

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

852



FROM: Economic Development Agency

SUBMITTAL DATE:
May 25, 2011

SUBJECT: Agreement for Sunset Springs Self-Help in the City of Desert Hot Springs

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Agreement for Sunset Springs Self-Help in the City of Desert Hot Springs;
2. Approve the attached Subordinate Deed of Trust and Promissory Note;
3. Authorize the Chairman of the Board of Supervisors to execute and sign the attached Agreement; and

(Continued)

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 152,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2010/11

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: Home Investment Partnership Act (HOME) Funds	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE
 BY:
 *
County Executive Office Signature Jennifer L. Sargent

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Buster, seconded by Supervisor Ashley and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Stone, Benoit and Ashley
 Nays: None
 Absent: Tavaglione
 Date: June 7, 2011
 xc: EDA, Auditor

Kecia Harper-Ihem
 Clerk of the Board
 By:
 Deputy

Prev. Agn. Ref.: 3.38 of 09/29/09; 3.22 of 09/15/09 | District: 5 | Agenda Number: **3.17**

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL
 BY:
 ANITA C. WILLIS
 COUNTY CLERK

PAUL ANGULO, CPA, AUDITOR-CONTROLLER
 BY:
 SAMUEL WONG
 COUNTY CLERK

Dep't Recomm.: Consent Policy Policy
 Per Exec. Ofc.: Consent Policy

RECOMMENDED MOTION: (Continued)

4. Authorize the Assistant County Executive Officer/EDA, or designee, to take all necessary steps to implement the Agreement including, but not limited to, signing subsequent subordinate deeds of trust, promissory note, and essential and relevant documents subject to approval by County Counsel.

BACKGROUND:

Coachella Valley Housing Coalition (CVHC), a nonprofit public benefit corporation and certified Community Housing Development Corporation (CHDO), is proposing to use up to \$152,000 in HOME funds for the development and new construction of 11 single-family homes. All 11 homes will be assisted with HOME funds and will include an affordability covenant for a period of 15 years ("HOME Units"). Thirty percent of the HOME funds will be reserved as mortgage assistance for the HOME units.

The homes will be built through CVHC's mutual self-help construction program which enables groups of qualified very low and low-income families to become first-time homeowners by working together under skilled supervision and earn "sweat-equity" towards the down payment of their homes. The proposed project will consist of 9 four-bedroom and 2 three-bedroom single-story homes.

CVHC will use up to \$152,000 in HOME funds for development, construction, and mortgage assistance of the project. Other funding sources for the project include a loan of approximately \$1,097,400 from the U.S. Department of Agriculture (USDA) Section 502 Program, a grant of \$203,500 from the Affordable Housing Program, a subsidy of \$249,600 from CVHC, and \$18,500 in buyer sweat equity. The total development costs are estimated to be \$1,721,000.

All 11 homes will be sold to very low and low-income households whose incomes do not exceed 80% of the area median income for the county, adjusted by family size. At least three of the HOME Units will be reserved for very low income households, whose incomes do not exceed fifty percent of the area median income for the county, adjusted by family size. All HOME Units will have an affordability period of 15 years from the date of the certificate of occupancy or its equivalent.

On September 15, 2009, the Board of Supervisors approved a Notice of Finding of No Significant Impact on the Environment. Subsequently, the county has received authorization to use grant funds from the U.S. Department of Housing and Urban Development. The project activity was included in the 2009-2010 One-Year Action Plan.

County Counsel has reviewed and approved as to form the attached agreement. Staff recommends that the Board of Supervisors approve the attached agreement.

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

3 RECORDING REQUESTED BY AND
4 WHEN RECORDED MAIL TO:

5 County of Riverside
6 Economic Development Agency
7 3403 10th Street, Suite 500
Riverside, CA 92501
Attn: Der Xiong

8 SPACE ABOVE THIS LINE FOR RECORDERS USE

9 **AGREEMENT FOR SUNSET SPRINGS SELF-HELP**
10 **IN THE CITY OF DESERT HOT SPRINGS**

11 This Agreement is made and entered into this 7th day of June, 2011 by
12 and between the COUNTY OF RIVERSIDE ("COUNTY"), a political subdivision of the State
13 of California and COACHELLA VALLEY HOUSING COALITION ("CVHC"), a California
14 nonprofit public benefit corporation.

15 WITNESSETH:

16 **WHEREAS**, the Home Investment Partnerships Act (HOME) Program, which was
17 enacted under Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990 (the
18 "Act"), has as its purposes: to expand the supply of decent, affordable housing for low and very-
19 low income families; to build State and local capacity to carry out affordable housing programs;
20 and to provide for coordinated assistance to participants in the development of affordable low-
21 income housing; and

22 **WHEREAS**, COUNTY has qualified as an "Urban County" for purposes of receiving
23 HOME Funds which are to be used to assist and undertake essential housing assistance
24 activities pursuant to the Act; and

25 **WHEREAS**, CVHC is eligible under the Act to receive HOME Funds to perform those
26 activities described herein; and

27 **WHEREAS**, the HOME-assisted activities described herein comply with one of the
28 objectives as required under 24 CFR Part 92; and

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1 **WHEREAS**, CVHC is eligible under the Act to apply for and receive an allocation of
2 HOME Funds as a “Community Housing Development Organization” (CHDO); and

3 **WHEREAS**, the HOME-assisted activities described herein are consistent with
4 COUNTY'S Five-Year Consolidated Plan.

5 **NOW, THEREFORE**, COUNTY and CVHC mutually agree as follows:

6 1. **PURPOSE**. COUNTY agrees to grant up to **One Hundred Fifty-Two**
7 **Thousand Dollars (\$152,000)** of HOME Funds to CVHC upon the terms and conditions set
8 forth herein. CVHC agrees to accept the HOME Funds from COUNTY for the development,
9 construction, and mortgage assistance of 11 single-family homes (the “Home Units”) for very
10 low and low-income households in the City of Desert Hot Springs (the “Project”), as further
11 described in **Exhibit A**, which is attached hereto and by this reference incorporated herein.

12 2. **DEVELOPER OBLIGATIONS**. CVHC hereby agrees to undertake and
13 complete the following activities, subject to its receipt of HOME Funds:

- 14 a. Carry out the Project in accordance with the Implementation
15 Schedule set forth in **Exhibit A**.
- 16 b. Secure all financing in a sufficient amount to complete the Project
17 in accordance with the Implementation Schedule set forth in
18 **Exhibit A**.
- 19 c. Reserve the HOME Units for very low and low-income
20 households.
- 21 d. Reserve at least three (3) HOME Units for very low-income
22 households.
- 23 e. Provide no less than thirty percent (30%) of the HOME Funds to
24 be used as direct mortgage assistance for the HOME Units as
25 described in **Exhibit A**.
- 26 f. Market each HOME Unit and make it available for sale and
27 occupancy to qualified very low and low-income households.
- 28 g. Maintain the Project in compliance with all applicable Federal,

1 State and local codes, laws, ordinances and regulations as
2 described in **Section 15**.

3 **3. COUNTY'S OBLIGATIONS.** COUNTY hereby agrees to undertake
4 and complete the following activities, subject to its receipt of HOME Funds from U.S.
5 Department of Housing and Urban Development (HUD):

- 6 a. Provide a total amount identified in **Section 1** in HOME Funds to
7 CVHC for development and construction costs for the Project and
8 mortgage assistance to the Homebuyers.
9 b. Comply with all of its obligations as participating recipient under
10 the applicable regulations set forth at 24 CFR Part 92.

11 **4. PRIOR COUNTY APPROVAL.** CVHC shall obtain COUNTY's
12 written approval, through its Economic Development Agency ("EDA"), of all items requiring
13 such approvals as described in this Agreement.

14 **5. HOME FUNDS.** CVHC shall receive the HOME Funds from COUNTY
15 for development and construction costs of the Project and mortgage assistance to the
16 Homebuyers under the following terms and conditions:

- 17 a. Term. This Agreement shall become effective upon the Effective
18 Date, as defined in **Section 50**, and shall continue in full force and
19 effect until completion of the Project evidenced by a Certificate of
20 Occupancy or equivalent (the "Term").
21 b. Principal. The principal of the HOME Funds shall be the amount
22 identified in **Section 1**.
23 c. No more than **seventy percent (70%)** of the HOME Funds
24 ("HOME Grant") shall be set aside as a grant for the development
25 and construction of the HOME Units.
26 d. At least **thirty percent (30%)** of the HOME Funds (the
27 "Mortgage Assistance Funds") shall be set aside as direct
28 mortgage assistance for each of the HOME Units. CVHC shall

1 inform the COUNTY of the amount of Mortgage Assistance
2 Funds to be provided by the COUNTY to each homebuyer of a
3 HOME Unit, with a minimum of **\$2,000 per HOME Unit**.

4 e. The Mortgage Assistance Funds shall be a forgivable loan to each
5 Homebuyer of a HOME Unit according to the terms of the
6 Affordability Period in **Section 15(b)(8)**.

7 f. The Project shall be deemed complete upon issuance of a
8 Certificate of Occupancy or equivalent.

9 g. Concurrently with the close of escrow of each HOME Unit, to
10 evidence the Mortgage Assistance Funds to be provided for each
11 HOME Unit, the Homebuyer shall execute and deliver to
12 COUNTY all Homebuyer Loan Documents, as shown in **Exhibit**
13 **B**, and a Request for Notice, as shown in **Exhibit C**, which is
14 attached hereto and by this reference incorporated herein.

15 **6. COMPLETION SCHEDULE.** CVHC shall proceed consistent with the
16 Implementation Schedule as set forth in **Exhibit A**, as the same may be amended in writing by
17 the parties from time to time, subject to force majeure delays.

18 **7. FORCE MAJEURE DELAYS.** Delay due to Force Majeure that, in
19 each case, (i) materially adversely affects the performance by CVHC of its obligations
20 hereunder, (ii) is not reasonably foreseeable and is beyond CVHC's reasonable control, (iii)
21 despite the exercise of reasonable diligence, cannot be prevented, avoided or removed by
22 CVHC and is not attributable to the negligence, willful misconduct or bad faith of CVHC, and
23 (iv) is not the result of the failure of CVHC to perform any of its obligations under this
24 Agreement. Notwithstanding the foregoing, a Force Majeure Delay shall not be deemed to have
25 occurred unless CVHC has notified COUNTY of such occurrence of Force Majeure within
26 **fifteen (15) days** after such occurrence and has provided COUNTY with the details of such
27 event and the length of the anticipated delay within an additional **fifteen (15) days** thereafter.
28 CVHC shall diligently attempt to remove, resolve, or otherwise eliminate such event, keep the

1 COUNTY advised with respect thereto, and shall commence performance of its obligations
2 hereunder immediately upon such removal, resolution or elimination. During the occurrence
3 and continuance of a Force Majeure Delay, CVHC shall be excused from performance of its
4 obligations under this Agreement to the extent the Force Majeure prevents CVHC from
5 performing such obligations.

6 **8. EXTENSION OF TIME.** COUNTY may grant an extension to the
7 Implementation Schedule for the purpose of completing CVHC's activities which are underway
8 and cannot be completed as outlined in **Exhibit A**. CVHC shall request said extension in
9 writing, stating the reasons therefore, and may be granted only by receiving written approval
10 from COUNTY, which approval shall not be unreasonably withheld. Every term, condition,
11 covenant, and requirement of this Agreement shall continue in full force and effect during the
12 period of any such extension.

13 **9. LETTER TO PROCEED.** CVHC shall not initiate nor incur expenses
14 for the HOME funded activity covered under the terms of this Agreement prior to receiving
15 written authorization to proceed.

16 **10. REALLOCATION OF FUNDS.** If substantial progress toward
17 completion, as determined by COUNTY, of the activity is not made in accordance with the
18 completion schedule specified in **Exhibit A**, the funds allocated, reserved, or placed in a HOME
19 Investment Trust Fund may be reallocated by COUNTY after at least **thirty (30) days** prior
20 written notice is given to CVHC.

21 **11. CONDITIONS FOR DISPOSITION OF FUNDS.** COUNTY, through
22 its EDA, shall: (1) make payments of the HOME Funds to CVHC as specified in **Exhibit A**, and
23 (2) monitor the Project to ensure compliance with applicable federal, state and local laws,
24 regulations, ordinances and the terms of this Agreement. There will be no disbursement of
25 HOME Funds until the following conditions are met first:

- 26 a. CVHC shall execute this Agreement.
- 27 b. COUNTY shall reimburse CVHC only for HOME-eligible costs
28 associated with the development and construction of the HOME

1 Units. Reimbursement will be on a “cost-as-incurred” basis. All
2 disbursements of HOME Funds will be made within **thirty (30)**
3 **days** after CVHC has submitted its letter identifying payments
4 made and requesting reimbursement.

