

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



FROM : ECONOMIC DEVELOPMENT AGENCY (EDA)

SUBMITTAL DATE:
September 26, 2016

SUBJECT: Loan Agreement for the Use of Neighborhood Stabilization Program Funds for Madera Vista Apartments Phase 3 in the City of Temecula, District 3, [\$1,815,000], Neighborhood Stabilization Program Funds 100%, No Further CEQA Action Required

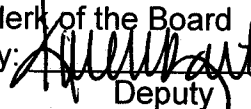
RECOMMENDED MOTION: That the Board of Supervisors:

1. Affirm that the environmental effects of the Loan Agreement For the Use of Neighborhood Stabilization Program Funds for Madera Vista Apartments Phase 3 (Project) will not have a significant effect on the environment. Any potential significant effects of the Project have been adequately analyzed and addressed by the City of Temecula, as Lead Agency, under Planning Application No. PA05-0235, formerly known as Silver Oaks, Initial Study/Mitigated Negative Declaration (MND) and the Mitigation Monitoring Program (MMP) filed on May 18, 2006 with the Riverside County Clerk's Office. Acting as a Responsible Agency, the County of Riverside Board of Supervisors has considered the MND/MMP pursuant to the California Environmental Quality Act (CEQA) and finds no substantial changes to the Project or circumstances under which the Project will be undertaken have occurred necessitating further environmental documentation;
2. Affirm the Finding of No Significant Impact adopted by the Board of Supervisors on July 14, 2009 and adoption of the Re-evaluation of Environmental Assessment on April 26, 2016 for the Project concluding that the Project is not an action which may affect the quality of the environment pursuant to the provisions of the National Environmental Policy Act of 1969 (NEPA) and under the implementing regulations at 24 CFR Parts 50 and 58;

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Benoit, seconded by Supervisor Washington and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley
Nays: None
Absent: None
Date: October 25, 2016
xc: EDA, Recorder

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

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RECOMMENDED MOTION: (Continued)

3. Approve the attached form of Loan Agreement For the Use of Neighborhood Stabilization Program Funds (Madera Vista Apartments Phase 3), including all attachments thereto, between the County of Riverside (County) and Summerhouse Housing 3, L.P., a California limited partnership, (NSP Loan Agreement) providing a loan derived from the Neighborhood Stabilization Program in an amount up to \$1,650,000 (NSP Loan), to be used for the final phase of a multi-family affordable rental housing project in the City of Temecula;
4. Approve the attached NSP Loan Deed of Trust, NSP Loan Promissory Note and Covenant Agreement;
5. Approve the allocation of approximately \$165,000 derived from Neighborhood Stabilization Program funds to be used to pay County staff related costs to the Project;

RECOMMENDED MOTION: (Continued)

6. Authorize the Assistant County Executive Officer/EDA, or designee, to execute the attached a NSP Loan Agreement and Covenant Agreement conforming in form and substance to the attached NSP Loan Agreement and Covenant Agreement, subject to approval by County Counsel;
7. Authorize the Assistant County Executive Officer/EDA, or designee, to execute a Subordination Agreement subordinating the NSP Loan Deed of Trust to a Deed of Trust for the benefit of Citibank, N.A., senior lender, securing a construction loan for the Project in an amount up to \$6,500,000, subject to approval by County Counsel;
8. Authorize the Assistant County Executive Officer/EDA, or designee, to take all necessary steps to implement the NSP Loan Agreement, including but not limited to, signing subsequent necessary and relevant documents, subject to approval by County Counsel; and
9. Direct EDA staff to file the Notice of Determination within five working days.

BACKGROUND:

Summary

On May 17, 2016, the Board of Supervisors approved Resolution No. 2016-110 (i) allocating up to \$1,650,000 in funds (NSP Loan) derived from the federal Neighborhood Stabilization Program (NSP) subject to the satisfaction of certain conditions contained therein, and (ii) supporting the submission of a low income housing tax credit application by Summerhouse Housing 3, L.P., a California limited partnership (Partnership), to the California Tax Credit Allocation Committee (CTCAC) for Madera Vista Apartments Phase 3, a 30-unit multi-family affordable rental housing complex located in the City of Temecula (Project).

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The Project was awarded 4% tax credits by CTCAC and staff recommends that the Board approve the attached proposed Loan Agreement For the Use of Neighborhood Stabilization Program Funds (Madera Vista Apartments Phase 3) (NSP Loan Agreement) between the County of Riverside (County) and Partnership to formalize the County's funding contribution of the NSP Loan to the Project since all of the conditions to funding set forth in Resolution No. 2016-110 have been satisfied.

The Project is located at 44155 Margarita Road, Temecula, California identified as Assessor's Parcel Number 959-080-033 (Project Site). The Project is the third and final phase of a 110-unit development; Phase 1 consisted of 20 units completed in January 2011 and Phase 2 consisted of 60 units completed in June 2014, both of which did not receive financial assistance from the County and are currently in operation. The total size of the Property Site is approximately 6.8 acres. The Project will utilize approximately 1.18 of the 6.8 acres. The Project will be comprised of 3 one-bedroom units, 14 two-bedroom units, and 13 three-bedroom units. The one-bedroom units are approximately 756 square-feet, the two-bedroom units are approximately 990 square-feet and the three-bedroom units are approximately 1,161 square-feet. A total of 8 units will be restricted to households with incomes that do not exceed 50% of the Riverside County Area Median Income for a period of 55 years. Phases 1 and 2 and the Proposed Project will be owned by separate limited partnerships that share the same general partner, BRIDGE SC, LLC, a California limited liability partner. This structure was established for tax credit purposes. Phase 1, 2 and the Project will have common property management and share use of all site amenities including community buildings, laundry facilities and swimming pool. The owners of Phases 1 and 2 and the Project will enter into a joint use agreement to allow tenants to enjoy all site common areas and amenities.

The total development cost for the Project is estimated at \$9,320,000. All the conditions precedent to funding the \$1,650,000 NSP Loan by the County set forth in Resolution No. 2016-110 have been satisfied and staff is recommending approval of the NSP Loan to the Partnership. The NSP Loan and a Citibank construction loan in an amount up to \$6,500,000 will be utilized to finance construction of the Project. The Citibank construction loan will be repaid by permanent financing for the Project which includes an estimated \$1,501,000 tax exempt permanent loan from Citibank, an estimated \$3,720,461 limited partner tax credit investor equity contribution, a General Partner Equity/Deferred Developer Fee in the amount of \$767,100, a \$900,000 Citibank conventional loan, and a \$721,345 land acquisition loan from the City of Temecula. Additionally, the Partnership was awarded 7 Housing Choice Voucher Program (HCVP) Project Based Vouchers (PBVs) through a competitive Request for Proposals released by the Housing Authority of the County of Riverside on August 26, 2015.

Staff recommends allocation of NSP funds for the Project to pay a portion of the development costs and direct project staffing costs in an amount not to exceed 10% of the total NSP funds approved for the project as follows:

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Madera Vista Apartments Phase 3	\$1,650,000	NSP Project Funding
<u>Madera Vista Apartments Phase 3</u>	<u>\$ 165,000</u>	<u>Direct Staffing Cost (10%)</u>
Total	\$1,815,000	

The construction and permanent lender for the Project, Citibank, N.A. (Senior Lender) requires, as a condition precedent to the funding of its loans, that the County NSP Loan is subordinated to their construction lien. Subordination of the County NSP Loan is necessary since an economically feasible alternative method of financing the project on comparable terms is not available without subordination. As a result of such subordinations, the County's NSP Loan will be in a second priority lien position junior to the Senior Lender loan. All subordination agreements shall be approved as to form by County Counsel.

On July 14, 2009, the Board of Supervisors adopted a Finding of No Significant Impact (2009 EA) for the Proposed Project and concluded that the Proposed Project is not an action which may affect the quality of the environment pursuant to the provisions of the National Environmental Policy Act of 1969 (NEPA) and under the implementing regulations at 24 CFR Parts 50 and 58. On April 26, 2016, the Board of Supervisors adopted a Re-evaluation of Environmental Assessment which re-evaluated the 2009 EA in accordance with 24 CFR Part 58.47 to account for: a decrease in units from 110 units to 30 units; a decrease in funding from \$2,500,000 in NSP funds to \$1,000,000 in NSP funds; a decrease in the estimated total project budget from \$25,000,000 to approximately \$9,600,000; and addition of seven Housing Choice Voucher Program (HCVP) Project Based Vouchers. The Riverside County Economic Development Agency (EDA) re-evaluated the 2009 EA in accordance with 24 CFR Part 58.47 to account for changes to the proposed project. EDA concluded that all environmental factors considered in the 2009 EA are still valid. Therefore, no new environmental review is required for the proposed NSP Loan Agreement pursuant to NEPA.

Staff recommends the County Board of Supervisors affirm that the environmental effects of the NSP Loan Agreement for Madera Vista Apartments Phase 3 will not have a significant effect on the environment. Any potential significant effects of the Project have been adequately analyzed and addressed by the City of Temecula, as Lead Agency, under Planning Application No. PA05-0235, formerly known as Silver Oaks, Initial Study/Mitigated Negative Declaration (MND) and the Mitigation Monitoring Program (MMP) filed on May 18, 2006 with the Riverside County Clerk's Office. Acting as a Responsible Agency, the County of Riverside Board of Supervisors has considered the MND/MMP pursuant to the California Environmental Quality Act (CEQA) and finds no substantial changes to the Project or circumstances under which the Project will be undertaken have occurred necessitating further environmental review.

Staff recommends that the Board of Supervisors approve the NSP Loan Agreement, NSP Loan Deed of Trust, NSP Loan Promissory Note and Covenant Agreement. Staff further recommends that the Board of Supervisors authorize the Assistant County Executive Officer/EDA, or designee, to execute subordination agreements, as a required condition to the

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Senior Lender financing, subordinating the NSP Loan Deed of Trust to a Deed of Trust for the benefit of the Senior Lender, subject to County Counsel approval.

Impact of Residents and Businesses

Approving this item will have a positive impact on the citizens and businesses in the County of Riverside. The Proposed Project is expected to generate construction, permanent maintenance and property management jobs, and provide affordable housing for residents of the County of Riverside. The use of NSP funds and Project Based Vouchers requires federal Davis Bacon prevailing wages to be paid to the majority of workers, laborers, and mechanics for the project.

SUPPLEMENTAL:

Additional Fiscal Information

No impact upon the County's General Fund; the County's contribution to the Proposed Project will be fully funded with federal Neighborhood Stabilization Program (NSP1) funds from the U.S. Department of Housing and Urban Development.

Attachment:

- A. Form of Loan Agreement for Use of NSP funds, including all exhibits
- B. Form of Deed of Trust and Promissory Note
- C. Form of Covenant Agreement
- D. Notice of Determination

RF:JW:HM:JA:JG:MM:mr

13328 MT # 1856

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

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

6 RECORDING REQUESTED BY AND
7 WHEN RECORDED MAIL TO:

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

13 SPACE ABOVE THIS LINE FOR RECORDERS USE

14 LOAN AGREEMENT FOR THE USE OF
15 NEIGHBORHOOD STABILIZATION PROGRAM FUNDS
16 (Madera Vista Apartments Phase 3)

17 This Loan Agreement for the Use of Neighborhood Stabilization Program funds
18 (“Agreement”) is made and entered into this ____ day of _____, 2016 by and
19 between the COUNTY OF RIVERSIDE, a political subdivision of the State of California
20 (“COUNTY”) and Summerhouse Housing 3, L.P., a California limited partnership
21 (“BORROWER”). The COUNTY and BORROWER may be individually referred to herein as
22 a “Party” and collectively as the “Parties.”

23 WITNESSETH:

24 WHEREAS, the Neighborhood Stabilization Program (“NSP1”), which was
25 enacted under Title III of Division B of the Housing and Economic Recovery Act of 2008
26 (“HERA”) and appropriated under Community Development Block Grant (CDBG), was
27 created under the heading of Emergency Assistance for Redevelopment of Abandoned and
28 Foreclosed Homes for the purpose of assisting in the redevelopment of abandoned or
foreclosed homes. The intent of NSP1 is to stabilize neighborhoods in areas with greatest need
and stem the decline of house values of neighboring homes;

WHEREAS, COUNTY has qualified as an “Urban County” for purposes of
receiving CDBG funds, including NSP1 funds, which are to be used to assist and undertake
essential community development and housing assistance activities pursuant to the Housing

1 and Economic Recovery Act of 2008, Title III of Division B, as amended, Public Law 110-289
2 (“Act”);

3 WHEREAS, BORROWER is eligible under NSP1 to apply and receive NSP1
4 funds to perform those activities described herein;

5 WHEREAS, BORROWER’s administrative general partner is BRIDGE SC, LLC,
6 a California limited liability company whose sole member/manager is BRIDGE Housing
7 Corporation – Southern California, a California nonprofit public benefit corporation organized
8 to provide housing for low income persons. BORROWER’s initial limited partner is BRIDGE
9 Regional Partners Inc., a California non-profit public benefit corporation;

10 WHEREAS, BORROWER has proposed to utilize NSP1 funds to develop and
11 construct a multi-family affordable rental housing project consisting of thirty (30) rental units
12 including one (1) residential manager’s unit (“Project”) on real property located on
13 approximately 1.18 acres of vacant land located at 44155 Margarita Road, Temecula,
14 California 92592 also identified as APN 959-080-033 as more specifically described in the
15 legal description and depicted on the site map attached hereto as **Exhibit A** and incorporated
16 herein by this reference (“Property”);

17 WHEREAS, a total of eight (8) units will be reserved as NSP1 assisted units
18 restricted to households whose incomes do not exceed 50% of the Riverside County Area
19 Median Income (“NSP1-Assisted Units”);

20 WHEREAS, construction of the Project is within a designated target area of the
21 County of Riverside as defined in the COUNTY’s 2008-2009 One Year Action Plan (“Action
22 Plan”) including its amendments;

23 WHEREAS, the purpose of this Agreement is, among other things, for COUNTY
24 to reserve and commit up to One Million Six Hundred Fifty Thousand Dollars (\$1,650,000) of
25 NSP1 funds, to provide financial assistance to BORROWER to pay a portion of development
26 and construction costs related to the Project, as more fully described herein; and

27 WHEREAS, funding for development and construction activities described
28 herein complies with NSP-eligible use E, redevelopment of demolished or vacant properties,

1 pursuant to NSP1 regulations set forth under Federal Register Notice, Vol. 73, No. 194, Docket
2 No. FR-5255-N-01, dated October 6, 2008, as amended, and is consistent with the
3 COUNTY's Consolidated Plan.

