases regarding the Project. Any publicity generated by DACE for
4 the Project must make reference to the contribution of COUNTY in making the Project
5 possible. COUNTY's name shall be prominently displayed in all pieces of publicity generated
6 by DACE, including flyers, press releases, posters, signs, brochures, and public service
7 announcements. DACE agrees to cooperate with COUNTY in any COUNTY-generated
8 publicity or promotional activities with respect to the Project.

9 51. CONDITIONAL HOME COMMITMENT.

10 a. Financing. This Agreement is expressly conditioned upon DACE's
11 ability to close construction financing for the Project, on or prior to **June 1, 2015** of (i)
12 construction financing identified by DACE on their HOME application include but not limited
13 to, (a) loan from the United States Department of Agriculture Rural Development Section 514
14 Farm Labor Housing Program, (b) a grant from United States Department of Agriculture Farm
15 Labor Housing Program Section 516, (c) a grant from the United States Department of
16 Agriculture Rural Utilities Grant, (d) a loan from the Rural Community Assistance Corporation
17 Agricultural Worker Health and Housing Program, (e) a loan from the Rural Community
18 Assistance Corporation Ford Foundation Loan (f) a grant from the Rural Community
19 Assistance Corporation, and (g) a loan from loan from the Federal Home Loan Affordable
20 Housing Program(the "Senior Lien Holder"). If DACE is not able to close construction
21 financing for the Project by June 1, 2015, then COUNTY and DACE mutually agree that this
22 Agreement will automatically self-terminate. Upon such termination, this Agreement shall be
23 null and void. COUNTY and DACE shall be released and discharged
24 respectively from its obligations under this Agreement, provided, however, 
25 DACE shall be liable for and immediately pay back to County, any HOME Loan
26 funds disbursed in connection with this Agreement. At that time all cost incurred
27 by each party on the Project will be assumed respectively, and each party shall be released
28 from all liability under this Agreement, except in connection with those provisions that state

1 they shall survive termination.

2 b. Construction. Pursuant to 24 CFR 92.2, under the definition of
3 Commitment, all necessary financing has been secured, a budget and schedule have been
4 established, and underwriting has been completed and under which construction is scheduled to
5 start within twelve (12) months of the agreement date (“Construction Start Deadline”). If
6 DACE cannot start construction or provide evidence such as construction permits within
7 twelve (12) months of the agreement date, then COUNTY and DACE mutually agree that this
8 Agreement will self-terminate and any HOME Loan funds drawn to date shall be returned
9 within thirty (30) calendar days. Upon such termination, this Agreement shall
10 become null and void. COUNTY and DACE shall be released and discharged
11 respectively from its obligations under this Agreement, except for those
12 provisions which by their terms survive termination. All cost incurred by each
13 party on the Project will be assumed respectively.

14 c. Completion. The Project must be completed and a Notice of
15 Completion shall have been recorded in the Official Records within two (2) years from the date
16 of this Agreement (the “Completion Deadline”). DACE may request a one year extension of
17 the Completion Deadline from COUNTY, in County’s sole and absolute discretion, if the
18 DACE can provide proof of the circumstances that led to the failure to complete the Project by
19 the Completion Deadline were beyond the DACE’s control. The one year extension is subject
20 to COUNTY’s approval and not guaranteed. The Assistant County Executive Officer/EDA, or
21 designee, has the authority, at his or her discretion, to consent to an extension of the
22 Completion Deadline. If DACE is unable to meet the condition as required by this **Section 51**,
23 then COUNTY and DACE mutually agree that this Agreement will self-terminate and any
24 HOME Loan funds drawn to date shall be returned within thirty (30) calendar days. Upon such
25 termination, this Agreement shall become null and void. COUNTY and DACE
26 shall be released and discharged respectively from their obligations under this
27 Agreement, except for those provisions which by their terms survive termination.
28 All cost incurred by each party on the Project will be assumed respectively.

1 d. Tenant Leases. DACE shall comply with the initial occupancy
2 requirements set forth in Section 20(a) of this Agreement.

3 52. EXHIBITS AND ATTACHMENTS. Each of the attachments and
4 exhibits attached hereto is incorporated herein by this reference.

5 53. NOTICES. All notices, requests, demands and other communication
6 required or desired to be served by either party upon the other shall be addressed to the
7 respective parties as set forth below or the such other addresses as from time to time shall be
8 designated by the respective parties and shall be sufficient if sent by United States first class,
9 certified mail, postage prepaid, or express delivery service with a receipt showing the date of
10 delivery.

11 COUNTY
12 Assistant Director, Housing
13 Riverside County
14 Economic Development Agency
15 5555 Arlington Avenue
16 Riverside, CA 92504

11 DACE
12 Executive Director
13 DACE
14 53-990 Enterprise Way, Suite 1
15 Coachella, CA 92236

16 54. COUNTERPARTS. This Agreement may be signed by the different
17 parties hereto in counterparts, each of which shall be an original but all of which together shall
18 constitute one and the same agreement.

19 55. EFFECTIVE DATE. The effective date of this Agreement is the date
20 the parties execute the Agreement. If the parties execute the Agreement on more than one date,
21 then the last date the Agreement is executed by a party shall be the effective date.

22 [remainder of page intentionally blank]
23 [signatures on following page]
24
25
26
27
28

1 IN WITNESS WHEREOF, COUNTY and DACE have executed this Agreement as of the date
2 first above written.

3
4 **COUNTY:**

DACE:

5 COUNTY OF RIVERSIDE, a political
6 subdivision of the state of California

DESERT ALLIANCE FOR COMMUNITY
EMPOWERMENT, a California nonprofit
public benefit corporation

7
8 By: _____
Jeff Stone, Chairman
9 Board of Supervisors

By:  _____
Jeffrey A. Hays
Executive Director

10 Date: _____

11 Date: 6-2-14

12 ATTEST:

13 KECIA HARPER-IHEM
14 Clerk of the Board

15
16 By: _____
17 Deputy

18
19 APPROVED AS TO FORM:
20 PAMELA J. WALLS, County Counsel

21
22 By:  _____
23 Jhalla R. Brown, Deputy County Counsel

24
25
26 **(COUNTY and DACE signatures need to be notarized)**
27
28