5 c. COUNTY will retain **five percent (5%)** of the total HOME Grant
6 for final disbursement to CVHC for the Project upon receipt of all
7 the following with respect to the HOME Units:

- 8 i. Unconditional lien release from general contractor and any
9 subcontractors;
10 ii. Recorded Notice of Completion for each of the HOME Units;
11 iii. Project Completion Report including household characteristics
12 for each HOME Unit;
13 iv. Final Contract and Subcontract Activity Report, Minority
14 Business Enterprise/Women Business Enterprise (MBE/WBE)
15 Report, HUD Form 2516;
16 v. Final development costs and project budget; and
17 vi. Final sources and uses of funds.

18 **12. DISTRIBUTION OF FUNDS.** The HOME Investment Trust Fund
19 account is established in the United States Treasury and is managed through the United States
20 Department of Housing and Urban Development (“HUD”) Integrated Disbursement and
21 Information System (“IDIS”) for the HOME Program. IDIS is a computerized system which
22 manages, disburses, collects, and reports information on the use of HOME Funds in the United
23 States Treasury account.

24 1. Any disbursement of funds is expressly conditioned upon the
25 satisfaction of conditions set forth in **Section 11.**

26 **13. AFFORDABILITY PERIOD.** The period of affordability of each
27 HOME Unit shall be **fifteen (15) years** from the date of the certificate of occupancy or its
28 equivalent (Affordability Period).

1 **14. FINANCIAL RECORDS.** CVHC shall establish and maintain financial,
2 programmatic, statistical, and other supporting records of its operations and financial activities
3 in accordance with 24 CFR Part 84 or 85 as applicable and Part 570 and OMB Circular Nos. A-
4 102, revised, A-110, A-87, and A-122, as applicable and as they relate to the acceptance and use
5 of federal funds under this Agreement. Records shall be open to inspection and audit by
6 authorized representatives of the COUNTY, HUD, and the Comptroller General of the United
7 States or any of their authorized representatives, at any time during normal business hours, as
8 often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant
9 data. Any deficiencies noted in audit reports must be fully cleared by CVHC within **thirty (30)**
10 **days** after receipt by CVHC. Failure of CVHC to comply with the above audit requirements
11 will constitute a violation of this contract and may result in the withholding of future payments.
12 COUNTY, HUD, and the Comptroller General, or any of their representatives, have the right of
13 access to any pertinent books, documents, papers, or other records of CVHC, in order to make
14 audits, examinations, excerpts, and transcripts. Said records shall be retained for such time as
15 may be required by the regulations of the HOME Program, but in no case for less than **five (5)**
16 **years** after the Project completion date; except that records of individual tenant income
17 verifications, project rents, and project inspections must be retained for the most recent **five (5)**
18 **year** period, until **five (5) years** after the Affordability Period terminates. If any litigation,
19 claim, negotiation, audit, or other action has been started before the expiration of the regular
20 period specified, the records must be retained until completion of the action and resolution of all
21 issues which arise from it, or until the end of the regular period, whichever is later.

22 CVHC shall obtain an external audit in accordance with HUD audit regulations
23 (24 CFR Parts 44 and 45, as applicable). The audit report shall be submitted to COUNTY
24 within **thirty (30) days** after completion of the audit.

25 **15. COMPLIANCE WITH LAWS AND REGULATIONS.** By executing
26 this Agreement, CVHC hereby certifies that it will adhere to and comply with all federal, state
27 and local laws, regulations and ordinances. In particular, CVHC shall comply with the
28 following as they may be applicable to CVHC and the HOME Units for funds provided

1 pursuant to the Home Investment Partnerships Program as enacted under Title II of the Act:

2 a. The HOME Investment Partnership Program and its implementing
3 regulations as set forth in 24 CFR Part 92, as it now exists and
4 may hereafter be amended.

5 b. Section 92.254 Homeownership Qualifications. CVHC shall
6 comply with the following affordability requirement:

7 1) Income Limits. The homebuyers' annual income must not
8 exceed **eighty percent (80%)** of the area median income
9 for low-income households and **fifty percent (50%)** of the
10 area median income for very low-income households, as
11 determined by HUD, adjusted for household size. The
12 income assets of all persons age 18 and older who will
13 reside in the home must be included in the calculation to
14 determine income eligibility.

15 2) Co-owners. Co-owners are only permitted if they will
16 occupy the home as their principal residence and qualify
17 as first-time homebuyers. The income of all co-owners
18 will be included in determining if the household qualifies
19 low income. Co-signers are not permitted.

20 3) First Time Homebuyer. In order to qualify as a first time
21 homebuyer, the homebuyer cannot have had ownership
22 interest in improved upon residential real property for the
23 previous **three (3) years** from the date of application to
24 purchase the home. The homebuyer must sign a sworn
25 application attesting that they have not owned improved
26 upon residential real property for the last **three (3) years**.
27 The borrower's most recent **three (3) year** tax returns will
28 be reviewed for any mortgage or real estate related

1 deductions. If there is evidence of mortgage or real estate
2 related deductions, the borrower must provide acceptable
3 documentation that the deductions are not related to
4 improved upon residential real property and must also
5 provide acceptable documentation evidencing the value of
6 the property. Asset "income" from the property must be
7 imputed using the HUD passbook rate and added into
8 borrower's total qualifying income. Also, the value of
9 borrower's total assets, including property, must be equal
10 to or less than HUD's annual income limit based on
11 household size for the current fiscal year. If the borrower's
12 total assets exceed the program's annual income limit for
13 their household size, the assets must be spent down
14 accordingly. Assets, including property, disposed of for
15 less than fair market value during the most recent **two (2)**
16 **year** period are counted as if the household still owned the
17 asset. For the purposes of determining home ownership, a
18 dwelling unit that was not permanently affixed to a
19 permanent foundation (i.e. mobile home) shall not be
20 included in the **three (3) year** requirement.

- 21 4) Principal Residence. Homebuyer must be the principal
22 resident during the Affordability Period.
- 23 5) Homebuyer's Citizenship. All homebuyers and household
24 members must be either a U.S. citizen or a qualified alien
25 as per Section 431 of the Personal Responsibility and
26 Work Opportunity Reconciliation Act (PRWORA) and
27 possess a valid social security number.
- 28 6) Occupancy Standard. All homebuyers must meet the

1 occupancy standard as defined in the Housing Quality
2 Action under 982.401 that state, "The dwelling unit must
3 have a least one bedroom or living/sleeping room for each
4 two persons.: Children of opposite sex, other than ever
5 young children, may not be required to occupy the same
6 bedroom or living/sleeping room.

7 7) Homebuyer Education. Each homebuyer must receive and
8 complete at least **eight (8) hours** of homebuyer counseling
9 before obtaining a mortgage loan.

10 8) Long Term Affordability. The HOME Units must meet the
11 affordability requirements for the Affordability Period.
12 Affordability requirements apply regardless of the term of
13 any loan, or mortgage and are imposed in exchange for
14 receiving Mortgage Assistance Funds in the purchase of
15 the home. The homebuyer must sign loan documents,
16 including a Disclosure Notice, Promissory Note, and
17 Subordinate Deed of Trust per the Homebuyer Loan
18 Documents in **Exhibit B**, which provide that upon sale,
19 transfer, lease or any other disposition, including
20 refinancing or incurring of additional debt secured by the
21 home, during the Affordability Period, the principal
22 amount of the Mortgage Assistance Funds becomes due
23 and must be repaid to the COUNTY. Affordability
24 requirements may terminate upon foreclosure or transfer in
25 lieu of foreclosure, or repayment of the Mortgage
26 Assistance Funds per the Subordinate Deed of Trust. After
27 the Affordability Period, the Mortgage Assistance Funds
28 are converted to a grant and the obligations are forgiven,

1 and the Subordinate Deed of Trust shall be reconveyed.

2 9) Creditworthiness. Qualified homebuyers must be
3 creditworthy and able to undertake a traditional 30-year
4 fixed rate loan FHA, CA, CalHFA, Fannie Mae Freddie
5 Mac insured loan products with fully amortized loan
6 payments or a 33 to 38 year USDA-RD 502 mortgage
7 loan.

8 10) Other Requirements. The Mortgage Assistance Funds
9 cannot be combined with EDA's Redevelopment
10 Homeownership Program (RHP) or First Time Home
11 Buyer Program (FTHB); however, the Mortgage
12 Assistance Funds can be combined with the Mortgage
13 Credit Certificate (MCC) Program.

14 11) Section 203(b) of the Cranston-Gonzalez National
15 Affordable Housing Act requires that the value of the
16 homeownership units assisted with HOME Funds not
17 exceed **\$362,790** as determined by HUD.

18 c. Section 92.350 Other Federal requirements and non
19 discrimination. As set forth in 24 CFR part 5, sub part A, CVHC
20 is required to include the following requirements: non
21 discrimination and equal opportunity under Section 282 of the
22 Act; disclosure; debarred, suspended or ineligible contractors; and
23 drug-free workplace.

24 d. Section 92.351 Affirmative marketing and minority outreach
25 program. CVHC must adopt affirmative marketing procedures
26 and requirements. These must include:

27 (1) Methods for informing the public, owners, and potential
28 tenants about Federal fair housing laws and the affirmative

1 marketing policy (e.g., the use of the Equal Housing
2 Opportunity logotype or slogan in press releases and
3 solicitations for owners, and written communication to fair
4 housing and other groups);

5 (2) Requirements and practices that CVHC must adhere to in
6 order to carry out the affirmative marketing procedures
7 and requirements (e.g., use of commercial media, use of
8 community contacts, use of the Equal Housing
9 Opportunity logotype or slogan, and display of fair
10 housing poster);

11 (3) Procedures to be used by CVHC to inform and solicit
12 applications from persons in the housing market area who
13 are not likely to apply without special outreach (e.g., use
14 of community organizations, employment centers, fair
15 housing groups, or housing counseling agencies);

16 (4) Records shall be kept describing actions taken by CVHC
17 to affirmatively market units and records to assess the
18 results of these actions;

19 (5) A description of how CVHC will annually assess the
20 success of affirmative marketing actions and what
21 corrective actions will be taken where affirmative
22 marketing requirements are not met.

23 (6) CVHC must prescribe procedures to establish and oversee
24 a minority outreach program to ensure the inclusion, to the
25 maximum extent possible, of minorities and women, and
26 entities owned by minorities and women, including,
27 without limitation, real estate firms, construction firms,
28 appraisal firms, management firms, financial institutions,

1 investment banking firms, underwriters, accountants, and
2 providers of legal services, in all contracts entered into by
3 CVHC with such persons or entities, public and private, in
4 order to facilitate the activities of COUNTY to provide
5 affordable housing authorized under this Act or any other
6 Federal housing law. Section 24 CFR 85.36(e) provided
7 affirmative steps to assure that minority business
8 enterprises and women business enterprises are used when
9 possible in the procurement of property and services. The
10 steps include:

- 11 1) Placing qualified small and minority businesses and
12 women's business enterprises on solicitation lists;
- 13 2) Assuring that small and minority businesses, and
14 women's business enterprises are solicited whenever
15 they are potential sources;
- 16 3) Dividing total requirements, when economically
17 feasible, into smaller tasks or quantities to permit
18 maximum participation by small and minority
19 business, and women's business enterprises;
- 20 4) Establishing delivery schedules, where the requirement
21 permits, which encourage participation by small and
22 minority business, and women's business enterprises;
- 23 5) Using the services and assistance of the Small
24 Business Administration, and the Minority Business
25 Development Agency of the Department of
26 Commerce;
- 27 6) Requiring the prime contractor, if subcontracts are to
28 be let, to take the affirmative steps listed in (1) through

(5) above of this section.

- 1
- 2 e. Section 92.352 Environmental review. The environmental effects
- 3 of each activity carried out with HOME Funds must be assessed
- 4 in accordance with the provisions of the National Environmental
- 5 Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and the related
- 6 authorities listed in HUD's implementing regulations at 24 CFR
- 7 Parts 50 and 58.
- 8 f. Section 92.353 Displacement, relocation, and acquisition. The
- 9 relocation requirements of Title II and the acquisition
- 10 requirements of Title III of the Uniform Relocation Assistance
- 11 and Real Property Acquisition Policies Act of 1970, and the
- 12 implementing regulations at 24 CFR Part 42. CVHC must ensure
- 13 that it has taken all reasonable steps to minimize the displacement
- 14 of persons as a result of this project assisted with HOME Funds.
- 15 g. Section 92.354 Labor. Every contract for the construction of
- 16 housing that includes **twelve (12) or more** units assisted with
- 17 HOME Funds must contain a provision requiring the payment of
- 18 not less than the wages prevailing in the locality, as predetermined
- 19 by the Secretary of Labor pursuant to the Davis-Bacon Act (40
- 20 U.S.C. 276a-276a-5), to all laborers and mechanics employed in
- 21 the development of any part of the housing. Such contracts must
- 22 also be subject to the overtime provisions, as applicable, of the
- 23 Contract Work Hours and Safety Standards Act (40 U.S.C. 327-
- 24 332).
- 25 h. Section 92.355 Lead-based paint. Housing assisted with HOME
- 26 Funds is subject to the lead-based paint requirements of 24 CFR
- 27 Part 35 issued pursuant to the Lead-Based Paint Poisoning
- 28 Prevention Act (42 U.S.C. 4821, et seq.). The lead-based paint

1 provisions of 24 CFR 982.401 (j), except 24 CFR 982.401
2 (j)(1)(i), also apply, irrespective of the applicable property
3 standard under §92.251.