4 NOW, THEREFORE, based upon the foregoing Recitals and for good and
5 valuable consideration, the receipt and sufficiency of which is acknowledged by all Parties, the
6 COUNTY and BORROWER hereby agree as follows:

7 1. PURPOSE. The aforementioned Recitals are true and correct and
8 incorporated herein by this reference. COUNTY has agreed to lend no more than a total of
9 One Million Six Hundred Fifty Thousand Dollars (\$1,650,000) in NSP1 funds ("NSP1 Loan")
10 to BORROWER upon the satisfaction of the terms and conditions set forth herein, including
11 but not limited to the conditions precedent to distribution of NSP1 Loan funds set forth in
12 **Section 11** below. Subject to **Sections 49** and **50** below, BORROWER shall undertake and
13 complete the NSP1 activities required herein and as set forth in **Exhibit A**, and shall utilize the
14 NSP1 Loan funds, as required herein and pursuant to the NSP1 regulations. A total of 8 units
15 consisting of 1 one-bedroom, 4 two-bedroom, and 3 three-bedroom shall be reserved as NSP1-
16 Assisted Units. During the Affordability Period (as defined in **Section 14** below), the NSP1-
17 Assisted Units shall be rented to and occupied by Qualified Very Low Income Households for
18 an affordable rent pursuant to **Sections 18 and 19** below, **Exhibit A** and the Covenant
19 Agreement attached hereto as **Exhibit G** and incorporated herein by this reference.

20 2. BORROWER'S OBLIGATIONS. Upon the commencement of the
21 Effective Date (defined in **Section 56** below), BORROWER hereby agrees to undertake and
22 complete the following activities within the time periods set forth herein and in **Exhibit A**:

- 23 a. Satisfy the conditions precedent to distribution of NSP1 Loan funds
24 set forth in **Section 11** below.
- 25 b. Develop the Project in accordance with the timeline set forth in
26 **Exhibit A**.
- 27 c. Operate the Project in such a manner so that it will remain affordable
28 to Qualified Very Low Income Households for the Affordability

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Period as defined in **Section 14** below without regard to (i) the term of the promissory note or (ii) transfer of ownership.

- d. Maintain the Project in compliance with applicable local, state, federal laws, codes and regulations as further described in **Section 17** below until the expiration of the Term of Agreement set forth in **Section 6** below and the Affordability Period set forth in **Section 14** below.
- e. Provide the COUNTY the Data Universal Number as assigned by the Data Universal Number System (DUNS) assigned to BORROWER as required by the Federal Funding Accountability and Transparency Act of 2006.
- f. Cooperate with the Riverside County Work Force Development Center (WDC) and post all jobs created, if any, as a result of this Project with the WDC. Evidence of posted jobs, if any, shall be submitted to the COUNTY prior to start of construction.

3. Reserved.

4. NSP1 Loan. Subject to BORROWER's satisfaction of the conditions precedent to disbursement of the NSP1 Loan set forth in **Section 11** below, COUNTY shall provide financing to Borrower in the form of a loan pursuant to the following terms and conditions:

- a. Term of NSP1 Loan. The maturity date of the NSP1 Loan amount shall be the later to occur of (i) July 1, 2073 or (ii) fifty-five (55) years from the recordation of the Notice of Completion in the Official Records for the last building for which construction is completed for the Project (the "NSP1 Loan Term"). The term, "Official Records" used herein shall mean the Official Records of the Recorder's Office of the County of Riverside.
- b. Principal. The total amount of the NSP1 Loan shall not exceed

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\$1,650,000, and shall be evidenced by a Promissory Note, substantially conforming in form and substance to the Promissory Note attached hereto as **Exhibit C** and incorporated herein by this reference (“NSP1 Note”), which note shall be secured by a Deed of Trust with Assignment of Rents, substantially conforming in form and substance to the Deed of Trust with Assignment of Rents attached hereto as **Exhibit B** and incorporated herein by this reference (“NSP1 Deed of Trust”).

c. Interest. The interest rate shall be three percent (3%) simple interest per annum.

d. Repayment. The terms of the NSP1 Note shall be as follows:

1. That the NSP1 Loan will accrue simple interest at a rate of three percent (3%) per annum, except in the case of an event of default as hereinafter provided wherein a higher default interest rate shall apply as more specifically set forth in the Promissory Note, and shall be repaid on an annual basis from the Project’s Residual Receipts (defined in **Section 4(d)(4)** below). Interest will begin to accrue 30 days from the recordation of the Notice of Completion in the Official Records.

2. The NSP1 Note shall be repaid to COUNTY as follows:

i) Fifty percent (50%) of the Project’s Residual Receipts shall be used towards the payment of the loans secured by the Project, including a deed of trust for the benefit of Citibank, N.A. securing a permanent loan for the Project in an amount up to \$1,750,000; a deed of trust for the benefit the City of Temecula securing the land loan for the Project

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in an amount up to \$721,345; and a deed of trust for the benefit of the County of Riverside securing this NSP1 Loan in an amount of \$1,650,000 (“Residual Receipts Loans”). The payment shall be prorated based on the percentage of each respective loan amount based upon the total amount of all such loans, until the NSP1 Note is repaid in full; and

ii) The remaining fifty percent (50%) of the Project’s Residual Receipts will be paid to BORROWER.

3. The Project’s Residual Receipts shall be determined based on an annual review of certified financial statements for the Project. Annual audited financial statements shall be submitted by BORROWER to COUNTY within one hundred twenty (120) days following the close of the project fiscal year commencing on April 1st of the first full calendar year following the recordation of the Notice of Completion. All outstanding principal along with accrued interest shall be due upon the expiration of the NSP1 Loan Term as set forth in **Section 4(a)**. The first payment from BORROWER to COUNTY shall be due on July 1st in the first full calendar year following the date of the recordation of the Notice of Completion, to the extent of available Residual Receipts, as set forth herein. Subsequent payments shall be made on July 1st thereafter to the extent of available Residual Receipts until the earlier of full repayment of the NSP1 Loan or the NSP1 Loan maturity date as set forth above.

4. The term “Project’s Residual Receipts” as used herein shall

1 mean gross receipts, not including interest on required reserve
2 accounts, less the following:

- 3 i) auditing and accounting fees;
- 4 ii) a reasonable property management fee not to
5 exceed \$55 per unit per month, increased annually
6 by an amount equal to the increase in the
7 Consumer Price Index for Los Angeles-Riverside-
8 Orange County, CA area ("CPI"), provided,
9 however, that in the event of a decrease in the CPI,
10 the property management fee shall remain the
11 same as the immediate preceding year;
- 12 iii) operating expenses (any expense reasonably and
13 normally incurred in carrying out the Project's
14 day-to-day activities, which shall include
15 administration, on-site management, utilities, on-
16 site staff payroll, payroll taxes, and maintenance);
- 17 iv) replacement reserves, established in a separate
18 account from operating reserves, limited to \$400
19 per unit for all units in the Project, as defined in
20 **Exhibit A**, increased annually by an amount equal
21 to the increase in CPI;
- 22 v) Operating Reserves in an amount up to \$25,000;
- 23 vi) deferred developer's fee;
- 24 vii) payments of principal and interest on amortized
25 loans and indebtedness senior to the NSP1 Loan,
26 which have been approved by COUNTY
27 (collectively, the "Senior Debt"); and
- 28 viii) COUNTY's Annual Monitoring Fee in the total

1 annual amount of \$3,000 increased annually by an
2 amount equal to the increase of the Consumer
3 Price Index (CPI), as more specifically discussed
4 in **Section 29**.

5 5. Security. The NSP1 Deed of Trust and this Agreement shall be in
6 a third priority position. Lien priority shall be as follows: (1) deed
7 of trust for the benefit of Citibank, N.A. securing a construction
8 loan for the Project in an amount up to \$6,500,000; (2) deed of
9 trust for the benefit of Citibank, N.A. securing a permanent loan
10 for the Project in an amount up to \$1,750,000; and (3) NSP1 Deed
11 of Trust for the benefit of COUNTY securing the NSP1 Loan and
12 the terms of this Agreement in third priority position junior to the
13 above deeds of trust from Citibank, N.A. ("Senior Loan" or
14 "Senior Loans"). Borrower shall cause the Senior Loans or any
15 other COUNTY approved senior lender to execute and record in
16 the Official Records, a Subordination Agreement, substantially in
17 a form and of substance approved by the COUNTY, which,
18 among other things, grants the COUNTY notice and opportunity
19 to cure events of default under the Senior Loan documents.

20 e. Prepayment. Prepayment of principal and/or interest under the NSP1
21 Note may occur at any time without penalty; provided, however (i)
22 the requirements of **Section 17**, Compliance with Laws and
23 Regulations, shall remain in full force and effect for the term of the
24 Agreement specified in **Section 6** below; and (ii) the affordability
25 requirements set forth in the Covenant Agreement, attached hereto as
26 **Exhibit G**, shall remain in effect until the expiration of the
27 Affordability Period.

28 5. PRIOR COUNTY APPROVAL.

1 a. Except as otherwise expressly provided in this Agreement,
2 approvals required of COUNTY or BORROWER in this Agreement, including the attachments
3 hereto, shall not be unreasonably withheld or delayed. All approvals shall be in writing.
4 Failure by either party to approve a matter within the time provided for approval of the matter
5 shall not be deemed disapproval, and failure by either party to disapprove a matter within the
6 time provided for approval of the matter shall not be deemed an approval.

7 b. Except as otherwise expressly provided in this Agreement,
8 approvals required of the COUNTY shall be deemed granted by the written approval of the
9 Assistant County Executive Officer for the Economic Development Agency or designee
10 (“Assistant CEO/EDA”). Notwithstanding the foregoing, the Assistant CEO/EDA may, in his
11 or her sole discretion, refer to the governing body of the COUNTY any item requiring
12 COUNTY approval; otherwise, “COUNTY approval” means and refers to approval by the
13 Assistant CEO/EDA or designee.

14 c. The Assistant CEO/EDA or designee shall have the right to make
15 non-substantive changes to the attachments to this Agreement in order to ensure that all such
16 attachments are consistent with the terms and provisions of this Agreement.

17 6. TERM OF AGREEMENT. This Agreement shall become effective upon
18 the Effective Date, as defined in **Section 56** below, and unless terminated earlier pursuant to
19 the terms hereof, shall continue in full force and effect until the later to occur of (i) July 1,
20 2073 or (ii) fifty-five (55) years from the recordation of the Notice of Completion in the
21 Official Records for the last building for which rehabilitation is completed for the Project
22 (“Term of Agreement”).

23 7. BORROWER’S REPRESENTATIONS. BORROWER represents and
24 warrants to COUNTY as follows:

25 a. Authority. BORROWER is a duly organized limited partnership
26 in good standing under the laws of the State of California. The
27 copies of the documents evidencing the organization of
28 BORROWER, which have been delivered to COUNTY, are true

1 and complete copies of the originals, amended to the date of this
2 Agreement. BORROWER has full right, power and lawful
3 authority to enter into this Agreement and accept the loan of
4 NSP1 Loan funds and undertake all obligations as provided
5 herein. The execution, performance and delivery of this
6 Agreement by BORROWER have been fully authorized by all
7 requisite actions on the part of BORROWER.

8 b. No Conflict. To the best of BORROWER's knowledge,
9 BORROWER's execution, delivery and performance of its
10 obligations under this Agreement will not constitute a default or a
11 breach under contract, agreement or order to which BORROWER
12 is a party or by which it is bound.

13 c. No Bankruptcy. BORROWER is not the subject of a bankruptcy
14 proceeding.

15 d. Prior to Closing. BORROWER shall upon learning of any fact or
16 condition which would cause any of the warranties and
17 representations in this **Section 7** not to be true as of Closing,
18 immediately give written notice of such fact or condition to
19 COUNTY. Such exception(s) to a representation shall not be
20 deemed a breach by BORROWER hereunder, but shall constitute
21 an exception which COUNTY shall have the right to approve or
22 disapprove if such exception would have an effect on the value
23 and/or operation of the Project Site.

24 8. COMPLETION SCHEDULE. BORROWER shall proceed consistent
25 with the implementation schedule ("Implementation Schedule") set forth in **Exhibit A**, (as
26 such schedule may be amended pursuant to **Section 10**) and subject to Force Majeure Delays,
27 as defined in **Section 9**.

28 9. FORCE MAJEURE DELAYS. "Force Majeure" or "Force Majeure

1 Event” means any of the following events, provided that it actually delays and interferes with
2 the timely performance of the matter to which it applies and despite the exercise of diligence
3 and good business practices is or would be beyond the reasonable control of the party claiming
4 such interference: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires;
5 casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight
6 embargoes; lack of transportation; governmental restrictions or priority; litigation including
7 litigation challenging the validity of this transaction or any element thereof; unusually severe
8 weather; inability to secure necessary labor, materials or tools; acts of the other party; acts or
9 failure to act of any Governmental Authority (except acts or failure to act of the COUNTY
10 shall not excuse performance by the COUNTY); or the imposition of any applicable
11 moratorium by a Governmental Authority; or any other causes which despite the exercise of
12 diligence and good business practices are or would be beyond the reasonable control of the
13 party claiming such delay and interference. Notwithstanding the foregoing, none of the
14 foregoing events shall constitute a Force Majeure Event unless and until the party claiming
15 such delay and interference delivers to the other party written notice describing the event, its
16 cause, when and how such party obtained knowledge of the event, the date the event
17 commenced, and the estimated delay resulting therefrom. Any party claiming a Force Majeure
18 Delay shall deliver such written notice within fifteen (15) days after it obtains actual
19 knowledge of the event.

20 “Force Majeure Delay” means any delay in taking any action required by this
21 Agreement, proximately caused by the occurrence of any Force Majeure Event.

22 10. EXTENSION OF TIME. COUNTY may grant an extension to the
23 Implementation Schedule set forth in **Exhibit A** for the purpose of completing BORROWER's
24 activities which cannot be completed as outlined in **Exhibit A**. BORROWER shall request
25 said extension in writing, stating the reasons therefore, which extension must be first approved
26 in writing by the COUNTY in its reasonable discretion. The Assistant CEO/EDA or designee,
27 on behalf of the COUNTY and without referring such matter to the County’s Board of
28 Supervisor’s may extend all pending deadlines in the Implementation Schedule on two (2) or

1 fewer occasions, so long as the aggregate duration of such administrative time extensions is no
2 greater than ninety (90) days. Every term, condition, covenant, and requirement of this
3 Agreement shall continue in full force and effect during the period of any such extension.