4 i. Section 92.356 Conflict of Interest. In the procurement of
5 property and services by CVHC, the conflict of interest provisions
6 in 24 CFR 85.36 and 24 CFR 85.42, respectively shall apply.
7 Section 92.356 shall cover all cases not governed by 24 CFR
8 85.36 and 24 CFR 84.42.

9 j. Section 504 of the Rehabilitation Act of 1973; housing
10 accessibility requirement at 24 CFR Part 8, implementing Section
11 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

12 k. Model Energy Code published by the Council of American
13 Building Officials.

14 l. Section 3 of the Housing and Urban Development Act of 1968.
15 To the greatest extent feasible, opportunities for training and
16 employment arising from HOME Funds will be provided to low-
17 income persons residing in the program service area. To the
18 greatest extent feasible, contracts for work to be performed in
19 connection with HOME Funds will be awarded to business
20 concerns that are located in or owned by persons residing in the
21 program service area as outlined in the Riverside County
22 Economic Development Agency Section 3 Contract
23 Requirements. Contracts funded from Section 3 covered funding
24 sources must abide by the Section 3 Clause prescribed at 24 CFR
25 135.38.

26 m. Uniform Administrative Requirements of 24 CFR 92.505. Part 84
27 and 85 "Common Rule," OMB Circular Nos. A-87 (for
28 government entities), and A-122 (for non-profit organizations),

1 and the following: §§85.6, 85.12, 85.20, 85.22, 85.26, 85.32
2 through 85.34, 85.36, 85.44, 85.51, and 85.52 (for government
3 entities), and the following: §§84.2, 84.5, 84.13 through 84.16,
4 84.21, 84.22, 84.26 through 84.28, 84.30, 84.31, 84.34 through
5 84.37, 84.40 through 84.48, 84.51, 84.60 through 84.62, 84.72,
6 and 84.73 (for non-profit organizations).

- 7 n. Section 92.358 Consultant Activities. No person providing
8 consultant services in an employer-employee type relationship
9 shall receive more than a reasonable rate of compensation for
10 personal services paid with HOME Funds.
- 11 o. CVHC shall carry out its activity pursuant to this Agreement in
12 compliance with all federal laws and regulations described in
13 Subpart E of Part 92 of the Code of Federal Regulations, except
14 that:
- 15 (1) CVHC does not assume COUNTY's environmental
16 responsibilities described at 24 CFR Part 92.352; and
- 17 (2) CVHC does not assume the COUNTY's responsibility for
18 initiating the review process under the provisions of 24
19 CFR Part 92.352.
- 20 p. CVHC shall include written agreements that include all provisions
21 of **Section 15** if CVHC provides HOME Funds to for-profit
22 owners or developers, non-profit owners or developers, sub-
23 recipients, homeowners, homebuyers, tenants receiving tenant-
24 based rental assistance, or contractors.
- 25 q. CVHC shall maintain the Project in compliance with applicable
26 local, state, federal laws, codes and regulations for the duration of
27 the Agreement.

28 **16. INSURANCE**. Without limiting or diminishing CVHC's obligation to

1 indemnify or hold the COUNTY harmless, CVHC shall procure and maintain or cause to be
2 maintained, at its sole cost and expense, the following insurance coverage's during the Term of
3 this Agreement.

4 a. Worker's Compensation Insurance.

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

14 b. Commercial General Liability Insurance.

15 Commercial General Liability insurance coverage, including but
16 not limited to, premises liability, contractual liability, products
17 and completed operations liability, personal and advertising
18 injury, and cross liability coverage, covering claims which may
19 arise from or out of CVHC's performance of its obligations
20 hereunder. Policy shall name the County of Riverside as
21 additionally insured. Policy's limit of liability shall not be less
22 than **\$1,000,000** per occurrence combined single limit. If such
23 insurance contains a general aggregate limit, it shall apply
24 separately to this Agreement or be no less than **two (2) times** the
25 occurrence limit.

26 c. Vehicle Liability Insurance.

27 If vehicles or mobile equipment are used in the performance of
28 the obligations under this Agreement, then CVHC shall maintain

1 liability insurance for all owned, non-owned or hired vehicles so
2 used in an amount not less than **\$1,000,000** per occurrence
3 combined single limit. If such insurance contains a general
4 aggregate limit, it shall apply separately to this Agreement or be
5 no less than **two (2) times** the occurrence limit. Policy shall name
6 the County of Riverside as Additionally Insured.

7 d. General Insurance Provisions – All Lines.

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

15 2) CVHC's insurance carrier(s) must declare its insurance
16 self-insured retentions. If such self-insured retentions exceed
17 **\$500,000** per occurrence such retentions shall have the prior
18 written consent of the COUNTY Risk Manager before the
19 commencement of operations under this Agreement. Upon
20 notification of self insured retention unacceptable to the
21 COUNTY, and at the election of the COUNTY's Risk Manager,
22 CVHC's carriers shall either: (a) reduce or eliminate such self-
23 insured retention as respects this Agreement with the COUNTY,
24 or (b) procure a bond which guarantees payment of losses and
25 related investigations, claims administration, and defense costs
26 and expenses.

27 3) CVHC shall cause CVHC's insurance carrier(s) to
28 furnish the County of Riverside with either: 1) a properly

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

27 4) It is understood and agreed to by the parties hereto that
28 CVHC's insurance shall be construed as primary insurance, and

1 the COUNTY's insurance and/or deductibles and/or self-insured
2 retention's or self-insured programs shall not be construed as
3 contributory.

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

16 6) CVHC shall pass down the insurance obligations
17 contained herein to all tiers of subcontractors working under this
18 Agreement.

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

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

25 **17. MINIMUM AND MAXIMUM HOMEBUYER MORTGAGE**

26 **ASSISTANCE.** CVHC shall inform the COUNTY of the amount of Mortgage Assistance Funds
27 to be provided by the COUNTY to each homebuyer of a HOME Unit. The minimum amount of
28 Mortgage Assistance Funds per HOME Unit must be at least **Two Thousand Dollars (\$2,000).**

1 The aggregate amount of mortgage assistance for all HOME Units shall not be less than the total
2 amount of the Mortgage Assistance Funds.

3 **18. FEDERAL REQUIREMENTS.** COUNTY shall comply with the
4 provisions of the Act and any amendments thereto and the federal regulations and guidelines
5 now or hereafter enacted pursuant to the Act.

6 **19. REPAYMENT INCOME.** CVHC must record the receipt and
7 expenditure of HOME repayment income with respect to the Mortgage Assistance Funds in
8 accordance with the standards specified in 24 CFR 92.503.

9 **20. INDEPENDENT CONTRACTOR.** CVHC and its agents, servants and
10 employees shall act at all times in an independent capacity during the term of this Agreement,
11 and shall not act as, shall not be, nor shall they in any manner be construed to be agents,
12 officers, or employees of COUNTY.

13 **21. NONDISCRIMINATION.** CVHC shall abide by §570.601 and
14 §570.912 of Title 24 of the Federal Code of Regulations, which require that no person in the
15 United States shall, on the grounds of race, color, religion, national origin, or sex, be excluded
16 from participation in, be denied the benefits of, or be subjected to discrimination under any
17 program or activity funded in whole or in part with Community Development funds.

18 **22. PROHIBITION AGAINST CONFLICTS OF INTEREST.**

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

1 COUNTY to determine whether such request is appropriate for
2 submission to HUD. In determining whether such request is
3 appropriate for submission to HUD, COUNTY will consider the
4 factors listed in 24 CFR 92.356(e).

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

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

17 **23. RELIGIOUS ACTIVITIES.** Under federal regulations, 24 CFR 92.257
18 HOME Funds may not be provided to primarily religious organizations, such as churches, for
19 any activity including secular activities. In addition, HOME Funds may not be used to
20 rehabilitate or construct housing owned by primarily religious organizations or to assist
21 primarily religious organizations in acquiring housing. However, HOME Funds may be used by
22 a secular entity to acquire housing from a primarily religious organization, and a primarily
23 religious entity may transfer title to property to a wholly secular entity and the entity may
24 participate in the HOME program in accordance with the requirements set forth at 24 CFR
25 92.257. The entity may be an existing or newly established entity, which may be an entity
26 established by the religious organization. The completed housing project must be used
27 exclusively by the owner entity for secular purposes, available to all persons regardless of
28 religion. In particular, there must be no religious or membership criteria for tenants of the

1 property.

2 **24. PROJECT MONITORING AND EVALUATION.** CVHC shall submit
3 a Homeowner Checklist to COUNTY summarizing the racial/ethnic composition, number and
4 percentage of very low- and low-income households who are homeowners of the HOME Units.
5 The Homeowner Checklist shall be submitted upon the close of the Project prior to final draw
6 down of HOME Funds.

7 **25. ACCESS TO PROJECT SITE.** COUNTY and HUD shall have the
8 right to visit the Project site at all reasonable times to review the operation of the Project in
9 accordance with this HOME Agreement.

10 **26. EVENTS OF DEFAULT.** The occurrence of any of the following
11 events shall constitute an "Event of Default" under this Agreement following expiration of the
12 cure periods in **Section 27**:

- 13 a. Monetary Default. (1) CVHC's use of HOME Funds for costs
14 other than costs permitted by this Agreement or for uses
15 inconsistent with terms and restrictions set forth in this
16 Agreement; (2) CVHC's failure to obtain and maintain the
17 insurance coverage required under this Agreement; (3) CVHC's
18 failure to make any payment of any assessment or tax due under
19 this Agreement subject to CVHC's right to contest any such
20 amount, provided CVHC provides a bond or other security
21 satisfactory to COUNTY during the period of such contest;
- 22 b. Non-Monetary Default - Operation. (1) Discrimination by CVHC
23 or CVHC's agent on the basis of characteristics prohibited by this
24 Agreement or applicable law; (2) any material adverse change in
25 the condition of CVHC or the Project or funding for the Project
26 that gives COUNTY reasonable cause to believe that the Project
27 cannot be operated according to the terms of this Agreement;
- 28 c. General Performance of Loan Obligations. Any substantial or

1 continuous or repeated breach by CVHC or CVHC's agents of
2 any material obligations on CVHC imposed in this Agreement.

3 d. General Performance of Other Obligations. Any substantial or
4 continuous or repeated breach by CVHC of any material
5 obligations on CVHC imposed by any other agreement with
6 respect to the financing, development, or operation of the Project;
7 whether or not COUNTY is a party to such agreement; but only
8 following any applicable notice and cure periods with respect to
9 any such obligation;

10 e. Representations and Warranties. A determination by COUNTY
11 that any of CVHC's representations or warranties made in this
12 Agreement, any statements made to COUNTY by CVHC, or any
13 certificates, documents, or schedules supplied to COUNTY by
14 CVHC were untrue in any material respect when made, or that
15 CVHC concealed or failed to disclose a material fact from
16 COUNTY;

17 f. Damage to Project. In the event that the Project is materially
18 damaged or destroyed by fire or other casualty, and CVHC
19 receives an award or insurance proceeds for the repair or
20 reconstruction of the Project, and CVHC does not use such award
21 or proceeds to repair or reconstruct the Project;

22 g. Bankruptcy, Dissolution and Insolvency. CVHC (1) filing for
23 bankruptcy, dissolution, or reorganization, or failure to obtain a
24 full dismissal of any such involuntary filing brought by another
25 party before the earlier of final relief or **one (1) day** after such
26 filing; (2) making a general assignment for the benefit of
27 creditors; (3) applying for the appointment of a receiver, trustee,
28 custodian, or liquidator, or failure to obtain a full dismissal of any

1 such involuntary application brought by another party before the
2 earlier of final relief or **forty-five (45) days** after such filing; (4)
3 insolvency; or (5) failure, inability or admission in writing of its
4 inability to pay its debts as they become due.

5 **27. NOTICE OF DEFAULT AND OPPORTUNITY TO CURE.** For
6 monetary and non-monetary Events of Default, COUNTY shall give written notice to CVHC of
7 any Event of Default by specifying: (a) the nature of the Event of Default or the deficiency
8 giving rise to the default, (b) the action required to cure the deficiency, if an action to cure is
9 possible, and (c) a date, which shall not be more than thirty (30) calendar days from the mailing
10 of the notice, by which such action to cure must be taken. COUNTY agrees that CVHC shall
11 have the right to cure defaults under this Agreement.

12 **28. COUNTY REMEDIES.** Upon the happening of an Event of Default and
13 a failure by CVHC to cure said default within the time specified in the notice of default (if an
14 action to cure is specified in said notice), COUNTY's obligation to disburse HOME Funds shall
15 terminate, and COUNTY may also in addition to other rights and remedies permitted by this
16 Agreement or applicable law, proceed with any or all of the following remedies in any order or
17 combination COUNTY may choose in its sole discretion; provided, however, that in no event
18 shall any Event of Default by CVHC affect the validity of any mortgage assistance which has
19 been provided to a homebuyer in accordance with this Agreement:

- 20 a. Terminate this Agreement, in which event the entire amount of
21 the HOME Grant as well as any other monies advanced to CVHC
22 by COUNTY under this Agreement including administrative
23 costs, shall immediately become due and payable at the option of
24 COUNTY.
- 25 b. Bring an action in equitable relief (1) seeking the specific
26 performance by CVHC of the terms and conditions of this
27 Agreement, and/or (2) enjoining, abating, or preventing any
28 violation of said terms and conditions, and/or (3) seeking

1 declaratory relief.

2 c. Pursue any other remedy allowed at law or in equity.

3 **29. DEVELOPER'S REMEDIES.** Upon the fault or failure of COUNTY
4 to meet any of its obligations under this Agreement, CVHC may:

5 a. Demand payment from COUNTY of any sums due CVHC; and/or

6 b. Bring an action in equitable relief seeking the specific
7 performance by COUNTY of the terms and conditions of this
8 Agreement; and/or

9 c. Pursue any other remedy allowed at law or in equity.

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

20 **31. DEVELOPER'S CERTIFICATION.** CVHC certifies, to the best of its
21 knowledge and belief, that:

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

1 cooperative agreement, and the extension, continuation, review,
2 amendment, or modification of any federal contract, grant, loan,
3 or cooperative agreement.

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

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

20 **32. HOLD HARMLESS AND INDEMNIFICATION.** CVHC shall
21 indemnify and hold harmless COUNTY, its Agencies, Districts, Special Districts and
22 Departments, their respective directors, officers, Board of Supervisors, elected and appointed
23 officials, employees, agents and representatives from any liability whatsoever, based or asserted
24 upon any services of CVHC, its officers, employees, subcontractors, agents or representatives
25 arising out of or in any way relating to this Agreement, including but not limited to property
26 damage, bodily injury, or death or any other element of any kind or nature whatsoever arising
27 from the performance of CVHC, its officers, agents, employees, subcontractors, agents or
28 representatives from this Agreement. CVHC shall defend, at its sole expense, all costs and fees

1 including, but not limited, to attorney fees, cost of investigation, defense and settlements or
2 awards, the County of Riverside, its Agencies, Districts, Special Districts and Departments,
3 their respective directors, officers, Board of Supervisors, elected and appointed officials,
4 employees, agents and representatives in any claim or action based upon such alleged acts or
5 omissions.

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

12 CVHC's obligation hereunder shall be satisfied when CVHC has provided to
13 COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the
14 action or claim involved.

15 The specified insurance limits required in this Agreement shall in no way limit or
16 circumscribe CVHC'S obligations to indemnify and hold harmless the COUNTY herein from
17 third party claims.

18 In the event there is conflict between this clause and California Civil Code
19 Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such
20 interpretation shall not relieve CVHC from indemnifying the COUNTY to the fullest extent
21 allowed by law.

22 **33. TERMINATION.**

- 23 a. CVHC. CVHC may terminate this Agreement consistent with the
24 Act, the regulations consistent implementing the Act, and 24 CFR
25 85.44.
- 26 b. COUNTY. Notwithstanding the provisions of **Section 33(a)**,
27 COUNTY may suspend or terminate this Agreement upon written
28 notice to CVHC of the action being taken and the reason for such

1 action:

- 2 (1) In the event CVHC fails to perform the covenants herein
3 contained at such times and in such manner as provided in
4 this Agreement after the applicable notice and cure
5 provision hereof; or
6 (2) In the event there is a conflict with any federal, state or
7 local law, ordinance, regulation or rule rendering any of
8 the provisions of this Agreement invalid or untenable; or
9 (3) In the event the funding from the Department of Housing
10 and Urban Development referred to in **Section 1** above is
11 terminated or otherwise becomes unavailable.

12 c. This Agreement may be terminated or funding suspended in
13 whole or in part for cause in accordance with 24 CFR 85.43.
14 Cause shall be based on the failure of CVHC to materially comply
15 with either the terms or conditions of this Agreement. Upon
16 suspension of funding, CVHC agrees not to incur any costs
17 related thereto, or connected with, any area of conflict from which
18 COUNTY has determined that suspension of funds is necessary.
19 The award may be terminated for convenience in accordance with
20 24 CFR 85.44.

21 d. Upon expiration of this Agreement, CVHC shall transfer to
22 COUNTY any HOME Funds on hand at the time of expiration of
23 the Agreement as well as any accounts receivable held by CVHC
24 which are attributable to the use of HOME Funds awarded
25 pursuant to this Agreement.

26 **34. AFFORDABILITY RESTRICTIONS.** COUNTY and CVHC hereby
27 declare their express intent that the restrictions set forth in this Agreement for each HOME Unit
28 of the Project shall be affordable for the Affordability Period. Each and every contract, deed or

1 other instrument hereafter executed covering and conveying the HOME Unit or any portion
2 thereof shall be held conclusively to have been executed, delivered and accepted subject to such
3 restrictions, regardless whether such restrictions are set forth in such contract, deed or other
4 instrument.

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

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

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

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

26 **39. INTERPRETATION AND GOVERNING LAW.** This Agreement and
27 any dispute arising hereunder shall be governed by and interpreted in accordance with the laws
28 of the State of California. This Agreement shall be construed as a whole according to its fair

1 language and common meaning to achieve the objectives and purposes of the parties hereto, and
2 the rule of construction to the effect that ambiguities are to be resolved against the drafting party
3 shall not be employed in interpreting this Agreement, all parties having been represented by
4 counsel in the negotiation and preparation hereof.

5 **40. SEVERABILITY.** Each paragraph and provision of this Agreement is
6 severable from each other provision, and if any provision or part thereof is declared invalid, the
7 remaining provisions shall nevertheless remain in full force and effect.

8 **41. MINISTERIAL ACTS.** COUNTY's Assistant County Executive
9 Officer/EDA or designee(s) are authorized to take such ministerial actions as may be necessary
10 or appropriate to implement the terms, provisions, and conditions of this Agreement as it may
11 be amended from time to time by both parties.

12 **42. MODIFICATION OF AGREEMENT.** COUNTY or CVHC may
13 consider in its best interest to change, modify or extend a term or condition of this Agreement.
14 Any such change, modification or extension which is mutually agreed upon by COUNTY and
15 CVHC shall be incorporated in written amendments to this Agreement. Such amendments shall
16 not invalidate this Agreement, nor relieve or release COUNTY or CVHC from any obligations
17 under this Agreement, except for those parts thereby amended. No amendment to this
18 Agreement shall be effective and binding upon the parties unless it expressly makes reference to
19 this Agreement, it is in writing, and it is signed and acknowledged by duly authorized
20 representatives of all parties.

21 **43. CONDITIONAL HOME COMMITMENT.** COUNTY commitment as
22 defined under 24 CFR 92.2 provided HOME Funds to this Project under which construction can
23 reasonably be expected to start within **twelve (12) months** of the date of this Agreement. If
24 construction does not begin within **twelve (12) months** from the date of this Agreement, then
25 COUNTY and CVHC mutually agree that this Agreement will self-terminate. Upon such
26 termination, this Agreement shall be null and void. COUNTY and CVHC shall be released and
27 discharged respectively from its obligations under this Agreement.

28 Notwithstanding all other sections in this Agreement, CVHC must provide

1 COUNTY with letters of confirmation stating loan award from the U.S. Department of
2 Agriculture (USDA) Section 502 Program loan and grant award from the Affordable Housing
3 Program.

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

9 **45. ASSIGNMENT.** CVHC shall not make any sale, assignment,
10 conveyance, or lease of any trust or power, or transfer in any other form with respect to this
11 Agreement or the HOME Units except for sale of the HOME Units in accordance with this
12 Agreement.

13 **46. EXHIBITS AND ATTACHMENTS.** Each of the attachments and
14 exhibits attached hereto is incorporated herein by this reference.

15 **47. MEDIA RELEASES.** CVHC agrees to allow COUNTY to coordinate
16 all media releases regarding the Project, with prior approval of CVHC. Any publicity generated
17 by CVHC for the Project must make reference to the contribution of COUNTY in making the
18 Project possible. COUNTY's name shall be prominently displayed in all pieces of publicity
19 generated by CVHC, including flyers, press releases, posters, signs, brochures, and public
20 service announcements. CVHC agrees to cooperate with COUNTY in any COUNTY-generated
21 publicity or promotional activities with respect to the Project.

22 **48. NOTICES.** All notices, requests, demands and other communication
23 required or desired to be served by either party upon the other shall be addressed to the
24 respective parties as set forth below or such other addresses as from time to time shall be
25 designated by the respective parties and shall be sufficient if sent by United States first class,
26 certified mail, postage prepaid, or express delivery service with a receipt showing the date of
27 delivery.

COUNTY

Attn: Emilio Ramirez
County of Riverside
Economic Development Agency
3403 10th Street, Suite 500
Riverside, CA 92501

CVHC

Executive Director
Coachella Valley Housing Coalition
Plaza 1, 45-701 Monroe Street Ste. G
Indio, CA 92201

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

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

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END OF AGREEMENT

(SIGNATURES ON THE NEXT PAGE)


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

3
4 COUNTY:

CVHC:

5 COUNTY OF RIVERSIDE

6 COACHELLA VALLEY HOUSING COALITION,
a California nonprofit public benefit corporation

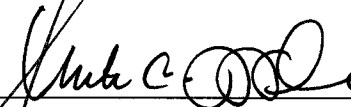
7 By: 
8 BOB BUSTER, Chairman
9 Board of Supervisors

By: 
JOHN F. MEALEY, Executive Director

10 Date: 05/19/2011

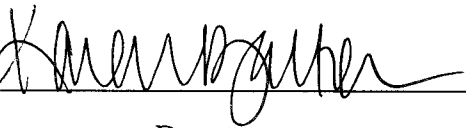
11 APPROVED AS TO FORM:

12 PAMELA J. WALLS
13 County Counsel

14 By: 
15 ANITA C. WILLIS, Deputy
16

17
18
19 ATTEST:

20 KECIA HARPER-IHEM
21 Clerk of the Board

22
23 By: 
24 Deputy
25

26
27 **(All Signatures On This Page Must Be Notarized)**
28

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA }
COUNTY OF Riverside }

On May 19, 2011, before me, Martha Mendez, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared John F. Mealey
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Place Notary Seal Above

Signature Martha Mendez
Signature of Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA }

COUNTY OF _____ }

On _____, before me, _____
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Place Notary Seal Above

Signature _____
Signature of Notary Public

EXHIBIT A

PROJECT DESCRIPTION

PROJECT DESCRIPTION

Developer: Coachella Valley Housing Coalition
Address: Plaza 1, 45-701 Monroe Street
Indio, CA 92201
Project Title: Sunset Springs Self-Help, Group 9
Location: 11 parcels on vacant land located north of Mission Lakes Boulevard and west of Sonora Road in the City of Desert Hot Springs

Description:

Coachella Valley Housing Coalition (CVHC), a nonprofit public benefit corporation and certified Community Housing Development Corporation (CHDO), intends to utilize up to \$152,000 in HOME funds for the development and new construction of 11 single-family homes. All 11 homes will be assisted with HOME funds and will include an affordability covenant for a period of 15 years (“HOME Units”). Thirty percent (30%) of the HOME funds will be reserved as mortgage assistance for the HOME units.

The homes will be built through CVHC’s mutual self-help construction program which enables groups of qualified very low and low-income families to become first-time homeowners by working together under skilled supervision and earn “sweat-equity” towards the down payment of their homes. The proposed project will consist of 9 four-bedroom and 2 three-bedroom single-story homes.

CVHC will use up to \$152,000 in HOME funds for development, construction, and mortgage assistance of the project. Other funding sources for the project include a loan of approximately \$1,097,400 from the U.S. Department of Agriculture (USDA) Section 502 Program, a grant of \$203,500 from the Affordable Housing Program, a subsidy of \$249,600 from CVHC, and \$18,500 in buyer sweat equity. The total development costs are estimated to be \$1,721,000.

All 11 homes will be sold to very low and low-income households whose incomes do not exceed 80% of the area median income for the County, adjusted by family size. At least three (3) of the HOME Units will be reserved for very low income households, whose incomes do not exceed fifty percent (50%) of the area median income for the County, adjusted by family size. All HOME Units will have an affordability period of 15 years from the date of the certificate of occupancy or its equivalent.