4 11. CONDITIONS PRECEDENT TO DISTRIBUTION OF NSP1 LOAN
5 FUNDS. COUNTY, through its Economic Development Agency (“EDA”), shall: (1) make
6 payments of the NSP1 Loan funds to BORROWER as designated in **Exhibit A** subject to
7 Borrower’s satisfaction of the conditions precedent set forth below, and (2) monitor the Project
8 to ensure compliance with applicable federal regulations and the terms of this Agreement.
9 COUNTY shall not disburse any NSP1 Loan funds pursuant to this Agreement until the
10 following conditions precedent have been satisfied:

- 11 a. BORROWER executes this Agreement and delivers to COUNTY for
12 recordation in the Official Records;
- 13 b. Borrower submits written evidence to COUNTY that Borrower has
14 obtained sufficient financing commitments necessary to undertake the
15 acquisition and rehabilitation of the project as required herein;
- 16 c. BORROWER provides COUNTY with the Data Universal Number
17 as assigned by the Date Universal Number System assigned to
18 Borrower as required by the Federal Accountability and Transparency
19 Act of 2006;
- 20 d. BORROWER provides COUNTY with evidence of insurance as
21 required herein;
- 22 e. BORROWER executes the NSP1 Deed of Trust, substantially
23 conforming in form and substance to the Deed of Trust with
24 Assignment of Rents attached hereto as **Exhibit B**, in recordable
25 form, and delivers such document to the County of Riverside for
26 recordation in the Official records;
- 27 f. BORROWER executes the NSP1 Note, substantially conforming in
28 form and substance to the Promissory Note attached hereto as **Exhibit**

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C and delivers to COUNTY;

- g. BORROWER executes the Covenant Agreement, substantially conforming in form and substance to the Covenant Agreement attached hereto as **Exhibit G** and incorporated herein by this reference, in recordable form, and delivers to the County of Riverside for recordation in the Official Records;
- h. COUNTY executes and records the Request for Notice of Default conforming in form and substance to **Exhibit I** attached hereto;
- i. BORROWER provides, at its expense, an ALTA lender's policy in favor of COUNTY, insuring the NSP1 Deed of Trust as a fourth priority lien against the Property junior only to the Senior Loans identified in **Section 4(d)(5)**;
- j. BORROWER provides satisfactory evidence that it has all the financing documents required to cause the proceeds of the Senior Loans, when combined with the NSP1 Loan, to pay for all development and construction costs for the Project;
- k. BORROWER is not in default under the terms of this Agreement or any other agreement related to the financing of the Project;
- l. BORROWER submits evidence that all jobs created, if any, as a result of this project shall be posted with the Riverside County Workforce Development Center (WDC);
- m. BORROWER provides satisfactory evidence that it has secured any and all land use entitlements, permits, approvals which may be required for construction of the Project pursuant to the applicable rules and regulations of COUNTY, or any other governmental agency affected by such construction work. BORROWER shall, without limitation, secure all entitlement, change of zone, lot line adjustment, any and all necessary studies required including but not limited to

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archaeological, cultural, environmental, traffic studies and lead-based paint surveys, as applicable, and required, and pay all costs, charges and fees associated therewith, all conditions precedent to the issuance of all permits necessary for the construction of the Project and all such permits are available for issuance, other than payment of fees;

- n. BORROWER provides duly executed documents and instruments evidencing that BORROWER owns fee title to the Property;
- o. BORROWER consults and complies with concerned Native American tribes pursuant to Section 106 requirements, including entering into a Native American monitoring agreement, and if necessary, a cultural resource treatment and disposition agreement;
- p. If Davis Bacon and/or prevailing wages are required to be paid, BORROWER hires a qualified professional firm to review and monitor Davis Bacon and/or prevailing wage compliance for all submissions of contractors certified payrolls to COUNTY. In the event that the Project requires prevailing wages, BORROWER shall comply with any applicable labor regulations and all other State laws in connection with the construction of the improvements which compromise the Project, including if applicable, requirements relating to prevailing wages. BORROWER agrees and acknowledges that it is the responsibility of BORROWER to obtain legal determination, at BORROWER's sole cost and expense, as to whether prevailing wages must be paid during the construction of the Project. If the Project is subject to prevailing wage, then BORROWER shall be solely responsible to pay its contractors and subcontractors the required prevailing wage rates. BORROWER agrees to indemnify, defend, and hold COUNTY harmless from and against any and all liability arising out of and related to BORROWER's failure to

1 comply with any and all applicable Davis Bacon and/or prevailing
2 wage requirements;

3 q. Pursuant to 24 CFR, Part 5, BORROWER agrees to verify that
4 BORROWER, and its principals, or any/all persons, contractors,
5 consultants, businesses, etc. ("Developer Associates"), that
6 BORROWER is conducting business with, are not presently debarred,
7 proposed for debarment, suspended, declared ineligible, or voluntarily
8 excluded from participation or from receiving federal contracts or
9 federally approved subcontracts or from certain types of federal
10 financial and nonfinancial assistance and benefits with the Excluded
11 Parties Listing System ("EPLS"). EPLS records are located at
12 www.sam.gov; and

13 r. BORROWER shall search and provide a single comprehensive list of
14 Developer Associates (individuals and firms) and print and maintain
15 evidence of the search results of each Developer Associate as
16 verification of compliance with this requirement as provided in
17 **Exhibit I**, Contractor Debarment Certification Form, which is
18 attached hereto and by this reference incorporated herein.

19 COUNTY shall retain ten percent (10%) of the total NSP1 Loan amount and
20 release final draw down of NSP1 funds until COUNTY receives all of the following:

- 21 1) Conditional lien release from general contractor;
- 22 2) recorded Notice of Completion;
- 23 3) Permanent Certificate of Occupancy;
- 24 4) architect certification identifying units that are accessible
25 to individuals with mobility impairments and units that are
26 accessible to individuals with sensory impairments in
27 compliance with Section 504 of the Rehabilitation Act of
28 1973, as described in **Section 17(i)**;

- 1 5) final Contract and Subcontract Activity report, Minority
- 2 Business Enterprise/Women Business Enterprise
- 3 (“MBE/WBE”) report, HUD form 2516;
- 4 6) submission of documentation that shows compliance with
- 5 the Uniform Relocation Assistance and Real Property
- 6 Acquisition Policies Act of 1970 and 24 CFR Part 42;
- 7 7) submission of a Project completion report including
- 8 Tenant Checklist as shown in **Exhibit F** which is attached
- 9 hereto and by this reference incorporated herein;
- 10 8) Affirmative Fair Housing Marketing Plan – Multifamily
- 11 Housing, HUD form 935.2A, as described in **Section**
- 12 **17(c)**;
- 13 9) Tenant Selection Policy;
- 14 10) Management Plan;
- 15 11) Certified statement of final development costs; and
- 16 12) Certified statement of final sources and uses of funds for
- 17 the project.

18 12. REALLOCATION OF FUNDS. If Borrower fails to meet (1) the
19 Construction Start Deadline as set forth in **Section 49(a)**, (2) the Completion Deadline as set
20 forth in **Section 49(b)**, (3) the Lease Deadline as set forth in **Section 19(b)**, or (4) the Project
21 Financing Contingency in **Section 50**, all of which are herein (collectively, the “Performance
22 Deadlines”), subject to the notice and cure periods set forth in **Section 32** herein, then the
23 NSP1 Loan funds allocated, reserved, or placed in a NSP1 account pursuant to this Agreement
24 may be reallocated by COUNTY after at least thirty (30) days’ prior written notice is given to
25 BORROWER. Upon such reallocation and repayment of funds, this Agreement shall be
26 terminated and be of no further force and effect and Borrower shall be released and discharged
27 from any obligations under this Agreement, except as to those obligations which by their terms
28 survive termination of this Agreement.

1 13. DISTRIBUTION OF FUNDS. The Disaster Recovery Grant Reporting
2 (DRGR) system was developed by HUD's Office of Community Planning and Development
3 and will be utilized for NSP1. The DRGR system is a computerized system which manages,
4 disburses, collects, and reports information on the use of NSP1 funds in the United States
5 Treasury Account. Disbursement of NSP1 funds shall occur upon the satisfactory receipt of
6 copies of invoices and conditional (upon receipt of payment) lien releases for construction
7 costs to be paid with the proceeds of the NSP1 Loan. Any disbursement of funds is expressly
8 conditioned upon the satisfaction of conditions set forth herein, including, but not limited to the
9 conditions set forth in **Section 11** above. Subject to the satisfaction of the required conditions
10 precedent, COUNTY shall disburse to BORROWER the sum specified in **Section 1** above on a
11 "cost-as-incurred" basis for all eligible approved costs under itemized schedule shown in
12 **Exhibit A** as follows:

- 13 a. Up to ninety percent (90%) of the NSP1 Loan shall be disbursed
14 at the commencement of construction.
- 15 b. COUNTY shall release and disburse the final draw down of ten
16 percent (10%) of the NSP1 Loan, including the deferred
17 developer fee (should the Project have unexpended NSP1 funds)
18 following receipt of all of the items listed in **Section 11**.

19 14. TERMS OF AFFORDABILITY. The COUNTY NSP1-Assisted Units
20 shall remain occupied and rented by Qualified Very Low Income Households for an affordable
21 rent pursuant to **Sections 18 and 19** below, **Exhibit A** and the Covenant Agreement attached
22 hereto as **Exhibit G** until the later of (i) fifty-five (55) years from the recordation of the Notice
23 of Completion in the Official Records for the last building for which construction is completed
24 for the Project, or (ii) July 1, 2073 ("Affordability Period").

25 15. INSURANCE. Without limiting or diminishing BORROWER'S
26 obligation to indemnify or hold COUNTY harmless, BORROWER shall procure and maintain,
27 at its sole cost and expense, the following insurance coverage's during the Term of Agreement.

- 28 a. Builder's All Risk (Course of Construction) Insurance.

1 BORROWER shall provide a policy of Builder's All Risk
2 (Course of Construction) insurance coverage including (if the
3 work is located in an earthquake or flood zone or if required on
4 financed or bond financing arrangements) coverage for
5 earthquake and flood, covering the COUNTY, BORROWER and
6 every subcontractor, of every tier, for the entire Project, including
7 property to be used in the construction of the work while such
8 property is at off-site storage locations or while in transit or
9 temporary off-site storage. Such policy shall include, but not be
10 limited to, coverage for fire, collapse, faulty workmanship, debris
11 removal, expediting expense, fire department service charges,
12 valuable papers and records, trees, grass, shrubbery and plants. If
13 scaffolding, falsework and temporary buildings are insured
14 separately by the BORROWER or others, evidence of such
15 separate coverage shall be provided to Authority prior to the start
16 of the work. Such policy shall be written on a completed value
17 form. Such policy shall also provide coverage for temporary
18 structures (on-site offices, etc.), fixtures, machinery and
19 equipment being installed as part of the work. BORROWER
20 shall be responsible for any and all deductibles under such policy.
21 Upon request by COUNTY, BORROWER shall declare all terms,
22 conditions, coverages and limits of such policy. If the Authority
23 so provides, in its sole discretion, the All Risk (Course of
24 Construction) insurance for the Project, then BORROWER shall
25 assume the cost of any and all applicable policy deductibles
26 (currently, \$50,000 per occurrence) and shall insure its own
27 machinery, equipment, tools, etc. from any loss of any nature
28 whatsoever.

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b. Worker's Compensation Insurance.

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

c. Commercial General Liability Insurance.

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

d. Vehicle Liability Insurance.

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then BORROWER shall

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

12 e. General Insurance Provisions – All Lines.

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

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

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procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

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

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

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

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

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

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

16. FINANCIAL AND PROJECT RECORDS. BORROWER shall maintain financial, programmatic, statistical, and other supporting records of its operations and financial

1 activities in accordance with the requirements of the NSP1, and the regulations as amended and
2 promulgated thereunder, which records shall be open to inspection and audit by authorized
3 representatives of COUNTY, HUD, and the Comptroller General of the United States during
4 regular working hours. COUNTY, HUD, and the Comptroller General, or any of their
5 representatives, have the right of access with at least forty-eight (48) hours prior notice, to any
6 pertinent books, documents, papers, or other records of BORROWER, in order to make audits,
7 examinations, excerpts, and transcripts. Said records shall be retained for such time as may be
8 required by the regulations of NSP1, but in no event no less than five (5) years after the Project
9 completion date as evidenced by recordation of the Notice of Completion; except that records
10 of individual tenant income verifications, project rents, and project inspections must be
11 retained for the most recent five (5) year period, until five (5) years after the Affordability
12 Period terminates. If any litigation, claim, negotiation, audit, or other action has been started
13 before the expiration of the regular period specified, the records must be retained until
14 completion of the action and resolution of all issues which arise from it, or until the end of the
15 regular period, whichever is later.

16 17. COMPLIANCE WITH LAWS AND REGULATIONS. By executing
17 this Agreement, BORROWER hereby certifies that it will adhere to and comply with all
18 federal, state and local laws, regulations and ordinances. In particular, BORROWER shall
19 comply with the following as they may be applicable to BORROWER in connection with the
20 loan of funds granted pursuant to the NSP1:

- 21 a. NSP1 and its implementing regulations set forth in pursuant to
22 Title III of Division B of the Housing and Economic Recovery
23 Act of 2008, as amended, Public Law 110-289 (“Act”) and
24 Federal Register Notice, Vol. 73, No. 194, Docket No. FR-5255-
25 N-01, dated October 6, 2008, as amended. Since NSP1 is a
26 component of the Community Development Block Grant (CDBG)
27 Program, the CDBG regulatory structure is the platform used to
28 implement NSP1. The regulations created by the Office of the

1 Assistant Secretary of Community Planning and Development
2 that pertain to Community Development programs are contained
3 within 24 CFR part 570 - Community Development Block Grants.
4 NSP1 is governed by CDBG regulations except where specifically
5 waived.

6 b. Section 92.350 Other Federal requirements and
7 nondiscrimination. As set forth in 24 CFR part 5, sub part A,
8 BORROWER is required to include the following requirements:
9 nondiscrimination and equal opportunity under Section 282 of the
10 Act; disclosure; debarred, suspended, or ineligible contractors;
11 and drug-free workplace.