1. 65352 Salida Del Sol Place, Desert Hot Springs – Lot 11 – APN 661-490-011
2. 65338 Salida Del Sol Place, Desert Hot Springs – Lot 12 – APN 661-490-012
3. 65326 Salida Del Sol Place, Desert Hot Springs – Lot 13 – APN 661-490-013
4. 65314 Salida Del Sol Place, Desert Hot Springs – Lot 14 – APN 661-490-014
5. 9629 Puesta Del Sol Place, Desert Hot Springs – Lot 15 – APN 661-490-015
6. 9657 Puesta Del Sol Place, Desert Hot Springs – Lot 16 – APN 661-490-016
7. 9689 Puesta Del Sol Place, Desert Hot Springs – Lot 17 – APN 661-490-017
8. 9684 Puesta Del Sol Place, Desert Hot Springs – Lot 49 – APN 661-491-016
9. 9658 Puesta Del Sol Place, Desert Hot Springs – Lot 50 – APN 661-491-017
10. 65341 Salida Del Sol Place, Desert Hot Springs – Lot 51 – APN 661-491-018
11. 65353 Salida Del Sol Place, Desert Hot Springs – Lot 52 – APN 661-491-019

Project Sources and Uses of Fund:

Sources:

USDA – Section 502 Program	\$ 1,097,400
Affordable Housing Program	\$ 203,500
CVHC Project Subsidy	\$ 249,600
Buyer Sweat Equity	\$ 18,500
County of Riverside HOME Loan	<u>\$ 152,000</u>
Total Sources	\$ 1,721,000

Uses:

Off-Site Work	\$ 127,039
Structures	\$ 806,900
General Requirements	\$ 528,561
Contractor Overhead	\$ 16,500
Contractor Profit	\$ 22,000
Land Acquisition	<u>\$ 220,000</u>
Total Uses	\$ 1,721,000

IMPLEMENTATION SCHEDULE

Milestone	Completion Date
1. HOME Agreement Executed	June 28, 2011
2. Families Selected	September 01, 2011
3. Building Permit	January 01, 2012
4. Obtain Equity Financing	January 01, 2012
5. Transfer of Title for All 11 HOME Units	January 01, 2012
6. Construction Begins No Later Than	February 10, 2012
7. Notice of Completion Recorded with Recorded Copy to EDA	January 01, 2013
8. Submission of Final Cost Certificates, Sources and Uses of Funds	March 31, 2013
9. Submission of Income & Ethnic Characteristics Report	March 31, 2013

DOCUMENT SUBMISSION SCHEDULE

1. Construction Activities Reporting	Monthly, by the 5th
2. Minority & Women Business Enterprise Report	Semi-Annually-April 5, Oct 5
3. Performance Report	Annually, July 10

*CVHC shall submit to COUNTY copies of the final funding commitment, copies of all executed agreements, and proof that the funds were disbursed for this project.

EXHIBIT B

HOMEBUYER LOAN DOCUMENTS

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

3 RECORDING REQUESTED BY AND
4 WHEN RECORDED MAIL TO:

5 County of Riverside
6 3403 10th Street, Ste. 500
7 Riverside, CA 92501
Attn: Der Xiong

8 SPACE ABOVE THIS LINE FOR RECORDERS USE

9 **SUNSET SPRINGS SELF-HELP**
10 **HOMEBUYER LOAN AGREEMENT**
11 **AND**
12 **DISCLOSURE STATEMENT**

13 This Agreement is made and entered into this _____ day of
14 _____, 2011 by and between the COUNTY OF RIVERSIDE (County), a political
15 subdivision of the State of California and <BORROWER NAME> (Borrower), a first-time
16 homebuyer.

17 WITNESSETH:

18 **WHEREAS**, the Home Investment Partnerships Act (HOME) Program, which was
19 enacted under Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990 (the
20 “Act”), has as its purposes: to expand the supply of decent, affordable housing for low and very
21 low income families; to build State and local capacity to carry out affordable housing programs;
22 and to provide for coordinated assistance to participants in the development of affordable low-
23 income housing; and

24 **WHEREAS**, County has qualified as an “Urban County” for purposes of receiving
25 HOME funds which are to be used to assist and undertake essential housing assistance activities
26 pursuant to the Act; and

27 **WHEREAS**, the County entered into an agreement on _____ of 2011
28 with the Coachella Valley Housing Coalition (CVHC), who is eligible to receive funds under
HOME Program; and

1 **WHEREAS**, CVHC has or will complete the development and construction of **eleven**
2 **(11)** mutual self-help single-family homes to be sold to qualified very low and low-income
3 households; and

4 **WHEREAS**, Borrower wishes to purchase the property located at <INSERT
5 ADDRESS>, hereinafter called "Property", which was constructed by CVHC; and

6 **WHEREAS**, the County wishes to assist the Borrower with the purchase; and

7 **WHEREAS**, the assisted activities described herein are consistent with the County's
8 Consolidated Plan and Action Plan.

9 **NOW THEREFORE**, County and Borrower mutually agree as follows:

10 1. **DEFINITIONS.** The following definitions shall apply throughout this Homebuyer
11 Loan Agreement and Disclosure Statement, Promissory Note Secured by Subordinate
12 Deed of Trust, and Subordinate Deed of Trust:

- 13 a. **Affordability Period.** Twenty (20) years from the date of close of escrow of
14 Borrower's purchase of the Property.
- 15 b. **Deed of Trust.** Any Deed of Trust, assignments of rents, and security agreement
16 placed on the Property or any part thereof as security for any Loan and other
17 obligations with Borrower as trustor and the County as beneficiary, as well as
18 amendments to, modification of, and reinstatements of said deed(s) of trust.
- 19 c. **HOME Loan.** Funds received pursuant to the HOME Program from the County
20 to assist Borrower with the purchase of the Property.
- 21 d. **Loan Documents.** The Homebuyer Loan Agreement and Disclosure Statement,
22 Itemization of Amount Financed, Promissory Note secured by Deed of Trust, and
23 Subordinate Deed of Trust.
- 24 e. **Promissory Note.** Promissory Note secured by Subordinate Deed of Trust
25 included as part of the Loan Documents.
- 26 f. **Property.** The real property described in **Exhibit A** attached to Promissory Note
27 and made a part hereof.
- 28 g. **Sale or Transfer.** Any sale, transfer, lease, cash-out refinance or family trusts
transfer of any part of the Property in violation of this Agreement will permit

1 County to exercise a due-on-sale clause. The following shall not constitute a
2 Transfer:

- 3 i. A transfer of the Property from a deceased Borrower to the surviving spouse
4 of the Borrower if the surviving spouse is also called a Borrower;
- 5 ii. A transfer of the Property by Borrower to his/her spouse pursuant to which the
6 spouse becomes a co-owner of the Property;
- 7 iii. A transfer of the Property resulting from a decree of dissolution of the
8 marriage or legal separation or from a Property settlement agreement
9 incidental to such a decree which requires the Borrower to continue to make
10 payments on the Note and by which a spouse who is already a Borrower
11 becomes the sole owner of the Property;
- 12 iv. A transfer of the Property by a Borrower to an inter-vivos trust in which the
13 Borrower is the sole beneficiary;
- 14 v. A transfer by means of encumbering the Property with a lien that is a junior
15 lien to the loan to Borrower evidenced by the Subordinate Deed of Trust.

16 h. **Senior Lien Holder.** Actual holder of First Deed of Trust is herein referred to as,
17 “Senior Lien Holder.”

18 2. **PURPOSE.** County agrees to lend up to <INSERT SPELL AMOUNT> <(\$)> of
19 HOME funds (HOME Loan) to Borrower upon the terms and conditions set forth in
20 this Agreement. Borrower agrees to borrow the HOME Loan from County to
21 purchase Property and acknowledges acceptance and understanding of this HOME
22 Program and hereby agrees to the terms and conditions set forth in this Agreement.

- 23 a. The Affordability Period is **fifteen (15) years** from the date of the certificate of
24 occupancy or its equivalent of the Property. When the Affordability Period has
25 expired, or when the note is paid (or prepaid), any restriction on the Sale or
26 Transfer of the Property is released and shall no longer apply to the Property.
- 27 b. By signing this document Borrower agrees to occupy the Property as a principal
28 residence, and not to Sale or Transfer the Property, for the Affordability Period,
except as permitted under **Section 1(g)**. The HOME Loan will become due and

1 payable to the County should Borrower Sale or Transfer the Property during the
2 Affordability Period.

3 c. The HOME Loan, which is secured, will require no monthly payments during the
4 Affordability Period. In the event the Property is Sold or Transferred in violation
5 of this Agreement prior to the expiration of the Affordability Period, the HOME
6 Loan will be repaid to the County out of the sale proceeds, subject to the rights of
7 any senior mortgage lenders.

8 3. **INSURANCE.** Borrower will purchase owner's Title insurance for the Property.
9 Borrower will purchase home warranty insurance for a minimum period of one year.
10 Borrower shall maintain property insurance and flood insurance, if required, listing
11 the County as additional insured, for the term of the Affordability Period.

12 4. **AFFORDABILITY PERIOD.** It is intended that the above referenced Property will
13 remain as an affordable home for **fifteen (15) years** from the date of the certificate of
14 occupancy or its equivalent of the Property (the "Affordability Period").

15 5. **RECAPTURE OF HOME LOAN.** Pursuant to standards adopted in 24 CFR
16 92.254(a)(5)(ii), the County requires that the HOME Loan be recaptured if the
17 Property does not continue to be the principal residence of the Borrower for the
18 duration of the Affordability Period.

19 If all or any part of the Property or any interest is Sold or Transferred (or if a
20 beneficial interest in Borrower is Sold or Transferred and Borrower is not a natural
21 person), in violation of this Agreement, the HOME Loan will become due and
22 payable.

23 6. **FORGIVENESS.** Provided that the Borrower is not in default under the terms of the
24 Promissory Note and Loan Documents, the Promissory Note shall be forgiven in its
25 entirety by the County and the Subordinate Deed of Trust shall be reconveyed upon
26 the expiration of the Affordability Period.

27 7. By signing below, the Borrower acknowledges that he/she/they understand, accept,
28 and agree to the terms and conditions contained in this Agreement.

END OF AGREEMENT

(SIGNATURES ON THE NEXT PAGE)

1 **IN WITNESS WHEREOF**, County and Borrower have executed this Agreement as of
2 the date first above written.

3
4 COUNTY OF RIVERSIDE

BORROWER

5
6 _____
7 EMILIO RAMIREZ

_____ <INSERT NAME>

8 Assistant Director
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(All Signatures On This Page Must Be Notarized)

ITEMIZATION OF AMOUNT FINANCED

Itemization of the Amount Financed from the County of Riverside (Creditor):

\$ 0.00 Amount given to you directly

Amount paid to others on your behalf:

\$ < COUNTY AMOUNT > To: ESCROW FOR HOME LOAN

\$ 0.00 To: ESCROW FOR CLOSING COSTS

The undersigned hereby acknowledges receiving a copy of this Statement.

<BORROWER'S FULL NAME>

DATE

(All Signatures On This Page Must Be Notarized)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA }

COUNTY OF _____ }

On _____, before me, _____
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Place Notary Seal Above

Signature _____
Signature of Notary Public

1 **NOTICE:** This Promissory Note requires repayment of the principal sum if certain events
2 occur.

3 **PROMISSORY NOTE**

4
5 The effective date of this note is:

6 <Month Day, Year> Riverside, California

7
8 <BORROWERS FULL ADDRESS> (Property Address)

9
10 **BORROWER PROMISE TO REPAY**

11
12 FOR VALUE RECEIVED, the undersigned, <BORROWERS FULL NAME, INSERT
13 VESTING>, hereafter called "Borrower," hereby jointly and severally promise to pay to
14 COUNTY OF RIVERSIDE, a public body, hereafter called "Lender," or to Lender's order, the
15 sum total of \$ <COUNTY AMOUNT> (Spell Out Dollar Amount), secured by a Subordinate
16 Deed of Trust, at such place as Lender may designate, in lawful money of the United States of
17 America as hereafter set forth.

18
19 1) **DEFINITIONS.** The following definitions shall apply throughout this Promissory Note:

- 20 a) Agreement. The "The Homebuyer Loan Agreement and Disclosure Statement" dated of
21 even date herewith between Borrower and Lender.
- 22 b) Deferred Loan Amount. Principal Sum of the Promissory Note.
- 23 c) Lender. County of Riverside.
- 24 d) Property. The real property described in **Exhibit A** attached to this Promissory Note and
25 made a part hereof.
- 26 e) Promissory Note. Herein referred to as "Note."
- 27 f) Sale or Transfer. Any sale, transfer, lease, cash-out refinance or family trusts transfer of
28 any part of the Property, except as permitted under Section 2 of this Note, will permit

1 Lender to exercise a due-on-sale clause.

2 g) Senior Lien Holder. Actual holder of First Deed of Trust is herein referred to as the
3 “Senior Lien Holder.”

4 **TERMS**

5 1) **INTEREST**. This Note does not bear interest.

6 2) **TIME OF PAYMENT**. The term of this Note extends until the earlier of (i) **fifteen (15)**
7 **years** from the date of the certificate of occupancy or its equivalent of the Property (the
8 “Affordability Period”), or (ii) the date on which Borrower Sales or Transfers the Property
9 designated on the accompanying Subordinate Deed of Trust in violation of the Agreement.
10 Provided that the Borrower continues to occupy the Property as their principal residence for
11 the entire Affordability Period, the Borrower’s obligation to repay the principal sum of this
12 Note shall be forgiven upon expiration of the Affordability Period. However, any Sale or
13 Transfer of the Property in violation of the Agreement will trigger recapture of the principal,
14 as described in the accompanying Subordinate Deed of Trust. No delay or omission on the
15 part of the Lender shall operate as a waiver of such right of repayment or of any other right
16 of this Note. The principal sum of this Note shall be due and payable on or before the date
17 provided by the Lender in a written Notice of Acceleration to be provided by Lender to the
18 Borrower, which shall not be less than **thirty (30) days**, if all or any part of the Property or
19 any interest in it is Sold or Transferred without the prior written consent of the Lender. The
20 Lender shall not exercise this right of acceleration if prohibited by federal law as of the date
21 of the Subordinate Deed of Trust or if the County of Riverside has executed a separate
22 written waiver of this option. The following shall not constitute a Transfer:

- 23 a) A transfer of the Property from a deceased Borrower to the surviving spouse of the
24 Borrower if the surviving spouse is also called a Borrower;
- 25 b) A transfer of the Property by Borrower to his/her spouse pursuant to which the spouse
26 becomes a co-owner of the Property;
- 27 c) A transfer of the Property resulting from a decree of dissolution of the marriage or legal
28 separation or from a Property settlement agreement incidental to such a decree which

1 requires the Borrower to continue to make payments on the Note and by which a spouse
2 who is already a Borrower becomes the sole owner of the Property;

3 d) A transfer of the Property by a Borrower to an inter-vivos trust in which the Borrower is
4 the sole beneficiary;

5 e) A transfer by means of encumbering the Property with a lien that is a junior lien to the
6 loan to Borrower evidenced by the Subordinate Deed of Trust.

7 3) **AMOUNT OF PAYMENT.** If and when this Note becomes due pursuant to **Section 2**
8 above, Borrower shall pay to Lender the outstanding Deferred Loan Amount.

9 4) **PREPAYMENT.** Borrower shall have the right at any time to repay this Note without
10 incurring any penalty. Borrower must notify the Lender in writing, in the event of
11 prepayment. The amount payable in full by Borrower shall be the entire Deferred Loan
12 Amount.

13 5) **FORGIVENESS OF NOTE.** Provided that Borrower is not in default under the terms of
14 this Note or Loan Documents, the Note shall be forgiven in its entirety by the County of
15 Riverside at the expiration of the Affordability Period.

16 6) **SECURITY.** A Subordinate Deed of Trust secures this Note.

17 7) **DEFAULT UNDER DEED OF TRUST.** Notwithstanding any other provisions of this
18 Note, if default occurs in any of the covenants or agreements contained in the Deed of Trust
19 securing this Note, this Note shall immediately become due and payable in full at the option
20 of Lender. In the event Lender exercises such option, the amount due and payable shall be
21 the Deferred Loan Amount. Failure by Lender to exercise its option to accelerate in the event
22 of a default shall not constitute waiver of the right to exercise such option in the event of the
23 same or any other default.

24 8) **JOINT AND SEVERAL.** The undersigned, if more than one, shall be jointly and severally
25 liable hereunder.

26 9) **ATTORNEYS' FEES.** If any default is made hereunder, Borrower further promises to pay
27 reasonable attorneys' fees and costs and expenses incurred by the Lender in connection with
28 any such default or any other action or other proceeding brought to enforce any of the

1 provisions of this Note. The Lender's right to such fees shall not be limited to or by its
2 representation by staff counsel, and such representation shall be valued at customary and
3 reasonable rates for private sector legal services.

4 **10) TIME.** Time is of the essence herein.

5 **11) AMENDMENTS.** This Note may not be modified or amended except by an instrument in
6 writing expressing such intention executed by the parties sought to be bound thereby, which
7 writing must be so firmly attached to this Note so as to become a permanent part thereof.

8 **12) SEVERABILITY.** The covenants of this Note are several. Invalidation of any covenant or
9 any part thereof by law, judgment, or court order shall not affect any other covenant.

10 **13) PLACE OF REPAYMENT.** Borrower will make payment of all amounts due to Lender
11 under this Note to Lender at: **3403 10th STREET. SUITE 500, RIVERSIDE,**
12 **CALIFORNIA 92501** or such other address as Lender may designate in writing to
13 Borrower.

14 **14) BORROWER'S WAIVERS.** Borrower waives any rights to require the Lender to do certain
15 things. Those things are: (A) to demand payment of amounts due (known as "presentment");
16 (B) to give notice that amounts due have not been paid (known as "notice of dishonor"); and
17 (C) to obtain an official certification of nonpayment (known as a "protest").

18 **15) GIVING OF NOTICES.** Any notice that must be given to Borrower under this Note will be
19 given by delivering it or by mailing it by certified mail addressed to Borrower at any
20 Property Address above. Any notice that must be given to the Lender under this Note will be
21 given by mailing it certified mail to the Lender at the address above.

22 **16) LOAN AUTHORITY.** The loan evidenced by this Note is being made pursuant to the
23 HOME Investment Partnership Program and the regulations issued there under (Title II, the
24 Cranston-Gonzales National Affordable Housing Act, Public Law No. 101-625, 104 Stat.
25 4079 (1990), 24 CFR Part 92.)

26 a) **Use of HOME Funds** - To provide mortgage assistance to ensure that affordable housing
27 is created.

28 b) **Affordability Period** - Time that the Property must be occupied by an income-eligible

1 household, otherwise the Lender may have the right to recapture the HOME funds
2 provided. The affordability period for this Note is **fifteen (15) years** from the date of the
3 certificate of occupancy or its equivalent of the Property. The final maturity date on
4 which this note is forgiven, even if the home has not been sold, is **fifteen (15) years** from
5 the date of the certificate of occupancy or its equivalent of the Property.

6 c) **Project Requirements** - The mortgage assistance complies with all requirements in that
7 the amount provided by the Lender does not exceed the maximum per-unit subsidy
8 amount established by HUD, that the initial purchase price does not exceed **ninety-five**
9 **(95%)** of the median purchase price as established by HUD.

10 d) **Housing Quality Standards** - The housing unit that is being assisted was inspected by
11 the Lender and meets the physical standards that assure that the housing is free from all
12 health and safety defects at the time of purchase.

13 e) **Disbursement Request** - No funds shall be provided until such time as they are needed
14 for the payment of eligible costs, which is the mortgage assistance amount.

15 f) **Enforcement of this Agreement (Note)** - The means for the enforcement of the terms
16 and conditions shall be the recordation of a Subordinate Deed of Trust, which will place a
17 lien against the Property that has been assisted.

18 g) **Duration of this Agreement (Note)** - This Note is in effect for the period of affordability
19 as noted above in **Section 16 (b)**. The final maturity date on which it is due (or forgiven),
20 even if the home has not been sold is **fifteen (15) years** from the date of the certificate of
21 occupancy or its equivalent of the Property.

22 **17) SUBORDINATION** The indebtedness evidences by this Note, and any other financial
23 obligations which may be imposed by the Lender are subordinate to the indebtedness
24 evidenced by a Note payable to a Senior Lender, which Note is secured by the First Deed of
25 Trust on the Property.

26 //

27 END OF AGREEMENT
28 (SIGNATURES ON THE NEXT PAGE)

1 **BY SIGNING BELOW, THE BORROWER ACCEPT AND AGREE TO THE TERMS**
2 **CONTAINED IN THIS NOTE.**

3
4
5
6 _____
7 < BORROWER'S FULL NAME>

DATE

8
9 _____
10 < BORROWER'S FULL NAME>

DATE

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28 **(All Signatures On This Page Must Be Notarized)**

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

LEGAL DESCRIPTION:

<LEGAL DESCRIPTION>

APN: <APN>

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

3 WHEN RECORDED MAIL TO:
4 County of Riverside
5 3403 10th Street, Suite 500
6 Riverside, CA 92501
7 Attention: Der Xiong

8 SPACE ABOVE THIS LINE FOR RECORDERS USE

9 **SUBORDINATE DEED OF TRUST**

10 THIS SUBORDINATE DEED OF TRUST (“Security Instrument”) is made this ____ day of
11 MONTH, YEAR, among the Trustor(s), <BORROWERS FULL NAME, INSERT
12 VESTING>, (herein “Borrower”), COUNTY OF RIVERSIDE (herein “Trustee”), and the
13 Beneficiary, which is the County of Riverside, a public agency (herein “Lender”).

14
15 BORROWER, in consideration of the indebtedness herein recited and the trust herein created,
16 irrevocably grants and conveys to Trustee, in trust, with the power of sale, the following
17 described property located in the County of Riverside, State of California:

18
19 LEGAL DESCRIPTION:

20 <LEGAL DESCRIPTION>

21 APN: <APN #>

22
23 which has the address of <BORROWERS FULL ADDRESS> (Herein “Property Address”).

24
25 TOGETHER with all the improvements now or hereafter erected on the property, and all
26 easements, rights, appurtenances and rents (subject however to the rights and authorities given
27 herein to Lender to collect and apply such rents), all of which shall be deemed to be and remain
28 a part of the property covered by this Security Instrument; and all of the foregoing, together

1 with said property (or the leasehold estate if this Security Instrument is on a leasehold) are
2 hereinafter referred to as the "Property."

3
4 TO SECURE to Lender the repayment of the indebtedness evidenced by Borrower's
5 Promissory Note dated <DATE ON NOTE> and extensions and renewals thereof (herein
6 "Note"), in the principal sum of U.S. \$<COUNTY AMOUNT (Spell Out Dollar Amount of
7 Loan)> advanced in accordance and herewith to protect the security of this Security Instrument;
8 and the performance of the covenants and agreements of Borrower herein contained. The loan
9 evidenced by the Note and secured by this Security Instrument is being made pursuant to the
10 HOME Investment Partnership Program and the regulations issued there under.

11
12 In addition to the Loan, the Borrower obtained a Deed of Trust loan (The "First Deed of Trust
13 Loan") from <LENDERS NAME AND FULL ADDRESS>, (the "Senior Lien Holder"),
14 which loan is secured by First Deed of Trust lien on the Property.

15
16 Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and have
17 the right to grant and convey the Property, and except for the First Deed of Trust and other
18 encumbrances of record acceptable to the Senior Lien Holder, that the Property is
19 unencumbered. Borrower warrants and will defend generally the title to the Property against all
20 claims and demands, subject to encumbrances of record.

21
22 UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

23 **1) Payment of Principal and Interest.** In the event of any Sale or Transfer of the Property in
24 violation of the Agreement, Borrower shall promptly pay when due the principal
25 indebtedness evidenced by the Note.

26 **2) Funds for Taxes and Insurance.**

27 a) Subject to applicable law, and if required by the Senior Lender, Borrower shall pay to
28 the Senior Lien Holder a sum (herein "Funds") equal to (a) yearly taxes and assessments

1 (including condominium and planned unit development assessments, if any) which may
2 attain priority over this Security Instrument; (b) yearly premium installments for hazard
3 insurance; (c) yearly premium installments for mortgage insurance, if any, that are
4 reasonably estimated initially and from time to time by the Senior Lien Holder on the
5 basis of assessments and bills and reasonable estimates thereof. If there is no Senior
6 Lien Holder, Borrower is to make all payments for taxes and insurance to the Lender.
7 Borrower shall not be obligated to make such payments to the holder of a prior mortgage
8 or Deed of Trust if such holder is an institutional Lender. Said payments shall be made
9 on the first day of each month commencing on the date of first payment.

10 b) If Borrower pays Funds to Lender, the Funds shall be held in an institution the deposits
11 or accounts of which are insured or guaranteed by a federal or state agency. Lender shall
12 apply the Funds to timely pay said taxes, assessments and insurance premiums. Lender
13 may not charge for holding and applying the Funds, analyzing said account or verifying
14 and compiling said assessments and bills, unless Lender pays Borrower interest on the
15 Funds and applicable law permits Lender to make such a charge. Unless Borrower and
16 Lender otherwise agree,, Lender shall be required to pay Borrower any interest or
17 earnings on the Funds. Lender shall give to Borrower, without charge, an annual
18 accounting of the Funds showing credits and debits to the Funds and the purpose for
19 which each debit to the Funds was made. The Funds are pledged as additional security
20 for the sums secured by this Security Instrument.

21 c) If the amount of the Funds held by Lender, together with the future monthly installments
22 of Funds payable prior to the due dates of taxes, assessments and insurance premiums
23 exceed the amount required to pay said taxes, assessments and insurance premiums as
24 they fall due, such excess shall be, at Borrower's option, either promptly repaid to
25 Borrower or credited to Borrower on future monthly installments of Funds payable by
26 Borrower. If the amount of the Funds held by Lender shall not be sufficient to pay
27 taxes, assessments and insurance premiums as they fall due, Borrower shall pay to
28 Lender any amount necessary to make up the deficiency in one or more payments as

1 Lender may require.

2 d) Upon payment in full of all sums secured by this Security Instrument, Lender shall
3 promptly refund to Borrower any Funds held by Lender. If the Property is sold or the
4 Property is otherwise acquired by Lender, Lender shall apply, no later than immediately
5 prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender
6 at the time of application as a credit against the sums secured by this Security
7 Instrument.