12 c. Section 92.351 Affirmative marketing and minority outreach
13 program. BORROWER must adopt affirmative marketing
14 procedures and requirements. These must include:

15 (1) Methods for informing the public, owners, and potential
16 tenants about Federal fair housing laws and the affirmative
17 marketing policy (e.g., the use of the Equal Housing
18 Opportunity logotype or slogan in press releases and
19 solicitations for owners, and written communication to fair
20 housing and other groups).

21 (2) Requirements and practices that BORROWER must
22 adhere to in order to carry out the affirmative marketing
23 procedures and requirements (e.g., use of commercial
24 media, use of community contacts, use of the Equal
25 Housing Opportunity logotype or slogan, and display of
26 fair housing poster).

27 (3) Procedures to be used by BORROWER to inform and
28 solicit applications from persons in the housing market

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area who are not likely to apply without special outreach (e.g., use of community organizations, employment centers, fair housing groups, or housing counseling agencies).

- (4) Records that will be kept describing actions taken by BORROWER to affirmatively market units and records to assess the results of these actions.
- (5) A description of how BORROWER will annually assess the success of affirmative marketing actions and what corrective actions will be taken where affirmative marketing requirements are not met.
- (6) BORROWER must prescribe procedures to establish and oversee a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by BORROWER with such persons or entities, public and private, in order to facilitate the activities of COUNTY to provide affordable housing authorized under this Act or any other Federal housing law. Section 24 CFR 85.36(e) provided affirmative steps to assure that minority business enterprises and women business enterprises are used when possible in the procurement of property and services. The steps include:
 - (i) Placing qualified small and minority businesses

1 and women's business enterprises on solicitation
2 lists.

3 (ii) Assuring that small and minority businesses, and
4 women's business enterprises are solicited
5 whenever they are potential sources.

6 (iii) Dividing total requirements, when economically
7 feasible, into smaller tasks or quantities to permit
8 maximum participation by small and minority
9 business, and women's business enterprises.

10 (iv) Establishing delivery schedules, where the
11 requirement permits, which encourage
12 participation by small and minority business, and
13 women's business enterprises.

14 (v) Using the services and assistance of the Small
15 Business Administration, and the Minority
16 Business Development Agency of the Department
17 of Commerce.

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

21 d. Section 92.352 Environmental review. The environmental effects
22 of each activity carried out with NSP1 funds must be assessed in
23 accordance with the provisions of the National Environmental
24 Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and the related
25 authorities listed in HUD's implementing regulations at 24 CFR
26 Parts 50 and 58.

27 e. Section 92.353 Displacement, relocation, and acquisition. The
28 relocation requirements of Title II and the acquisition

1 requirements of Title III of the Uniform Relocation Assistance
2 and Real Property Acquisition Policies Act of 1970, and the
3 implementing regulations at 24 CFR Part 42. BORROWER must
4 ensure that it has taken all reasonable steps to minimize the
5 displacement of persons as a result of this project assisted with
6 NSP1 Funds.

7 f. Section 92.354 Lead-based paint. Housing assisted with NSP1
8 funds is subject to the lead-based paint requirements of 24 CFR
9 Part 35 issued pursuant to the Lead-Based Paint Poisoning
10 Prevention Act (42 U.S.C. 4821, et seq.). The lead-based paint
11 provisions of 24 CFR 982.401 (j), except 24 CFR 982.401
12 (j)(1)(i), also apply, irrespective of the applicable property
13 standard under §92.251.

14 g. Section 92.354 Labor. Every contract for the construction of
15 housing that includes twelve (12) or more units assisted with
16 NSP1 funds must contain a provision requiring the payment of not
17 less than the wages prevailing in the locality, as predetermined by
18 the Secretary of Labor pursuant to the Davis-Bacon Act (40
19 U.S.C. 276a-276a-5), to all laborers and mechanics employed in
20 the development of any part of the housing. Such contracts must
21 also be subject to the overtime provisions, as applicable, of the
22 Contract Work Hours and Safety Standards Act (40 U.S.C. 327-
23 332). BORROWER must apply most current wage rate
24 determination at the date of execution of this Agreement.

25 h. Section 92.356 Conflict of Interest. In the procurement of
26 property and services by BORROWER, the conflict of interest
27 provisions in 24 CFR 85.36 and 24 CFR 85.42, respectively shall
28 apply. Section 92.356 shall cover all cases not governed by 24

1 CFR 85.36 and 24 CFR 84.42.

2 i. Section 504 of the Rehabilitation Act of 1973; Housing
3 accessibility requirement at 24 CFR Part 8, implementing Section
4 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). The
5 design and construction of multi-family dwellings as defined at 24
6 CFR 100.201 must comply with the requirements set forth in 24
7 CFR 100.205 implementing the Fair Housing Act. Dwelling units
8 must be designed and constructed in accordance with the Uniform
9 Federal Accessibility Standards (UFAS) will be deemed to
10 comply with the Section 504 regulation.

11 (1) 24 CFR Part 8.22 New construction—housing
12 facilities. For new construction of multi-family
13 projects, 5 percent (5%) of the units (but not less
14 than one unit) must be accessible to individuals
15 with mobility impairments, and an additional 2
16 percent (2%) of the units (but not less than one
17 unit) must be accessible to individuals with
18 sensory impairments.

19 (2) 24 CFR Part 8.23 Alterations of existing housing
20 facilities. If alterations are undertaken to a project
21 that has 15 or more units and the cost of the
22 alterations is 75 percent or more of the replacement
23 cost of the completed facility, then the provisions
24 of §8.22 shall apply. Alterations to dwelling units
25 in a multifamily housing project shall, to the
26 maximum extent feasible, be made to be readily
27 accessible to and usable by individuals with
28 handicaps. If alterations of single elements or

1 spaces of a dwelling unit, when considered
2 together, amount to an alteration of a dwelling unit,
3 the entire dwelling unit shall be made accessible.
4 Once 5 percent (5%) of the dwelling units in a
5 project are readily accessible to and usable by
6 individuals with mobility impairments, then no
7 additional elements of dwelling units, or entire
8 dwelling units, are required to be accessible under
9 this paragraph. Alterations to common areas or
10 parts of facilities that affect accessibility of
11 existing housing facilities shall, to the maximum
12 extent feasible, be made to be accessible to and
13 usable by individuals with handicaps. For purposes
14 of this paragraph, the phrase to the maximum
15 extent feasible shall not be interpreted as requiring
16 that a recipient make a dwelling unit, common
17 area, facility or element thereof accessible if doing
18 so would impose undue financial and
19 administrative burdens on the operation of the
20 multifamily housing project.

21 j. Model Energy Code published by the Council of American
22 Building Officials.

23 k. Section 3 of the Housing and Urban Development Act of 1968.
24 To the greatest extent feasible, opportunities for training and
25 employment arising from NSP1 funds will be provided to low-
26 income persons residing in the program service area. To the
27 greatest extent feasible, contracts for work to be performed in
28 connection with NSP1 funds will be awarded to business concerns

1 that are located in or owned by persons residing in the program
2 service area as outlined in the Riverside County EDA Section 3
3 Contract Requirements attached hereto as **Exhibit D**. Contracts
4 funded from Section 3 covered funding sources must abide by the
5 Section 3 Clause prescribed at 24 CFR 135.38. All contracts
6 subject to the requirements of Section 3 must include the Section
7 3 Clause verbatim that is contained at 24 CFR 135.38 attached
8 hereto as **Exhibit D-2**, which is attached hereto and by this
9 reference incorporated herein.

10 1. Section 106 of the National Historic Preservation Act of 1966
11 (NHPA). Consultation with concerned Native American tribes
12 must continue under HUD regulation 24 CFR Part 50 and 58, and
13 Section 106 of the National Historic Preservation Act and its
14 implementing regulations 36 CFR Part 800 for possible impacts
15 on historic properties. Historic properties include archeological
16 sites, burial grounds, sacred landscapes or features, ceremonial
17 areas, traditional cultural places and landscapes, plant and animal
18 communities, and buildings and structures with significant tribal
19 association.

20 m. Section 92.358 Consultant Activities. No person providing
21 consultant services in an employer-employee type relationship
22 shall receive more than a reasonable rate of compensation for
23 personal services paid with NSP1 funds.

24 n. BORROWER shall carry out its activity pursuant to this
25 Agreement in compliance with all federal laws and regulations
26 described in Subpart E of Part 92 of the Code of Federal
27 Regulations, except that:

28 (1) BORROWER does not assume COUNTY'S

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environmental responsibilities described at 24 CFR Part 92.352; and

(2) BORROWER does not assume COUNTY's responsibility for initiating the review process under the provisions of 24 CFR Part 92.352

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

p. BORROWER shall include written agreements that include all provisions of **Section 17** if BORROWER provides NSP1 funds to for-profit owners or developers, non-profit owners or developers, sub-recipients, homeowners, homebuyers, tenants receiving tenant-based rental assistance, or contractors.

q. Immigration requirements of Federal Register, Vol. 62, No. 221, Department of Justice Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("PRWORA"). Final Attorney

1 General's Order issued pursuant to PRWORA is specified under
2 Federal Register Vol. 66, No. 10, Department of Justice Final
3 Specification of Community Programs Necessary for Protection
4 of Life or Safety Under Welfare Reform Legislation.

5 r. BORROWER shall comply with all applicable local, state and
6 federal laws in addition to the above mentioned laws.

7 18. INCOME TARGETING REQUIREMENTS. BORROWER shall set
8 aside eight (8) units to be designated as NSP1-Assisted Units which shall be occupied and
9 rented to households whose incomes do not exceed fifty percent (50%) of the area median
10 income for the County of Riverside ("Qualified Very Low Income Households"), adjusted by
11 family size at the time of occupancy as published by HUD.

12 19. RENT LIMITATIONS. A total of 8 units consisting of 1 one-bedroom, 4
13 two-bedroom, and 3 three-bedroom shall be reserved as NSP1-Assisted Units. The NSP1-
14 Assisted Units shall be a "floating" designation on the Property such that the requirements of
15 this Agreement will be satisfied so long as the total number of NSP1-Assisted Units and
16 bedroom size remains the same throughout the Affordability Period. NSP1-Assisted Units
17 shall be rented to and occupied by Qualified Very Low Income Households that qualify for an
18 affordable rent as defined by the California Health and Safety Code Section 50053(b)(2).
19 Affordable rents including utility allowance for Qualified Very Low Income Households, is the
20 product of 30 percent times 50 percent of the area median income adjusted for family size
21 appropriate for the unit. COUNTY shall review and approve proposed rents to the extent
22 required under this section. BORROWER shall ensure the NSP1-Assisted Units are rented to
23 qualified applicants at the rent levels required herein. The maximum monthly allowances for
24 utilities and services (excluding telephone) shall not exceed the utility allowance as described
25 below.

26 a. Utility Allowance: The California Utility Allowance Calculator
27 (CUAC) is California's energy consumption model for calculating utility estimates (Treasury
28 Regulation 26 CFR §1.42-10). The BORROWER shall use the California Utility Allowance

1 Calculator (CUAC) to establish maximum monthly allowances for utilities and services to be
2 used by the BORROWER in calculating rents conditioned upon approval by the California Tax
3 Credit Allocation Committee (CTCAC) for Low Income Housing Tax Credit Projects.

4 b. Initial Occupancy of Vacant Units: All eight (8) NSP1-Assisted
5 Units consisting of 1 one-bedroom, 4 two-bedroom, and 3 three-bedroom shall be occupied and
6 rented by Qualified Very Low Income Households for an affordable rent within four (4)
7 months from the recordation of the Notice of Completion in the Official Records ("Lease
8 Deadline"). If a COUNTY NSP1-Assisted Unit remains unoccupied or not leased to an eligible
9 tenant, BORROWER must provide to COUNTY information about current marketing efforts
10 and an enhanced plan for marketing the unit so that it is leased promptly.

11 c. Rent Review and Approval: The BORROWER shall submit to the
12 COUNTY for review and written approval all proposed rents for the NSP1-Assisted Units prior
13 to lease-up. Rent limitations for COUNTY NSP1-Assisted units shall be set forth by
14 California Health and Safety Code Section 50053(b)(2) in connection with very low income
15 households, adjusted by family size at the time of occupancy, as published by HUD.

16 20. TENANT PROTECTIONS. During the Affordability Period,
17 BORROWER shall adhere to the tenant protections and selection standard set forth in 24 CFR
18 92.253, as may be amended from time to time, and the following requirements:

19 a. Provide written lease agreement for not less than one year, unless by
20 mutual agreement between the tenant and BORROWER. COUNTY
21 shall review the initial form of the lease agreement prior to
22 BORROWER executing any leases and, provided that BORROWER
23 uses the approved lease form, BORROWER shall be permitted to
24 enter into residential leases without COUNTY's prior written
25 consent.

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

28 (1) Agreement to be sued. Agreement by the tenant to be

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sued, to admit guilt or to a judgment in favor of BORROWER in a lawsuit brought in connection with the lease.

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

(3) Excusing BORROWER from responsibility. Agreement by the tenant not to hold BORROWER or BORROWER's agents legally responsible for any action or failure to act, whether intentional or negligent.

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

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

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

(7) Waiver of right to appeal court decision. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise

1 challenge in court, a court decision in connection with the
2 lease.

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

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

12 c. Violence Against Women Reauthorization Act of 2013. (Pub. L.
13 113-4, 127 Stat. 54) ("VAWA 2013"). VAWA 2013 reauthorizes
14 and amends the Violence Against Women Act of 1994, as previously
15 amended, (title IV, sec. 40001-40703 of Pub. L. 103-322, 42 U.S.C.
16 13925 et seq.) VAWA 2013, among other things, bars eviction and
17 termination due to a tenant's status as a victim of domestic violence,
18 dating violence, or stalking, and requires landlords to maintain
19 survivor-tenant confidentiality. VAWA 2013 prohibits a tenant who
20 is a survivor of domestic violence, dating violence, sexual assault,
21 and stalking from being denied assistance, tenancy, or occupancy
22 rights based solely on criminal activity related to an act of violence
23 committed against them. It extends housing protections to survivors
24 of sexual assault, and adds "intimate partner" to the list of eligible
25 relationships in the domestic violence definition. Protections also
26 now cover an "affiliated individual," which includes any lawful
27 occupant living in the survivor's household, or related to the survivor
28 by blood or marriage including the survivor's spouse, parent,

1 brother, sister, child, or any person to whom the survivor stands in
2 loco parentis. VAWA 2013 allows a lease bifurcation so a tenant or
3 lawful occupant who engages in criminal activity directly relating to
4 domestic violence, dating violence, sexual assault, or stalking against
5 an affiliated individual or other individual, or others may be evicted
6 or removed without evicting or removing or otherwise penalizing a
7 victim who is a tenant or lawful occupant. If victim cannot establish
8 eligibility, BORROWER must give a reasonable amount of time to
9 find new housing or establish eligibility under another covered
10 housing program. A Notice of Rights under VAWA 2013 for tenants
11 must be provided at the time a person applies for housing, when a
12 person is admitted as a tenant of a housing unit, and when a tenant is
13 threatened with eviction or termination of housing benefits. Tenants
14 must request an emergency transfer and reasonably believe that they
15 are threatened with imminent harm from further violence if the
16 tenant remains in the same unit. The provisions of VAWA 2013 that
17 are applicable to HUD programs are found in title VI of VAWA
18 2013, which is entitled "Safe Homes for Victims of Domestic
19 Violence, Dating Violence, Sexual Assault, and Stalking." Section
20 601 of VAWA 2013 amends subtitle N of VAWA (42 U.S.C.
21 14043e et seq.) to add a new chapter entitled "Housing Rights."