8 **3) Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of
9 Borrower's obligations under any mortgage, Deed of Trust or other security agreement with
10 a lien which has priority over this Deed of Trust, including Borrower's covenants to make
11 payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other
12 charges, fines and impositions attributable to the Property, which may attain a priority over
13 this Security Instrument.

14 **4) Subordination.**

15 a) Lender and Borrower acknowledge and agree that this Security Instrument is subject and
16 subordinate in all respects to the liens, terms, covenants and conditions of the First Deed
17 of Trust and to all advances heretofore made pursuant to the First Deed of Trust
18 including all sums advanced for the purpose of (a) protecting or further securing the lien
19 of the First Deed of Trust, curing defaults by the Borrower under the First Deed of Trust
20 or for any other purpose expressly permitted by the First Deed of Trust or (b)
21 constructing, renovating, repairing, furnishing, fixtures or equipping the Property. The
22 terms and provisions of the First Deed of Trust are paramount and controlling, and they
23 supersede any other terms and provisions herein conflict therewith. In the event of a
24 foreclosure of the First Deed of Trust, any other provisions in any other collateral
25 agreement restricting the use of the Property to low or moderate income households or
26 otherwise restricting the Borrower's ability to sell the Property shall have no further
27 force or effect on subsequent owners or purchasers of the Property, any person,
28 including his/her successors or assignees (other than the Borrower or a related entity of

1 the Borrower), receiving title to the Property through a foreclosure or deed in lieu of
2 foreclosure of the First Deed of Trust shall receive title to the Property free and clear
3 from such restrictions. The restrictions will automatically terminate if title to the
4 mortgaged property is transferred by foreclosure or deed-in-lieu of foreclosure, or if the
5 mortgage is assigned to the Secretary of the United States Department of Housing and
6 Urban Development (HUD).

- 7 b) Further, if the Senior Lien Holder acquires title to the Property pursuant to a deed in lieu
8 of foreclosure, the lien of the Security Instrument shall automatically terminate upon the
9 Senior Lien Holder's acquisition of title, provided that (1) the Lender has been given
10 written notice of a default under the First Deed of Trust and (2) the Lender shall not
11 have cured the default under the First Deed of Trust, or diligently pursued curing the
12 default as determined by the Senior Lien Holder, within the **sixty (60) day** period
13 provided in such notice sent to the Lender.

14 **5) Hazard Insurance.**

- 15 a) Borrower shall keep the improvements now existing or hereafter erected on the Property
16 insured against loss by fire, hazards included within the term "extended coverage," and
17 such other hazards, including floods or flooding. This insurance shall be maintained in
18 the amounts and for the periods that the Senior Lien Holder and/or the Lender may
19 require and in such amounts and for such periods as the Senior Lien Holder and the
20 Lender may require.
- 21 b) The insurance carrier providing the insurance shall be chosen by Borrower. All
22 insurance policies and renewals thereof shall include a standard mortgage clause in favor
23 of and in a form acceptable to Lender. Lender shall have the right to hold the policies
24 and renewals thereof, subject to the terms of any mortgage, deed of trust or other
25 security agreement with a lien, which has priority over this Security Instrument. All
26 original policies of insurance required pursuant to the First Deed of Trust shall be held
27 by the Senior Lien Holder; provided, however, Lender may be named as a loss payee as
28 its interest may appear and may be named as an additional insured. If Lender requires,

1 Borrower shall promptly give to Lender copies of all receipts of paid premiums and
2 renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance
3 carrier, the Senior Lien Holder and the Lender. Lender may make proof of loss if not
4 made promptly by the Senior Lien Holder or the Borrower.

5 c) Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be
6 applied to restoration or repair of the Property damaged, if the restoration or repair is
7 economically feasible, or Lender's security would be lessened, the insurance proceeds
8 shall be applied to the sums secured by this Security Instrument, whether or not then
9 due, with any excess paid to Borrower.

10 d) If the Property is abandoned by Borrower, or if the Borrower fails to respond to Lender
11 within **thirty (30) days** from the date notice is mailed by Lender to Borrower that the
12 insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to
13 collect and apply the insurance proceeds at Lender's option either to restoration or repair
14 of the Property or to the sums secured by this Security Instrument.

15 e) Notwithstanding the above, the Lender's rights to collect and apply the insurance
16 proceeds hereunder shall be subject and subordinate to the rights of the Senior Lien
17 Holder to collect and apply such proceeds in accordance with the First Deed of Trust.

18 **6) Occupancy, Preservation and Maintenance and Protection of the Property.** Borrower
19 shall occupy, establish, and use the Property as the Borrower's principal residence and shall
20 keep the Property in good repair and shall not commit waste or permit impairment or
21 deterioration of the Property and shall comply with the provisions of any lease if this Deed
22 of Trust is on a leasehold.

23 **7) Protection of Lender's Security.**

24 a) If Borrower fails to perform the covenants and agreements contained in this Security
25 Instrument, or if any legal action or proceeding is commenced which materially affects
26 Lender's interest in the Property, then Lender, at Lender's option, upon notice to
27 Borrower, may make such appearances, disburse such sums, including reasonable
28 attorneys' fees, and take such action as is necessary to protect Lender's interest.

1 Lender's actions may include paying any sums secured by a lien, which has priority over
2 this Security Instrument.

3 b) Any amounts disbursed by Lender pursuant to this **Paragraph 7**, with interest thereon,
4 at the Note rate, shall become additional indebtedness of Borrower secured by this
5 Security Instrument. Unless Borrower and Lender agree to other terms of payment, such
6 amounts shall be payable upon notice from Lender to Borrower requesting payment
7 thereof. Nothing contained in this **Paragraph 7** shall require Lender to incur any
8 expense or take any action hereunder.

9 c) Prior to taking any actions, Lender shall notify the Senior Lien Holder and shall provide
10 the Senior Lien Holder with opportunity to cure a default hereunder advanced by the
11 Senior Lien Holder and shall be secured by the First Deed of Trust. The Senior Lien
12 Holder shall have the right to exercise all rights and remedies under the First Deed of
13 Trust.

14 **8) Mortgage Insurance.** If Lender requires mortgage insurance as a condition of making the
15 loan secured by this Security Instrument, Borrower shall pay the premiums required to
16 maintain the mortgage insurance in effect.

17 **9) Inspection.** Lender or its agent may make or cause to be made reasonable entries upon and
18 inspections of the Property, provided that Lender shall give Borrower notice prior to any
19 such inspection specifying reasonable cause therefore related to Lender's interest in the
20 Property.

21 **10) Condemnation.**

22 a) The proceeds of any award or claim for damages, direct or consequential, in connection
23 with any condemnation or other taking of the Property, or part thereof, or for
24 conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender,
25 subject to the terms of any mortgage, deed of trust or other security agreement with a
26 lien which has priority over this Deed of Trust.

27 b) In the event of a total taking of this Property, the proceeds shall be applied to the sums
28 secured by this Security Instrument, whether or not then due, with any excess paid to the

1 Borrower.

2 **11) Borrower Not Released; Forbearance by Lender Not a Waiver.** Extension of the time
3 for payment or modification of the sums secured by this Security Instrument granted by
4 Lender to any successor in interest of Borrower shall not operate to release, in any manner,
5 the liability of the original Borrower and Borrower's successors in interest. Lender shall not
6 be required to commence proceedings against such successor or refuse to extend time for
7 payment or otherwise modify the sums secured by this Security Instrument by reason of any
8 demand made by the original Borrower and Borrower's successors in interest. Any
9 forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded
10 by applicable law, shall not be a waiver of or preclude the exercise of any such right or
11 remedy.

12 **12) Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants
13 and agreements herein contained shall bind, and the rights hereunder shall inure to, the
14 respective successors and assigns of Lender and Borrower. All covenants and agreements of
15 Borrower shall be joint and several.

16 **13) Notices.** Except for any notice required under applicable law to be given in another manner,
17 (a) any notice to Borrower provided for in this Security Instrument shall be given by
18 delivering it or by mailing such notice by certified mail addressed to Borrower at the
19 Property Address or at such other address as Borrower may designate by notice to Lender as
20 provided herein, and (b) any notice to Lender shall be given by certified mail to Lender's
21 address at: **3403 10th Street, Suite 500, Riverside, CA 92501, Attn: Emilio Ramirez.** Any
22 notice provided for in this Security Instrument shall have been given to Borrower or Lender
23 when given in the manner designated herein. Any notices required to be given to the Senior
24 Lien Holder shall be given by first class mail to such address the Senior Lien Holder
25 designates by notice to the Borrower.

26 **14) Governing Law; Severability.** The state and local laws applicable to this Security
27 Instrument shall be the laws of the jurisdiction in which the Property is located. The
28 foregoing sentence shall not limit the applicability of federal law to this Security Instrument.

1 In the event that any provision or clause of this Security Instrument or the Promissory Note
2 conflicts with applicable law, such conflict shall not affect other provisions of this Security
3 Instrument or the Promissory Note which can be given effect without the conflicting
4 provision, and to this end the provisions of this Security Instrument and the Promissory
5 Note are declared to be several. As used herein, "costs," "expenses" and "attorneys' fees"
6 include all sums to the extent not prohibited by applicable law or limited herein.

7 **15) Borrower's Copy.** Borrower shall be furnished a conformed copy of the Note and Security
8 Instrument at the time of execution or after recordation hereof.

9 **16) Transfer of the Property or a Beneficial Interest in Borrower.**

10 a) Except for a conveyance to the Trustee under the First Deed of Trust, if all or any part of
11 the Property or any interest in it is Sold or Transferred without Lender's prior written
12 consent, Lender may, at its option, require immediate payment in full of all sums
13 secured by this Security Instrument. The Lender shall not exercise this option if federal
14 law as of the date of this Security Instrument prohibits the exercise.

15 b) If the Lender exercises this option, Lender shall give Borrower and the Senior Lien
16 Holder prior written notice of acceleration. The notice shall provide a period of not less
17 than **thirty (30) days** from the date the notice is delivered or mailed within which the
18 Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay
19 these sums prior to the expiration of this period, Lender may invoke any remedies
20 permitted by this Security Instrument without further notice or demand on Borrower.

21 **17) Borrower's Right to Reinstate.**

22 a) If Borrower meets certain conditions, Borrower shall have the right to have enforcement
23 of this Security Instrument discontinued at any time prior to the earlier of: (a) **five (5)**
24 **days** before the sale of the Property pursuant to any power of sale contained in this
25 Security Instrument; or (b) entry of a judgment enforcing this Security Instrument.
26 Those conditions are that Borrower: (a) pays Lender all sums which then would be due
27 under this Security Instrument and the Promissory Note as if no acceleration had
28 occurred; (b) cures any default of any other covenants or agreements; (c) pays all

1 expenses incurred in enforcing this Security Instrument, including, but not limited to
2 reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require
3 to assure that the lien of this Security Instrument, Lender's rights in the Property and
4 Borrower's obligation to pay the sums secured by this Security Instrument shall continue
5 unchanged. Upon reinstatement by Borrower, this Security Instrument and the
6 obligations secured hereby shall remain fully effective as if no acceleration had
7 occurred. However, this right to reinstate shall not apply in the case of acceleration
8 under **Section 21**.

9 b) Notwithstanding, Lender's right to invoke any remedies hereunder, as provided in
10 **Section 21**, Lender agrees that it will not commence foreclosure proceedings or accept a
11 deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has
12 given the Senior Lien Holder at least **sixty (60) days** prior written notice.

13 c) The Borrower and the Lender agree that whenever the Promissory Note or this Security
14 Instrument gives the Lender the right to approve or consent with respect to any matter
15 affecting the Property or otherwise, and a right of approval or consent with regard to the
16 same matter is also granted to the Senior Lien Holder pursuant to the First Deed of
17 Trust, the Senior Lien Holder's approval or consent or failure to approve or consent, as
18 the case may be, shall be binding on the Borrower and the Lender.

19 **18) Sale of Note; Change of Loan Servicer.** The Promissory Note or a partial interest in the
20 Promissory Note (together with this Security Instrument) may be sold one or more times
21 without prior notice to the Borrower. A sale may result in a change in the entity (known as
22 the "Loan Servicer") that may collect monthly payments under the Promissory Note and
23 Security Instrument. There also may be one or more changes of the Loan Servicer unrelated
24 to a sale of the Promissory Note. If there is a change in the Loan Servicer, Borrower will be
25 given written notice of the change in accordance with **Section 13** above and applicable law.
26 The notice will state the name and address of the new Loan Servicer and the address to
27 which payments, if any, should be made. The notice will also contain any other information
28 required by applicable law.

1 **19) No Assignment.** Until the loan secured by the First Deed of Trust has been satisfied in full,
2 Lender and the Borrower agree that the Promissory Note and the Security Instrument will
3 not be assigned without the Senior Lien Holder's prior written consent.

4 **20) Hazardous Substances.**

5 a) Borrower shall not cause or permit the presence, use, disposal, storage, or release of any
6 Hazardous Substances on or in the Property. Borrower shall not allow anyone else to do
7 anything affecting the Property that is in violation of any Environmental Law. The
8 preceding two sentences shall not apply to the presence, use, or storage on the Property
9 of small quantities of Hazardous Substances that are generally recognized to be
10 appropriate to normal residential uses and to maintenance of the Property.

11 b) Borrower shall promptly give Lender written notice of any investigation, claim, demand,
12 lawsuit or other action by any governmental or regulatory agency or private party
13 involving the Property and any hazardous substance or Environmental Law of which
14 Borrower has actual knowledge. If Borrower learns, or is notified by any governmental
15 or regulatory authority, that any removal or other remediation of any hazardous
16 substance affecting the Property is necessary, Borrower shall promptly take all necessary
17 remedial actions in accordance with Environmental Law. Prior to taking any such
18 remedial action, however, Borrower shall notify the Senior Lien Holder that such
19 remedial action is necessary and shall obtain the Senior Lien Holder's prior written
20 consent for such remedial action.

21 c) As used in this Section, "Hazardous Substances" are those substances defined as toxic or
22 hazardous substances by Environmental Law and the following substances: gasoline,
23 kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides,
24 volatile solvents, materials containing asbestos or formaldehyde, and radioactive
25 materials.

26 d) As used in this Section, "Environmental Law" means federal laws and the laws of the
27 jurisdiction where the Property is located that relate to health, safety and environmental
28 protection.

1 NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

2 **21) Acceleration; Remedies.**

- 3 a) Upon Borrower's breach of any covenant or agreement of Borrower in this Deed of
4 Trust, including the covenants to pay when due any sums secured by this Security
5 Instrument, Lender prior to acceleration shall give notice to Borrower as provided in
6 **Section 13** hereof specifying: (1) the breach; (2) the action required to cure such breach;
7 (3) a date, not less than **thirty (30)** days from the date of notice is mailed to Borrower
8 (and with respect to the Senior Lien Holder, **sixty (60) days** from the date the notice is
9 given to the Senior Lien Holder), by which such breach must be cured; and (4) that
10 failure to cure such breach on or before the date specified in the notice may result in
11 acceleration of the sums secured by this Security Instrument and sale of the Property.
12 The notice shall further inform Borrower of the right to reinstate after acceleration and
13 the right to bring a court action to assert the nonexistence of a default or any other
14 defense of Borrower to acceleration and sale. If the breach is not cured on or before the
15 date specified in the notice, and the Senior Lien Holder has not exercised its right to cure
16 the breach, then Lender, at Lender's option, may declare all of the sums secured by this
17 Security Instrument to be immediately due and payable without further demand and may
18 invoke the power of sale and acceleration of the sums secured by this Security
19 Instrument and sale of the Property.
- 20 b) Notwithstanding Lender's right to invoke any remedies hereunder, the Lender agrees
21 that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure,
22 or exercise any other rights or remedies hereunder until it has given the Senior Lien
23 Holder at least **sixty (60) days** prior written notice. Lender shall be entitled to collect all
24 expenses incurred in pursuing the remedies, including, but not limited to, reasonable
25 attorneys' fees and costs of title evidence.
- 26 c) If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a
27 written notice of the occurrence of an event of default and of Lender's election to cause
28 the Property to be sold and shall cause such notice to be recorded in each county in

1 which the Property or some part thereof is located. Lender or Trustee shall mail copies
2 of such notice in the manner prescribed by applicable law. Trustee shall give public
3 notice of sale to the persons and in the manner prescribed by applicable law. After the
4 lapse of such time as may be required by applicable law, Trustee, without demand on
5 Borrower, shall sell the Property at public auction to the highest bidder at the time and
6 place and under the terms designated in the notice of sale in one or more parcels and in
7 such order as Trustee may determine. Trustee may postpone sale of all or any parcel of
8 the Property by public announcement at the time and place of any previously scheduled
9 sale. Lender or Lender's designee may purchase the Property at any sale.

- 10 d) Trustee shall deliver to the purchaser Trustee's deed conveying the Property so sold
11 without any covenant or warranty, expressed or implied. The recitals in the Trustee's
12 deed shall be prima facie evidence of the truth of the statements made therein. Trustee
13 shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and
14 expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys'
15 fees and costs of title evidence; (b) to all sums secured by this Security Instrument; and
16 (c) the excess, if any, to the person or persons legally entitled thereto.

17 **22) Assignment of Rents; Appointment of Receiver; Lender in Possession.**

- 18 a) As additional security hereunder, Borrower hereby assigns to Lender the rents of the
19 Property, provided that Borrower shall, prior to acceleration or abandonment of the
20 Property, have the right to collect and retain such rents as they become due and payable.
21 b) Upon acceleration hereof or abandonment of the Property, Lender, in person, by agent or
22 by judicially-appointed receiver shall be entitled to enter upon, take possession of and
23 manage the Property and to collect the rents of the Property, including those past due.
24 All rents collected by Lender or the receiver shall be applied first to premiums on
25 receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this
26 Security Instrument. Lender and the receiver shall be eligible to account only for those
27 rents actually received.

28 **23) Reconveyances.** Upon payment of all sums secured by this Security Instrument, Lender

1 shall request Trustee to reconvey the Property and shall surrender this Security Instrument
2 and all notes evidencing indebtedness secured by this Security Instrument to the Trustee.
3 Trustee shall reconvey the Property without warranty and without charge to the person or
4 persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if
5 any.

6 **24) Substitute Trustee.** Lender, at Lender's option, may from time to time appoint a successor
7 trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by
8 Lender and recorded in the office of the recorder of the county where the Property is
9 located. The instrument shall contain the name of the original Lender, Trustee and
10 Borrower, the book and page where this instrument is recorded and the name and address of
11 the successor trustee. The successor trustee shall, without conveyance of the Property,
12 succeed to all the title, powers and duties conferred upon the Trustee herein and by
13 applicable law. This procedure for substitution of Trustee shall govern to the exclusion of all
14 other provisions for substitution.

15 **25) Modification of First Deed of Trust Loan Documents.** The Lender consents to any
16 agreement or arrangement in which the Senior Lien Holder waives, postpones, extends,
17 reduces or modifies any provisions of the First Deed of Trust documents, including
18 provisions requiring the payment of money.

19 //

20 //

21 //

22 END OF AGREEMENT

23 (SIGNATURES ON THE NEXT PAGE)

1 **BY SIGNING BELOW**, the Borrower accepts and agrees to the terms and covenants
2 contained in this Security Instrument.

3
4
5 **BORROWER**

6
7 _____
8 INSERT BORROWER'S FULL NAME DATE

9 _____
10 INSERT BORROWER'S FULL NAME DATE

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25 **(All Signatures Must Be Notarized)**

1 REQUEST FOR RECONVEYANCE

2 TO TRUSTEE:

3 The undersigned is the holder of the Note or Notes secured by this Security Instrument (Deed
4 of Trust). Said Promissory Note or Notes, together with all other indebtedness secured by this
5 Security Instrument (Deed of Trust), have been paid in full. You are hereby directed to cancel
6 said Promissory Note or Notes and this Security Instrument (Deed of Trust), which is delivered
7 hereby, and to reconvey, without warranty, all the estate now held by you under this Deed of
8 Trust to the person or persons legally entitled thereto.

9 Dated: _____
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CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA }

COUNTY OF _____ }

On _____, before me, _____
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Place Notary Seal Above

Signature _____
Signature of Notary Public

EXHIBIT C

REQUEST FOR NOTICE

NO FEE FOR RECORDING PURSUANT
TO GOVERNMENT CODE SECTION 6103

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

County of Riverside
Economic Development Agency
3403 10th St., Suite 500
Riverside, CA 92501
Attn: Der Xiong

SPACE ABOVE THIS LINE FOR RECORDERS USE

**REQUEST for NOTICE
UNDER SECTION 2924b CIVIL CODE**

In accordance with Civil Code, section 2924b, request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale under the Deed of Trust recorded as Instrument No. concurrent herewith, in book xxxxxx, page xxxxxx, Official Records of RIVERSIDE County, California, and describing land therein as

LEGAL DESCRIPTION

APN: APN NUMBER Property Commonly known as: PROPERTY ADDRESS

Executed by Buyer's name and vesting, as trustor in which County of Riverside, a Public Agency is named as Beneficiary, and County of Riverside, a Public Agency, as Trustee, be mailed to Riverside County Economic Development Agency – First Time Home Buyer Program at 3403 10th Street, Suite 500, Riverside, CA 92501.

NOTICE: A copy of any notice of default and of any notice of sale will be sent only to the address contained in this recorded request. If your address changes, a new request must be recorded.

Dated _____
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT
STATE OF CALIFORNIA
COUNTY OF RIVERSIDE} S.S.
On _____ before me,
_____ a Notary Public,
personally appeared Tom Fan who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal
Signature _____

RIVERSIDE COUNTY ECONOMIC DEVELOPMENT AGENCY

Tom Fan / Principal Development Specialist

(This area for official notarial seal)

Escrow or Loan No. FT-file no.

EXHIBIT D

PROHIBITION AGAINST CONFLICTS OF INTEREST

Prohibition Against Conflicts of Interest

§ 92.356 Conflict of interest.

(a) Applicability. In the procurement of property and services by participating jurisdictions, State recipients, and sub-recipients, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, apply. In all cases not governed by 24 CFR 85.36 and 24 CFR 84.42, the provisions of this section apply.

(b) Conflicts prohibited. No persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(c) Persons covered. The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the COUNTY, State recipient, or sub-recipient which are receiving HOME funds.

(d) Exceptions: Threshold requirements. Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME Investment Partnerships Program and the effective and efficient administration of the COUNTY's program or project. An exception may be considered only after the recipient has provided the following:

- (1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure

was made; and

- (2) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(e) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d) of this section, HUD shall consider the cumulative effect of the following factors, where applicable:

- (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
- (2) Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- (3) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;
- (4) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (c) of this section;
- (5) Whether undue hardship will result either to the COUNTY or the person affected when weighed against the public interest served by avoiding the prohibited conflict;
- (6) Any other relevant considerations.

(f) Owners/Participants and Developers.

- (1) No owner, developer, or sponsor of a project assisted with HOME funds (or officer, employee, agent or consultant of the owner, developer, or sponsor) whether private, for profit or non-profit (including a community housing development organization (CHDO) when acting as an owner, developer or sponsor) may occupy a HOME-

assisted affordable housing unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.

(2) Exceptions. Upon written request of owner or developer, the COUNTY may grant an exception to the provisions of paragraph (f)(1) of this section on a case-by-case basis when it determines that the exception will serve to further the purpose of the HOME program and the effective and efficient administration of the owner's or developer's HOME-assisted project. In determining whether to grant a requested exception, the COUNTY shall consider the following factors:

- (ii) Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- (iii) Whether the person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted housing in question;
- (iv) Whether the tenant protection requirements of § 92.253 are being observed;
- (v) Whether the affirmative marketing requirements of § 92.351 are being observed and followed; and
- (vi) Any other factor relevant to the COUNTY's determination, including the timing of the requested exception.

Community Development Block Grant

Policy Manual, I.D. # A-11

TOPIC: CONFLICT OF INTEREST CODED
RIVERSIDE COUNTY
ECONOMIC DEVELOPMENT AGENCY
DATE: MARCH 1999

This Conflict of Interest Code is written to comply with Federal Regulations (24 CFR Part 85). These Regulations. "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments" require that grantees and sub-grantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts.

- 1) No employee, officer, or agent of the grantee shall participate in the selection, in the award or in the administration of a contract supported by Federal Funds if a conflict of interest, real or apparent, would be involved.
- 2) Such a conflict will arise when:
 - i) The employee, officer or agent;
 - ii) Any member of the immediate family;
 - iii) His/her partners; or
 - iv) An organization which employs, or is about to employ any of the above has a financial or other interest in the firm's selection for award.
- 3) The grantee's or sub-grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to sub-agreements except as noted in Section 4.
- 4) A grantee's or sub-grantee's officers, employees or agents will be presumed to have a financial

interest in a business if their financial interest exceeds the following:

- i) Any business entity in which the official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.
 - ii) Any real property in which the official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.
 - iii) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the official within 12 months prior to the time when the decision is made.
 - iv) Any business entity in which the official is a director, officer, partner, trustee, employee, or holds any position of management.
 - v) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the official within 12 months prior to the time when the decision is made.
- 5) For purposes of Section 4, indirect investment or interest means any investment or interest owned by the spouse or dependent child of an official, by an agent on behalf of an official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or more.