22 21. FEDERAL REQUIREMENTS. BORROWER shall comply with the
23 provisions of the NSP1 Program and any amendments thereto and all applicable federal
24 regulations and guidelines now or hereafter enacted pursuant to HERA.

25 22. SALE, ASSIGNMENT OR OTHER TRANSFER OF THE PROJECT.
26 BORROWER hereby covenants and agrees not to sell, assign, transfer or otherwise dispose of
27 the Project or any portion thereof, without obtaining the prior written consent of the COUNTY,
28 which consent shall be conditioned upon COUNTY's receipt of reasonable evidence

1 satisfactory to the COUNTY in its sole discretion, that transferee has assumed in writing and in
2 full, and is reasonably capable of performing and complying with the BORROWER's duties
3 and obligations under this Agreement, provided, however Borrower shall not be released of all
4 obligations hereunder which accrue from and after the date of such sale. Notwithstanding
5 anything to the contrary contained herein, upon written notice to COUNTY, BORROWER
6 may (i) admit limited partners to BORROWER, and provide for the purchase of any such
7 limited partnership interest or interests by BORROWER's general partner; (ii) remove
8 BORROWER's general partner, and replace with an affiliate of the BORROWER's limited
9 partner, provided that any replacement general partner for BORROWER who is not an affiliate
10 with the BORROWER's limited partner will require the written consent of COUNTY, which
11 consent will not be unreasonably withheld; (iii) the lease for occupancy of all or any of the
12 NSP1-Assisted Units; (iv) the granting of easements or permits to facilitate the development of
13 the Property in accordance with this Agreement; and (v) the withdrawal and/or replacement of
14 any limited partner of BORROWER, (collectively a "Permitted Transfer"). All Permitted
15 Transfers shall be subject to reasonable review of documentation by the COUNTY. The
16 parties hereto acknowledge that "affiliate" for purposes of this section means, as to any Person
17 (as defined below), any general partnership, limited partnership, corporation, joint venture,
18 trust, business trust, cooperative, association, limited liability company or individual
19 (collectively, a "Person") that (A) directly or indirectly controls or is controlled by (such as any
20 partnership or limited liability company in which the Person, directly or indirectly, serves as a
21 general partner or managing member, respectively) or is under common control with the
22 specified Person; (B) is an officer or director of, commissioner of, partner in, member of or
23 trustee of, or serves in a similar capacity with respect to, the specified Person or of which the
24 Specified Person is an officer, director, member, partner or trustee, or with respect to which the
25 specified Person serves in a similar capacity; or (C) is the beneficial owner, directly or
26 indirectly, of 10% or more of any class of equity securities of the specified Person or of which
27 the specified Person is directly or indirectly the owner of 10% or more of any class of equity
28 securities. The term "control" (including the term "controlled by" and "under common control

1 with”) means the possession, direct or indirect, of the power to direct or cause the direction of
2 the management and policies of a Person, whether through the ownership of voting securities,
3 by contract or otherwise.

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

8 24. NONDISCRIMINATION. Borrower shall abide by 24 CFR 570.602
9 which requires that no person in the United States shall on the grounds of race, color, national
10 origin, religion, or sex be excluded from participation in, be denied the benefits of, or be
11 subjected to discrimination under any program or activity receiving Federal financial assistance
12 made available pursuant to the Act. Under the Act, Section 109 directs that the prohibitions
13 against discrimination of the basis of age under the Age Discrimination Act and the
14 prohibitions against discrimination of the basis of disability under Section 504 shall apply to
15 programs or activities receiving Federal financial assistance under Title I programs. The
16 policies and procedures necessary to ensure enforcement of Section 109 are codified in 24 CFR
17 Part 6. In addition, BORROWER shall not discriminate on the basis of race, gender, religion,
18 national origin, ethnicity, sexual orientation, age or disability in the solicitation, selection,
19 hiring or treatment of any contractors or consultants, to participate in
20 subcontracting/subconsulting opportunities. BORROWER understands and agrees that
21 violation of this clause shall be considered a material breach of this Lease and may result in
22 termination, debarment or other sanctions. This language shall be incorporated into all
23 contracts between BORROWER and any contractor, consultant, subcontractor, subconsultants,
24 vendors and suppliers. BORROWER shall comply with the provisions of the California Fair
25 Employment and Housing Act (Government Code Sections 12900 et seq.), the Federal Civil
26 Rights Act of 1964 (P.L. 88-352), as amended, and all Administrative Rules and Regulations
27 issued pursuant to said Acts and Orders with respect to its use of the Property.
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1 BORROWER herein covenants by and for itself, its successors and assigns, and all
2 persons claiming under or through them, that this Covenant is made and accepted upon and
3 subject to the following conditions: There shall be no discrimination against or segregation of
4 any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section
5 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1,
6 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of
7 the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment
8 of the Property, nor shall the transferee itself or any person claiming under or through him or her,
9 establish or permit any such practice or practices of discrimination or segregation with reference
10 to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants,
11 or vendees of the Property.

12 BORROWER, its successors and assigns, shall refrain from restricting the rental, sale, or
13 lease of the Property or any portion thereof, on the basis of race, color, creed, religion, sex,
14 sexual orientation, marital status, national origin, or ancestry of any person. Every deed, lease,
15 and contract entered into with respect to the Property, or any portion thereof, after the date of this
16 Agreement shall contain or be subject to substantially the following nondiscrimination or
17 nonsegregation clauses:

- 18 a) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs,
19 executors, administrators, and assigns, and all persons claiming under or through them,
20 that there shall be no discrimination against or segregation of, any person or group of
21 persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the
22 Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision
23 (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the
24 Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or
25 enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming
26 under or through him or her, establish or permit any practice or practices of
27 discrimination or segregation with reference to the selection, location, number, use or
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1 occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein
2 conveyed. The foregoing covenants shall run with the land.”

3 b) In leases: “The lessee herein covenants by and for himself or herself, his or her heirs,
4 executors, administrators, and assigns, and all persons claiming under or through him or
5 her, and this lease is made and accepted upon and subject to the following conditions:
6 That there shall be no discrimination against or segregation of any person or group of
7 persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the
8 Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision
9 (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the
10 Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or
11 enjoyment of the premises herein leased nor shall the lessee himself or herself, or any
12 person claiming under or through him or her, establish or permit any such practice or
13 practices of discrimination or segregation with reference to the selection, location,
14 number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the
15 premises herein leased.”

16 c) In contracts: “There shall be no discrimination against or segregation of any person or
17 group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955
18 of the Government Code, as those bases are defined in Sections 12926, 12926.1,
19 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section
20 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy,
21 tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming
22 under or through him or her, establish or permit any such practice or practices of
23 discrimination or segregation with reference to the selection, location, number, use, or
24 occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land.”

25 In addition to the obligations and duties of BORROWER set forth herein, BORROWER
26 shall, upon notice from County, promptly pay to County all fees and costs, including
27 administrative and attorneys’ fees, incurred by County in connection with responding to or
28 defending any discrimination claim brought by any third party and/or local, state or federal

1 government entity, arising out of or in connection with this Agreement or the Covenant
2 Agreement attached hereto.

3 25. PROHIBITION AGAINST CONFLICTS OF INTEREST:

- 4 a. BORROWER and its assigns, employees, agents, consultants, officers
5 and elected and appointed officials shall become familiar with and
6 shall comply with the conflict of interest provisions in OMB Circular
7 A-110, 24 CFR 85.36, 24 CFR 84.42, 24 CFR 92.356 and Policy
8 Manual #A-11, attached hereto as **Exhibit E** and by this reference
9 incorporated herein.
- 10 b. BORROWER understands and agrees that no waiver or exception can
11 be granted to the prohibition against conflict of interest except upon
12 written approval of HUD pursuant to 24 CFR 92.356(d). Any request
13 by BORROWER for an exception shall first be reviewed by
14 COUNTY to determine whether such request is appropriate for
15 submission to HUD. In determining whether such request is
16 appropriate for submission to HUD, COUNTY will consider the
17 factors listed in 24 CFR 92.356(e).
- 18 c. Prior to any funding under this Agreement, BORROWER shall
19 provide COUNTY with a list of all employees, agents, consultants,
20 officers and elected and appointed officials who are in a position to
21 participate in a decision-making process, exercise any functions or
22 responsibilities, or gain inside information with respect to the NSP1
23 activities funded under this Agreement. BORROWER shall also
24 promptly disclose to COUNTY any potential conflict, including even
25 the appearance of conflict that may arise with respect to the NSP1
26 activities funded under this Agreement.
- 27 d. Any violation of this section shall be deemed a material breach of this
28 Agreement, and the Agreement shall be immediately terminated by

1 COUNTY.

2 26. RELIGIOUS ACTIVITIES. Under federal regulations, 24 CFR 92.257
3 NSP1 funds may not be provided to primarily religious organizations, such as churches, for
4 any activity including secular activities. In addition, NSP1 funds may not be used to
5 rehabilitate or construct housing owned by primarily religious organizations or to assist
6 primarily religious organizations in acquiring housing. However, NSP1 funds may be used by
7 a secular entity to acquire housing from a primarily religious organization, and a primarily
8 religious entity may transfer title to property to a wholly secular entity and the entity may
9 participate in the NSP1 program in accordance with the requirements set forth at 24 CFR
10 92.257. The entity may be an existing or newly established entity, which may be an entity
11 established by the religious organization. The completed housing project must be used
12 exclusively by the BORROWER/participant entity for secular purposes, available to all
13 persons regardless of religion. In particular, there must be no religious or membership criteria
14 for tenants of the property.

15 27. PROJECT MONITORING AND EVALUATION.

16 a. Tenant Checklist. BORROWER shall submit a Tenant Checklist
17 Form to COUNTY, as shown in **Exhibit F** which is attached hereto and by this reference is
18 incorporated herein and may be revised by COUNTY, summarizing the racial/ethnic
19 composition, number and percentage of very low-income and low-income households who are
20 tenants of the COUNTY NSP1-Assisted Units. The Tenant Checklist Form shall be submitted
21 upon completion of the construction and thereafter, on a semi-annual basis on or before March
22 31st and September 30th. BORROWER shall maintain financial, programmatic, statistical and
23 other supporting records of its operations and financial activities in accordance with the
24 requirements of NSP1 under 24 CFR 92.508, including the submission of Tenant Checklist
25 Form. Except as otherwise provided for in this Agreement, BORROWER shall maintain and
26 submit records to COUNTY within ten business days of COUNTY's request which clearly
27 documents BORROWER's performance under each requirement of NSP1. A list of document
28 submissions and timeline are shown in **Exhibit A** and such list may be amended from time to

1 time subject to HUD and COUNTY reporting requirements.

2 b. Inspections. Pursuant to 24 CFR 92.504(d)(ii), during the
3 Affordability Period, COUNTY must perform on-site inspections of COUNTY NSP1-assisted
4 rental housing to determine compliance with the property standards of §92.251 and to verify
5 the information submitted by the owners in accordance with the requirements of §92.252. The
6 inspections must be in accordance with the inspection procedures that the participating
7 jurisdiction establishes to meet the inspection requirements of §92.251. The on-site inspections
8 must occur within 12 months after Notice of Completion and at least once every 3 years
9 thereafter during the Affordability Period. If there are observed deficiencies for any of the
10 inspectable items in the property standards established by COUNTY, in accordance with the
11 inspection requirements of §92.251, a follow-up on-site inspection to verify that deficiencies
12 are corrected must occur within 12 months. COUNTY may establish a list of non-hazardous
13 deficiencies for which correction can be verified by third party documentation (e.g., paid
14 invoice for work order) rather than re-inspection. Health and safety deficiencies must be
15 corrected immediately, in accordance with §92.251. COUNTY must adopt a more frequent
16 inspection schedule for properties that have been found to have health and safety deficiencies.
17 The property owner must annually certify to the COUNTY that each building and all NSP1-
18 assisted units in the project are suitable for occupancy, taking into account State and local
19 health, safety, and other applicable codes, ordinances, and requirements, and the ongoing
20 property standards established by the participating jurisdiction to meet the requirements of
21 §92.251. Inspections must be based on a statistically valid sample of units appropriate for the
22 size of the COUNTY NSP1-Assisted project, as set forth by HUD through notice. For projects
23 with one-to-four COUNTY NSP1-Assisted Units, COUNTY must inspect 100 percent of the
24 COUNTY NSP1-Assisted Units and the inspectable items (site, building exterior, building
25 systems, and common areas) for each building housing COUNTY NSP1-assisted units.

26 c. Income Certification. The income of a tenant must be determined
27 initially and each sixth year of affordability in accordance with 24 CFR 92.203 (a)(1)(i). In
28 addition, annually between each sixth year of affordability BORROWER must re-examine

1 each tenants annual income under 24 CFR 92.203 (a) (1) (ii).

2 28. MONITORING FEE. BORROWER shall be responsible for paying an
3 annual compliance monitoring fee to the COUNTY in the total annual amount of \$3,000
4 (“Monitoring Fee”). The first Monitoring Fee payment is due on July 1st of each year for the
5 monitoring period of July 1st to June 30th commencing July 1, 2018. The Monitoring Fee will
6 be due on July 1st thereafter and will continue until the expiration of the Affordability Period.
7 The Monitoring Fee is to be adjusted upwards annually, increased by an amount equal to the
8 increase in CPI for the Los Angeles-Riverside-Orange County, CA area. In the event of a
9 decrease in the applicable CPI, the Monitoring Fee currently in effect shall remain the same
10 and shall not decrease.

11 29. ACCESS TO PROJECT SITE. COUNTY and HUD shall have the right
12 to access the Project Site at all reasonable times, and upon completion of the Project upon
13 reasonable written notice to BORROWER, to review the operation of the Project in accordance
14 with this Agreement.

15 30. EVENTS OF DEFAULT. The occurrence of any of the following events
16 shall constitute an "Event of Default" under this Agreement:

- 17 a. Monetary Default. (1) BORROWER’s failure to pay when due
18 any sums payable under this Agreement, the Covenant
19 Agreement, the NSP1 Note or any advances made by COUNTY
20 under this Agreement; (2) BORROWER’s or any agent of
21 BORROWER’s use of NSP1 funds for costs other than those
22 costs permitted under this Agreement or for uses inconsistent with
23 terms and restrictions set forth in this Agreement; (3)
24 BORROWER’s or any agent of BORROWER’s failure to make
25 any other payment of any assessment or tax due under this
26 Agreement, and /or (4) default under the terms of any Senior
27 Loan documents or any other instrument or document secured
28 against the Property;

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- b. Non-Monetary Default. (1) Discrimination by BORROWER or BORROWER's agent(s) on the basis of characteristics prohibited by this Agreement or applicable law; (2) the imposition of any encumbrances or liens on the Project without COUNTY's prior written approval that are prohibited under this Agreement or that have the effect of reducing the priority or invalidating the lien of the NSP1 Deed of Trust; (3) BORROWER's failure to obtain and maintain the insurance coverage required under this Agreement; (4) any material default under this Agreement, the NSP1 Loan Deed of Trust, Covenant Agreement, NSP1 Note or any document executed by the County in connection with this Agreement, and /or (5) a default under the terms of any Senior Loan documents or any other instrument or document secured against the Property or the Project;
- c. General Performance of Loan Obligations. Any substantial or continuous or repeated breach by BORROWER or BORROWER's agents of any material obligations of BORROWER under this Agreement;
- d. General Performance of Other Obligations. Any substantial or continuous or repeated breach by BORROWER or BORROWER's agents of any material obligations of BORROWER related to the Project imposed by any other agreement with respect to the financing, development, or operation of the Project; whether or not COUNTY is a party to such agreement; but only following any applicable notice and cure periods with respect to any such obligation;
- e. Representations and Warranties. A determination by COUNTY that any of BORROWER's representations or warranties made in

1 this Agreement, any statements made to COUNTY by
2 BORROWER, or any certificates, documents, or schedules
3 supplied to COUNTY by BORROWER were false in any material
4 respect when made, or that BORROWER concealed or failed to
5 disclose a material fact to COUNTY.

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

11 g. Bankruptcy, Dissolution and Insolvency. BORROWER's or
12 general partner and co-general partner of BORROWER's (1)
13 filing for bankruptcy, dissolution, or reorganization, or failure to
14 obtain a full dismissal of any such involuntary filing brought by
15 another party before the earlier of final relief or ninety (90) days
16 after such filing; (2) making a general assignment for the benefit
17 of creditors; (3) applying for the appointment of a receiver,
18 trustee, custodian, or liquidator, or failure to obtain a full
19 dismissal of any such involuntary application brought by another
20 party before the earlier of final relief or ninety (90) days after
21 such filing; (4) insolvency; or (5) failure, inability or admission in
22 writing of its inability to pay its debts as they become due.

23 31. NOTICE OF DEFAULT AND OPPORTUNITY TO CURE. Formal
24 notices, demands and communications between the COUNTY and the BORROWER shall be
25 sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt
26 requested, to the principal offices of the COUNTY and the BORROWER, as designated
27 below. Such written notices, demands and communications may be sent in the same manner
28 to such other addresses as either party may from time to time designate by mail as provided in

1 this **Section 31**. Any notice that is transmitted by electronic facsimile transmission followed
2 by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice that
3 is personally delivered (including by means of professional messenger service, courier service
4 such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed
5 received on the documented date of receipt by the recipient; and any notice that is sent by
6 registered or certified mail, postage prepaid, return receipt required shall be deemed received
7 on the date of delivery thereof.

8 a. Subject to the Force Majeure Delay, as provided in this Section 9, failure
9 or delay by BORROWER to perform any term or provision of this Agreement constitutes a
10 default under this Agreement. BORROWER must immediately commence to cure, correct or
11 remedy such failure or delay and shall complete such cure, correction or remedy with
12 reasonable diligence.

13 b. COUNTY shall give written notice of default to BORROWER,
14 specifying the default complained of by COUNTY. Failure or delay in giving such notice
15 shall not constitute a waiver of any default, nor shall it change the time of default. Except as
16 otherwise expressly provided in this Agreement, any failures or delays by COUNTY in
17 asserting any of its rights and remedies as to any default shall not operate as a waiver of any
18 default or of any such rights or remedies. Delays by COUNTY in asserting any of its rights
19 and remedies shall not deprive COUNTY of its right to institute and maintain any actions or
20 proceedings which it may deem necessary to protect, assert or enforce any such rights or
21 remedies.

22 c. If a monetary event of default occurs, prior to exercising any remedies
23 hereunder, COUNTY shall give BORROWER written notice of such default. BORROWER
24 shall have a period of ten (10) days after such notice is given within which to cure the default
25 prior to exercise of remedies by COUNTY.

26 d. If a non-monetary event of default occurs, prior to exercising any
27 remedies hereunder, COUNTY shall give BORROWER written notice of such default. If the
28 default is reasonably capable of being cured within thirty (30) days, BORROWER shall have

1 such period to effect a cure prior to exercise of remedies by COUNTY. If the default is such
2 that it is not reasonably capable of being cured within thirty (30) days, and BORROWER (i)
3 initiates corrective action within said period, and (ii) diligently, continually, and in good faith
4 works to effect a cure as soon as possible, then BORROWER shall have such additional time
5 as is reasonably necessary to cure the default prior to exercise of any remedies by the injured
6 party, but in no event no more than sixty (60) days from the date of the notice of default. In no
7 event shall COUNTY be precluded from exercising remedies if its security becomes or is
8 about to become materially jeopardized by any failure to cure a default or the default is not
9 cured within sixty (60) days after the first notice of default is given.

10 32. COUNTY REMEDIES. Upon the occurrence of an Event of Default,
11 after notice and opportunity to cure COUNTY's obligation to disburse NSP1 funds shall
12 terminate, and COUNTY shall also have the right, but not the obligation to, in addition to
13 other rights and remedies permitted by this Agreement or applicable law, proceed with any or
14 all of the following remedies in any order or combination COUNTY may choose in its sole
15 discretion:

- 16 a. Terminate this Agreement, in which event the entire NSP1 Loan
17 amount as well as any other monies advanced to BORROWER by
18 COUNTY under this Agreement including administrative costs,
19 shall immediately become due and payable to COUNTY at the
20 option of COUNTY.
- 21 b. Bring an action in equitable relief (1) seeking the specific
22 performance by BORROWER of the terms and conditions of this
23 Agreement, and/or (2) enjoining, abating, or preventing any
24 violation of said terms and conditions, and/or (3) seeking
25 declaratory relief.
- 26 c. Accelerate the NSP1 Loan, and demand immediate full payment of
27 the principal payment outstanding and all accrued interest under
28 the NSP1 Note, as well as any other monies advanced to

1 BORROWER by COUNTY under this Agreement.

2 d. Enter the Project and take any remedial actions necessary in its
3 judgment with respect to hazardous materials that COUNTY
4 deems necessary to comply with hazardous materials laws or to
5 render the Project suitable for occupancy, which costs shall be due
6 and payable by BORROWER to COUNTY.

7 e. Enter upon, take possession of, and manage the Project, either in
8 person, by agent, or by a receiver appointed by a court, and collect
9 rents and other amounts specified in the assignment of rents in the
10 Deed of Trust and apply them to operate the Project or to pay off
11 the NSP1 Loan or any advances made under this Agreement, as
12 provided for by the NSP1 Deed of Trust.

13 f. Pursue any other remedies allowed at law or in equity.

14 33. Reserved.

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

25 35. BORROWER'S CERTIFICATION. BORROWER certifies, to the best
26 of its knowledge and belief, that:

27 a. No federally appropriated funds have been paid or will be paid, by or
28 on behalf of the undersigned, to any person for influencing or

1 attempting to influence an officer or employee of any agency, a
2 member of Congress, an officer or employee of Congress, or an
3 employee of a member of Congress in connection with the awarding of
4 any federal contract, the making of any federal grant, the making of
5 any federal loan, the entering into of any cooperative agreement, and
6 the extension, continuation, review, amendment, or modification of
7 any federal contract, grant, loan, or cooperative agreement.

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

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

23 36. HOLD HARMLESS AND INDEMNIFICATION. BORROWER shall
24 indemnify and hold harmless the County of Riverside, its Agencies, Boards, Districts, Special
25 Districts and Departments, their respective directors, officers, Board of Supervisors, elected and
26 appointed officials, employees, agents and representatives (collectively the "Indemnified
27 Parties") from any liability whatsoever, based or asserted upon any services of BORROWER,
28 its officers, employees, subcontractors, agents or representatives arising out of their

1 performance under this Agreement, including but not limited to property damage, bodily injury,
2 or death or any other element of any kind or nature whatsoever arising from the performance of
3 BORROWER, its officers, agents, employees, subcontractors, agents or representatives under
4 this Agreement. BORROWER shall defend, at its sole expense, all costs and fees including,
5 but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the
6 County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective
7 directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and
8 representatives in any claim or action based upon such alleged acts or omissions, provided,
9 however, BORROWER shall not have any obligation to indemnify any Indemnified Parties'
10 gross negligence or willful misconduct.

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

17 BORROWER's obligation hereunder shall be satisfied when BORROWER has provided
18 to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the
19 action or claim involved.

20 The specified insurance limits required in this Agreement shall in no way limit or
21 circumscribe BORROWER's obligations to indemnify and hold harmless COUNTY herein from
22 third party claims.

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

26 BORROWER's obligations set forth in this **Section 36** shall survive the expiration or
27 earlier termination of this Agreement.

28 37. TERMINATION.

1 a. BORROWER. BORROWER may terminate this Agreement prior to
2 disbursement of any NSP1 Loan funds by COUNTY in accordance with the applicable NSP1
3 regulations.

4 b. COUNTY. Notwithstanding the provisions of **Section 37(a)**, COUNTY
5 may suspend or terminate this Agreement upon written notice to BORROWER of the action
6 being taken and the reason for such action in the event one of the following events occur:

7 (1) In the event BORROWER fails to perform the covenants
8 herein contained at such times and in such manner as
9 provided in this Agreement after the applicable notice and
10 cure provision hereof; or

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

15 (3) In the event the NSP1 funding from HUD identified in
16 **Section 1** above is terminated or otherwise becomes
17 unavailable.

18 c. This Agreement may be terminated or funding suspended in whole or in
19 part for cause. Cause shall be based on the failure of BORROWER to materially comply with
20 either the terms or conditions of this Agreement after the expiration of all applicable notice and
21 cure provisions hereof. Upon suspension of funding, BORROWER agrees not to incur any costs
22 related thereto, or connected with, any area of conflict from which COUNTY has determined
23 that suspension of funds is necessary. The NSP1 Loan may be terminated for convenience.

24 d. Upon expiration or earlier termination of this Agreement, BORROWER
25 shall transfer to COUNTY any unexpended NSP1 funds in its possession at the time of
26 expiration of the Agreement as well as any accounts receivable held by BORROWER which are
27 attributable to the use of NSP1 funds awarded pursuant to this Agreement.

28 38. AFFORDABILITY RESTRICTIONS. COUNTY and BORROWER, on

1 behalf of its successors and assigns, hereby declare their express intent that the restrictions set
2 forth in this Agreement shall continue in full force and effect during the Affordability Period
3 (as defined in **Section 14** above). Each and every contract, deed or other instrument hereafter
4 executed covering and conveying the Property or any portion thereof shall be held conclusively
5 to have been executed, delivered and accepted subject to such restrictions, regardless of
6 whether such restrictions are set forth in such contract, deed or other instrument. Borrower
7 shall execute and record as a lien against the Property, a Covenant Agreement, substantially
8 conforming in form and substance to the Covenant Agreement attached hereto as **Exhibit G**
9 and incorporated herein by this reference, setting forth the affordability use and income
10 restriction required in this Agreement.

11 39. Reserved.

12 40. MECHANICS LIENS AND STOP NOTICES. If any claim of mechanics
13 lien is filed against the Project or a stop notice affecting the NSP1 Loan is served on COUNTY,
14 BORROWER must, within twenty (20) calendar days of such filing or service, either pay and
15 fully discharge the lien or stop notice, obtain a release of the lien or stop notice by delivering to
16 COUNTY a surety bond in sufficient form and amount, or provide COUNTY with other
17 assurance reasonably satisfactory to COUNTY that the lien or stop notice will be paid or
18 discharged.

19 41. ENTIRE AGREEMENT. It is expressly agreed that this Agreement
20 embodies the entire agreement of the parties in relation to the subject matter hereof, and that no
21 other agreement or understanding, verbal or otherwise, relative to this subject matter, exists
22 between the parties at the time of execution.

23 42. AUTHORITY TO EXECUTE. The persons executing this Agreement or
24 exhibits attached hereto on behalf of the parties to this Agreement hereby warrant and represent
25 that they have the authority to execute this Agreement and warrant and represent that they have
26 the authority to bind the respective parties to this Agreement to the performance of its
27 obligations hereunder.

28 43. WAIVER. Failure by a party to insist upon the strict performance of any

1 of the provisions of this Agreement by the other party, or the failure by a party to exercise its
2 rights upon the default of the other party, shall not constitute a waiver of such party's rights to
3 insist and demand strict compliance by the other party with the terms of this Agreement
4 thereafter.

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

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

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

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

24 48. MODIFICATION OF AGREEMENT. COUNTY or BORROWER may
25 consider it in its best interest to change, modify or extend a term or condition of this
26 Agreement, provided such change, modification or extension is agreed to in writing by the
27 other party. Any such change, extension or modification, which is mutually agreed upon by
28 COUNTY and BORROWER shall be incorporated in written amendments to this Agreement.

1 Such amendments shall not invalidate this Agreement, nor relieve or release COUNTY or
2 BORROWER from any obligations under this Agreement, except for those parts thereby
3 amended. No amendment to this Agreement shall be effective and binding upon the parties,
4 unless it expressly makes reference to this Agreement, is in writing, is signed and
5 acknowledged by duly authorized representatives of all parties, and approved by the County.

6 49. CONDITIONAL COMMITMENT.

7 a. Construction. Pursuant to 24 CFR 92.2, under the
8 definition of Commitment, all necessary financing has been secured, a budget and
9 schedule have been established, and underwriting has been completed and under
10 which construction is scheduled to start within nine (9) months of the Effective Date of this
11 Agreement (“Construction Start Deadline”). If BORROWER cannot start construction or
12 provide evidence such as construction permits within nine (9) months of the Effective Date,
13 then COUNTY and BORROWER mutually agree that this Agreement will self-terminate and
14 any NSP1 Loan funds drawn to date shall be returned within thirty (30) calendar days. Upon
15 such termination, this Agreement shall become null and void. COUNTY and BORROWER
16 shall be released and discharged respectively from its obligations under this Agreement, except
17 for those provisions which by their terms survive termination. All cost incurred by each party
18 on the Project will be assumed respectively.



19 b. Completion. The Project must be completed and a
20 Notice of Completion shall have been recorded in the Official Records no later
21 than two (2) years from the Effective Date of this Agreement (the “Completion
22 Deadline”). BORROWER may request a one year extension of the Completion Deadline from
23 COUNTY (“Extension”), which may be granted in COUNTY’s sole and absolute discretion, if
24 the BORROWER can provide proof that the circumstances that led to the failure to complete
25 the Project by the Completion Deadline were beyond the BORROWER’s control. Extension is
26 subject to COUNTY’s approval and not guaranteed. The Assistant County Executive
27 Officer/EDA, or designee, has the authority, at his or her discretion, to consent to such
28 Extension. If BORROWER is unable to meet the condition as required by this **Section 49**



1 including Extension, then COUNTY and BORROWER mutually agree that this Agreement will
2 self-terminate and any NSP1 Loan funds disbursed to BORROWER to date shall be returned to
3 COUNTY within thirty (30) calendar days of such termination. Upon such termination, this
4 Agreement shall become null and void. COUNTY and BORROWER shall be released and
5 discharged respectively from their obligations under this Agreement, except for those provisions
6 which by their terms survive termination. All costs incurred by each party on the Project will be
7 assumed respectively.

8 c. Tenant Leases. BORROWER shall comply with the initial
9 occupancy requirements set forth in **Section 19(b)** of this Agreement.

10 50. PROJECT FINANCING CONTINGENCY. This Agreement is expressly
11 conditioned upon BORROWER's delivery to COUNTY, on or prior to **January 1, 2017** of (i)
12 written documentation of such binding loan commitments required to fully finance the
13 development and construction of the Project (less the NSP1 Loan), on terms and conditions
14 acceptable to BORROWER and COUNTY, including, but not limited any conventional
15 construction and/or permanent financing, including without limitation, a construction and
16 permanent loan from an institutional construction lender. Either COUNTY or BORROWER
17 may elect to terminate this Agreement with ten (10) days prior written notice to the other party
18 if BORROWER fails to acquire the project financing as required by this **Section 50**. Upon such
19 termination, this Agreement shall be null and void, and:

- 20 a. If BORROWER elects to terminate this Agreement,
21 BORROWER shall be released and discharged by COUNTY
22 from its obligations under this Agreement; or
23 b. If COUNTY elects to terminate this Agreement, COUNTY shall
24 be released and discharged by BORROWER from its
25 obligations under this Agreement.

26 At that time all cost incurred by each party on the Project will be assumed
27 respectively, and each party shall be released from all liability under this Agreement, except
28 those obligations which by their terms survive termination.

1 51. Reserved.

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

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

11 54. NOTICES. All notices, requests, demands and other communication
12 required or desired to be served by either party upon the other shall be addressed to the
13 respective parties as set forth below or the such other addresses as from time to time shall be
14 designated by the respective parties and shall be sufficient if sent by United States first class,
15 certified mail, postage prepaid, or express delivery service with a receipt showing the date of
16 delivery.

17 COUNTY
18 Assistant Director, Housing
19 Riverside County
20 Economic Development Agency
21 5555 Arlington Avenue
22 Riverside, CA 92504

BORROWER
 President/CEO
 Summerhouse Housing 3, L.P.
 600 California St., Suite 900
 San Francisco, CA 94108

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

26 56. EFFECTIVE DATE. The effective date of this Agreement is the date the
27 parties execute the Agreement ("Effective Date"). If the parties execute the Agreement on more
28 than one date, then the last date the Agreement is executed by a party shall be the Effective
Date.

1 57. FURTHER ASSURANCES. BORROWER shall execute any further
2 documents consistent with the terms of this Agreement, including documents in recordable
3 form, as the COUNTY may from time to time find necessary or appropriate to effectuate its
4 purposes in entering into this Agreement.

5 58. NONLIABILITY OF COUNTY OFFICIALS AND EMPLOYEES. No
6 member, official, employee or consultant of the COUNTY shall be personally liable to the
7 BORROWER, or any successor in interest, in the event of any default or breach by the
8 COUNTY or for any amount which may become due to the BORROWER or to its successor, or
9 on any obligations under the terms of this Agreement.

10 59. CONSTRUCTION AND INTERPRETATION OF AGREEMENT.

11 a. The language in all parts of this Agreement shall in all cases be
12 construed simply, as a whole and in accordance with its fair meaning and not strictly for or
13 against any party. The parties hereto acknowledge and agree that this Agreement has been
14 prepared jointly by the parties and has been the subject of arm's length and careful negotiation
15 over a considerable period of time, that each party has been given the opportunity to
16 independently review this Agreement with legal counsel, and that each party has the requisite
17 experience and sophistication to understand, interpret, and agree to the particular language of
18 the provisions hereof. Accordingly, in the event of an ambiguity in or dispute regarding the
19 interpretation of this Agreement, this Agreement shall not be interpreted or construed against
20 the party preparing it, and instead other rules of interpretation and construction shall be utilized.

21 b. If any term or provision of this Agreement, the deletion of which
22 would not adversely affect the receipt of any material benefit by any party hereunder, shall be
23 held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this
24 Agreement shall not be affected thereby and each other term and provision of this Agreement
25 shall be valid and enforceable to the fullest extent permitted by law. It is the intention of the
26 parties hereto that in lieu of each clause or provision of this Agreement that is illegal, invalid, or
27 unenforceable, there be added as a part of this Agreement an enforceable clause or provision as
28 similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible.

1 c. The captions of the articles, sections, and subsections herein are
2 inserted solely for convenience and under no circumstances are they or any of them to be treated
3 or construed as part of this instrument.

4 d. References in this instrument to this Agreement mean, refer to
5 and include this instrument as well as any riders, exhibits, addenda and attachments hereto
6 (which are hereby incorporated herein by this reference) or other documents expressly
7 incorporated by reference in this instrument. Any references to any covenant, condition,
8 obligation, and/or undertaking "herein," "hereunder," or "pursuant hereto" (or language of like
9 import) means, refer to, and include the covenants, obligations, and undertakings existing
10 pursuant to this instrument and any riders, exhibits, addenda, and attachments or other
11 documents affixed to or expressly incorporated by reference in this instrument.

12 e. As used in this Agreement, and as the context may require, the
13 singular includes the plural and vice versa, and the masculine gender includes the feminine and
14 vice versa.

15 60. TIME OF ESSENCE. Time is of the essence with respect to the
16 performance of each of the covenants and agreements contained in this Agreement.

17 61. BINDING EFFECT. This Agreement, and the terms, provisions,
18 promises, covenants and conditions hereof, shall be binding upon and shall inure to the benefit
19 of the parties hereto and their respective heirs, legal representatives, successors and assigns.

20 62. NO THIRD PARTY BENEFICIARIES. The parties to this Agreement
21 acknowledge and agree that the provisions of this Agreement are for the sole benefit of
22 COUNTY and BORROWER, and not for the benefit, directly or indirectly, of any other person
23 or entity, except as otherwise expressly provided herein.

24 63. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS.

25 a. This Agreement shall be executed in three duplicate originals
26 each of which is deemed to be an original. This Agreement, including all attachments hereto
27 and exhibits appended to such attachments shall constitute the entire understanding and
28 agreement of the parties.

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b. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the Property.

c. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the COUNTY or the BORROWER, and all amendments hereto must be in writing and signed by the appropriate authorities of the COUNTY and the BORROWER. This Agreement and any provisions hereof may be amended by mutual written agreement by the BORROWER and the COUNTY.

(SIGNATURES ON THE NEXT PAGE)

1 IN WITNESS WHEREOF, COUNTY and BORROWER have executed this
2 Agreement as of the dates written below.

3 COUNTY:

BORROWER:

4 COUNTY OF RIVERSIDE, a political
5 Subdivision of the State of California

SUMMERHOUSE HOUSING 3, L.P.,
a California limited partnership

6 By: BRIDGE SC, LLC,
7 a California limited liability company
8 Its: Administrative General Partner

9 By: _____
10 Heidi Marshall, Assistant Director

By: _____
Kimberly McKay, Vice President

11 Date: _____

Date: _____

14 By: BRIDGE Regional Partners, Inc.,
15 a California nonprofit benefit corporation
16 Its: Managing General Partner

17 By: _____
18 Kimberly McKay, Vice President

19 Date: _____

21 APPROVED AS TO FORM:
22 GREGORY P. PRIAMOS, County Counsel

23 By: _____
24 Jhaila R. Brown, Deputy County Counsel

25 **(Signatures need to be notarized)**
26
27
28

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

Notary Pages

EXHIBIT "A"

Borrower: Summerhouse Housing 3, L.P.
Address: 600 California St., Suite 900
San Francisco, CA 94108
Project Title: Madera Vista Apartments Phase 3
Location: 44155 Margarita Road, Temecula, California 92592
also identified as APN 959-080-033

Project Description:

Summerhouse Housing 3, L.P. shall develop and construct a multi-family affordable rental housing project consisting of thirty (30) rental units including one (1) residential manager's unit ("Project" or "Phase 3") on real property located on approximately 1.18 acres of vacant land located at 44155 Margarita Road, Temecula, California 92592 also identified as APN 959-080-033 ("Property").

A total of 8 units (1 one-bedroom unit, 4 two-bedroom units, and 3 three-bedroom units) to be designated as NSP1-Assisted Units shall be rented to and occupied by households whose incomes do not exceed fifty percent (50%) of the area median income for the County of Riverside ("Qualified Very Low Income Households"), adjusted by family size at the time of occupancy as determined and published by HUD, for a period of 55 years. The Project shall be comprised of affordable units in addition to the NSP1-Assisted Units financed through Low Income Housing Tax Credits. The Project shall include a total of 3 one-bedroom units, 14 two-bedroom units, and 13 three-bedroom units. The one-bedroom units shall be approximately 756 square-feet, the two-bedroom units are approximately 990 square-feet and the three-bedroom units are approximately 1,161 square-feet.

Phases 1 and 2 will be owned by separate limited partnerships that share the same general partner, BRIDGE SC, LLC, a California limited liability partner. Phase 3 is the Project covered in this Agreement. Phase 1, 2 and 3 will have common property management and share use of all site amenities including community buildings, laundry facilities and swimming pool. The owners of Phases 1, 2 and 3 will enter into a joint use agreement to allow tenants to enjoy all site common areas and amenities.

IMPLEMENTATION SCHEDULE

Milestone	Completion Date
1. Permanent Financing Commitment	November 30, 2016
2. Construction Start Deadline	9 months from date of Agreement
3. Completion Deadline	2 years from date of Agreement
4. Lease Deadline	4 months from Notice of Completion
5. Submission of Final actual project costs and Sources and Uses of Funds	March 2018
6. Submission of income & ethnic characteristics report	March 2018

LEGAL DESCRIPTION OF PROPERTY

The land referred to in this Report is situated in the County of Riverside, City of Temecula, State of California, and is described as follows:

PARCEL ONE:

That certain parcel of land situated in the City of Temecula, County of Riverside, State of California, being that portion of Lot "B" of No. Tract 33891 as shown on the map recorded in Book 424, Pages 82 through 84, inclusive, of Maps in the Office of the County Recorder of said Riverside County, together with that portion of Parcel 1 of Parcel Map No. 36219 as shown on the map filed in Book 231, Page 58 through 60, inclusive of Parcel Maps in the Office of said Riverside County Recorder, described as follows:

Commencing at the northeasterly corner of said Lot "B";

Thence along the easterly line of said Lot "B" South 16° 56' 06" East 91.99 feet to the easterly prolongation of the northerly line of Parcel 2 of said Parcel Map No. 36219;

Thence along the easterly prolongation, said northerly line of Parcel 2 and the westerly prolongation of said northerly line South 73° 04' 07" West 562.85 feet to the westerly line of said Parcel 1;

Thence along said westerly line North 09° 21' 50" West 92.83 feet to the northwesterly corner of said Parcel 1;

Thence along the northerly line of said Parcel 1 and the northerly line of said Lot "B" North 73° 04' 17" East 550.62 to the Point of Beginning.

Being Parcel B as shown on the Lot Line Adjustment No. PA13-0056, recorded April 1, 2013, Instrument No. 2013-0154092, in the Official Records of Riverside County.

PARCEL TWO:

Rights and Easements granted in that certain Reciprocal Easement, Joint Use and Maintenance Agreement dated April 2, 2013, and recorded April 4, 2013 as instrument No. 2013-161381, in the Official Records of Riverside County.

APN: 959-080-033 (formerly portion of 959-080-023 & 959-080-024)

Permanent Sources and Uses of Funds:

Sources:

City of Temecula Land Loan	\$ 721,345
City of Temecula Accrued/Deferred Interest	\$ 19,300
Citibank loan	\$ 900,000
Citibank Tax Exempt Permanent Loan	\$ 1,501,000
Limited Partner Tax Credit Equity	\$ 3,720,461
County of Riverside NSP Loan	\$ 1,650,000
County of Riverside NSP Loan Accrued/Deferred Interest	\$ 40,000
Deferred Developer Fee	\$ 767,100
Total Sources	\$ 9,319,206

Uses:

Site Improvement (off site)	\$ 0
New construction (includes site work, common area bldgs and structures)	\$ 4,609,579
Contractor's Overhead & Profit & Gen'l Req.	\$ 477,233
General Liability Insurance	\$ 113,201
Construction Contingency (Hard and Soft)	\$ 338,000
Architectural & Engineering Cost	\$ 489,000
Construction Interest & Fees	\$ 238,400
Reserves	\$ 76,166
Land Development Impact and Permit Processing Fees	\$ 642,955
Other Fees, Marketing & Furnishings	\$ 334,060
TCAC Fees	\$ 17,347
Legal Fees	\$ 195,000
Developer's fee	\$ 1,067,100
Land & Acquisition Cost	<u>\$ 721,345</u>
Total Uses	\$ 9,319,206

DOCUMENT SUBMISSION SCHEDULE

Documents	Due Date
1. Construction Activities Reporting	Monthly, due by the 5 th of each month
2. Liability and Certificate of Workers' Compensation Insurance for Borrower and General Contractor (GC)	BORROWER – At the execution of this Agreement. GC – Before start of construction. Copies of Certificates must be filed and up-to-date throughout the course of the Project with COUNTY additionally insured.
3. Minority & Women Business Enterprise Report – HUD form 2516, and Section 3 Reporting	Semi-Annually– March 1st & September 15th
4. Section 504 Architect Certification	Beginning of Construction – initial letter End of Construction – final letter
5. Project Site Photos	Bimonthly, due by the 5 th of each month
6. The filing of the Notice of Completion	End of Construction
7. Certificate of Occupancy	End of Construction
8. Tenant Checklist Reporting	Close of Project; and Semi-Annually– Sept 30th & March 31st
9. Conditional/Unconditional Release for Final from GC, and if applicable, Sub-contractors	Close of Project
10. Project Completion Report	Close of Project
11. Final Development Cost - Sources and Uses	Close of Project
12. Final Cost Certification by CPA	Close of Project and Audits Completed
13. Final 15/30 Year Cash Flow Projection	Close of Project
14. Affirmative Fair Housing Marketing Plan, HUD form 935.2A	Marketing Stage
15. Management Plan	Marketing Stage
16. Tenant Selection Policy	Marketing Stage
17. Copy of Lease Agreement	Marketing Stage
18. Flyers, Community Contacts, Outreach, Press Releases, Grand Opening info	Marketing Stage
19. Project Operating Budget	Annual submission
20. Audited Yearly Income Expense Report for the Project	Annual submission

EXHIBIT “B”

EXEMPT RECORDING FEE CODE 6103

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

County of Riverside
Economic Development Agency
5555 Arlington Avenue
Riverside, CA 92504
Attn. Mervyn Manalo

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST AND ASSIGNMENT OF RENTS

This DEED OF TRUST AND ASSIGNMENT OF RENTS ("Deed of Trust") is made this _____ day of _____, 2016 by Summerhouse Housing 3, L.P., a California limited partnership, (hereinafter referred to as "Trustor"), whose address is 600 California St., Suite 900, San Francisco, CA 94108. The trustee is Old Republic Title ("Trustee"). The beneficiary is the County of Riverside, a political subdivision of the State of California, (hereinafter called "Beneficiary"), whose address is 5555 Arlington Avenue, Riverside, CA 92504.

WITNESSETH: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to Trustee, its successors and assigns, in Trust, with POWER OF SALE TOGETHER WITH RIGHT OF ENTRY AND POSSESSION the following property (the "Trust Estate"):

(A) That certain fee interest in the real property in the City of Temecula, County of Riverside, State of California more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference (such interest in real property is hereafter referred to as the "Subject Property");

(B) All buildings, structures and other improvements now or in the future located or to be constructed on the Subject Property (the "Improvements");

(C) all tenements, hereditaments, appurtenances, privileges, franchises and other rights and interests now or in the future benefiting or otherwise relating to the Subject Property or the Improvements, including easements, rights-of-way and development rights (the "Appurtenances"). (The Appurtenances, together with the Subject Property and the Improvements, are hereafter referred to as the "Real Property");

(D) All rents, issues, income, revenues, royalties and profits now or in the future payable with respect to or otherwise derived from the Trust Estate or the Trustorship, use, management, operation leasing or occupancy of the Trust Estate, including those past due and unpaid (the "Rents");

(E) all present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code (the "UCC"), and whether existing now or in the future) now or in

the future located at, upon or about, or affixed or attached to or installed in, the Real Property, or used or to be used in connection with or otherwise relating to the Real Property or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property, including furniture, furnishings, theater equipment, seating, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property, but not including personal property that is donated to Trustor (the "Goods," and together with the Real Property, the "Property"); and

(F) all present and future right, title and interest of Trustor in and to all accounts, general intangibles, chattel paper, deposit accounts, money, instruments and documents (as those terms are defined in the UCC) and all other agreements, obligations, rights and written material (in each case whether existing now or in the future) now or in the future relating to or otherwise arising in connection with or derived from the Property or any other part of the Trust Estate or the Ownership, use, development, construction, maintenance, management, operation, marketing, leasing, occupancy, sale or financing of the property or any other part of the Trust Estate, including (to the extent applicable to the Property or any other portion of the Trust Estate) (i) permits, approvals and other governmental authorizations, (ii) improvement plans and specifications and architectural drawings, (iii) agreements with contractors, subcontractors, suppliers, project managers, supervisors, designers, architects, engineers, sales agents, leasing agents, consultants and property managers, (iv) takeout, refinancing and permanent loan commitments, (v) warranties, guaranties, indemnities and insurance policies, together with insurance payments and unearned insurance premiums, (vi) claims, demands, awards, settlements, and other payments arising or resulting from or otherwise relating to any insurance or any loss or destruction of, injury or damage to, trespass on or taking, condemnation (or conveyance in lieu of condemnation) or public use of any of the Property, (vii) license agreements, service and maintenance agreements, purchase and sale agreements and purchase options, together with advance payments, security deposits and other amounts paid to or deposited with Trustor under any such agreements, (viii) reserves, deposits, bonds, deferred payments, refunds, rebates, discounts, cost savings, escrow proceeds, sale proceeds and other rights to the payment of money, trade names, trademarks, goodwill and all other types of intangible personal property of any kind or nature, and (ix) all supplements, modifications, amendments, renewals, extensions, proceeds, replacements and substitutions of or to any of such property (the "Intangibles").

Trustor further grants to Trustee and Beneficiary, pursuant to the UCC, a security interest in all present and future right, title and interest of Trustor in and to all Goods and Intangibles and all of the Trust Estates described above in which a security interest may be created under the UCC (collectively, the "Personal Property"). This Deed of Trust constitutes a security agreement under the UCC, conveying a security interest in the Personal Property to Trustee and Beneficiary. Trustee and Beneficiary shall have, in addition to all rights and remedies provided herein, all the rights and remedies of a "secured party" under the UCC and other applicable California law. Trustor covenants and agrees that this Deed of Trust constitutes a fixture filing under Section 9334 and 9502(b) of the UCC.

FOR THE PURPOSE OF SECURING, in such order of priority as Beneficiary may elect, the following:

1. due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained herein or contained in the following:
 - (a) that certain Promissory Note in favor of the Beneficiary ("County" therein) executed by Trustor ("Borrower" therein) of even date herewith (the "Note");
 - (b) that certain Loan Agreement for the Use of Neighborhood Stabilization Program Funds dated _____, 2016 and recorded in the Official Records ("Official Records") of the County of Riverside concurrently herewith, between Trustor ("Borrower" therein) and Beneficiary ("County" therein) (the "NSP1 Loan Agreement"); and
 - (c) that certain Covenant Agreement dated _____ and recorded concurrently herewith in the Official Records of the Recorder's Office for the County of Riverside, between Trustor ("Borrower" therein) and Beneficiary ("County" therein) ("Covenant Agreement").
2. payment of indebtedness of the Trustor to the Beneficiary not to exceed One Million Six Hundred Fifty Thousand Dollars (\$1,650,000) (the "NSP1 Loan") according to the terms of the Note.

Said Note, NSP1 Loan Agreement and Covenant Agreement (collectively, referred to as the "Secured Obligations") and all of their terms are incorporated herein by reference and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof however evidenced, and additional advances evidenced by any note reciting that it is secured hereby. The Note, NSP1 Loan Agreement and Covenant Agreement as used herein shall mean, refer to and include the Note, NSP1 Loan Agreement and Covenant Agreement, as well as any riders, exhibits, addenda, implementation agreements, amendments, or attachments thereto (which are hereby incorporated herein by this reference). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the NSP1 Loan Agreement.

The NSP1 Loan evidenced by the Note and secured by this Deed of Trust is being made pursuant to the Neighborhood Stabilization Program and the regulations issued thereunder (Title III of Division B of the Housing and Economic Recovery Act of 2008, as amended) (the "NSP1 Program"). Pursuant to the NSP1 Loan Agreement, the maturity of the NSP1 Loan shall be the earlier to occur of (i) July 1, 2073 or (ii) fifty-five (55) years from the date of recordation of the Notice of Completion for the last building completed as part of the Project (as defined in the NSP1 Loan Agreement) (the "NSP1 Loan Term").

TRUSTOR COVENANTS that the Trustor is lawfully seized of the estate hereby conveyed and has the right to grant and convey the fee interest of the Property. Trustor warrants and will defend generally the title to the Property against all claims and demands, subject to such encumbrances of record.

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

1. That Trustor shall pay the Note at the time and in the manner provided therein, and perform the obligations of the Trustor as set forth in the NSP1 Loan Agreement and Covenant Agreement at the time and in the manner respectively provided therein.

2. That Trustor shall not permit or suffer the use of any of the property for any purpose other than the use set forth in the NSP1 Loan Agreement and Covenant Agreement.

3. That the Secured Obligations are incorporated in and made a part of the Deed of Trust. Upon default of a Secured Obligation, and after the giving of notice and the expiration of any applicable cure period, the Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be due and payable.

4. That all rents, profits and income from the property covered by this Deed of Trust are hereby assigned to the Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor so long as no default exists hereunder after the giving of notice and the expiration of any applicable cure period, to collect such rents, profits and income for use in accordance with the provisions of the NSP1 Loan Agreement and Covenant Agreement.

5. **Payment of Principal and Interest; Prepayment and Late Charges.** Trustor shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any late charges due under the Note.

6. **Taxes and Insurance.** Trustor shall pay before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Deed of Trust.

a. Should Trustor fail to make any payment or to do any act herein provided, then Beneficiary or Trustee, but without obligation so to do and upon written notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his or her reasonable fees.

7. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Beneficiary under **Sections 5 and 6** shall be applied: first, to amounts payable under **Section 2**; second, to interest due; third, to principal due; and last, to any late charges due under the Note.

8. **Prior Deeds of Trust; Charge; Liens.** Trustor shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Deed of Trust, and leasehold payments or ground rents, if any, subject to applicable cure periods. Trustor shall pay these obligations in the manner provided in **Section 6**, or if not paid in that

manner, Trustor shall pay them on time directly to the person owed payment. Trustor shall promptly furnish to Beneficiary all notices of amounts to be paid under this Section. If Trustor makes these payments directly, Trustor shall promptly furnish to Beneficiary receipts evidencing the payments.

a. Except for the liens permitted in writing by the Beneficiary, Trustor shall promptly discharge any other lien which shall have attained priority over this Deed of Trust unless Trustor: (1) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Beneficiary; (2) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Beneficiary's opinion operate to prevent the enforcement of the lien; or (3) bond around the lien (4) secures from the holder of the lien an agreement satisfactory to Beneficiary subordinating the lien to this Deed of Trust. Except for the liens approved herein, if Beneficiary determines that any part of the Property is subject to a lien which may attain priority over this Deed of Trust, Beneficiary may give Trustor a notice identifying the lien. Trustor shall satisfy such lien or take one or more of the actions set forth above within 30 days of the giving of notice.

9. **Third Priority Position.** This Deed of Trust shall be recorded in a third priority position. Lien priority shall be as follows: (1) deed of trust for the benefit of Citibank, N.A. securing a construction loan for the Project in an amount up to \$6,500,000; (2) deed of trust for the benefit of Citibank, N.A. securing a permanent loan for the Project in an amount up to \$1,750,000; and (3) NSP1 Deed of Trust for the benefit of COUNTY securing the NSP1 Loan and the terms of this Agreement in fourth priority position junior to the above deeds of trust from Citibank, N.A. ("Senior Loan" or "Senior Loans"). Beneficiary hereby agrees to execute any and all documents necessary to effectuate such priority, including, but not limited to subordination agreements first approved as to form and content by Beneficiary and Beneficiary's legal counsel.

10. **Hazard or Property Insurance.** Trustor shall keep the improvements now existing or hereafter erected on the Property insured against loss of fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Beneficiary requires insurance. This insurance shall be maintained in the amounts and for the periods as required in the NSP1 Loan Agreement. The insurance carrier providing the insurance shall be chosen by Trustor subject to Beneficiary's approval which shall not be unreasonably withheld. If Trustor fails to maintain coverage described above, Beneficiary may, at Beneficiary's option, obtain coverage to protect Beneficiary's rights in the Property in accordance with **Section 12**.

a. All insurance policies and renewals shall be acceptable to Beneficiary and shall include a standard mortgagee clause. All requirements hereof pertaining to insurance shall be deemed satisfied if the Trustor complies with the insurance requirements under this Deed of Trust and the NSP1 Loan Agreement. Trustor shall promptly give to Beneficiary certificates of insurance showing the coverage is in full force and effect and that Beneficiary is named as additional insured. In the event of loss, Trustor shall give prompt notice to the insurance carrier, the Senior Lien Holder, if any, and Beneficiary. Beneficiary may make proof of loss if not made promptly by the Senior Lien Holder, if any, or the Trustor.

b. Unless Beneficiary and Trustor otherwise agree in writing and subject to the rights of senior lenders, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided Trustor determines that such restoration or repair is economically feasible and there is no default continuing beyond the expiration of all applicable cure periods. If Trustor determines that such restoration or repair is not economically feasible or if a default exists after expiration of all applicable cure periods, the insurance proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Trustor. If the Property is abandoned by Trustor, or if Trustor fails to respond to Beneficiary within 30 days from the date notice is mailed by Beneficiary to Trustor that the insurance carrier offers to settle a claim for insurance benefits, Beneficiary is authorized to collect and apply the insurance proceeds at Beneficiary's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

c. Unless Beneficiary and Trustor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of Note. If under **Section 27** the Property is acquired by Beneficiary, Trustor's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Beneficiary to the extent of the sums secured by this Deed of Trust immediately prior to the acquisition.

d. Notwithstanding the above, the Beneficiary's rights to collect and apply the insurance proceeds hereunder shall be subject and subordinate to the rights of a Senior Lien Holder, if any, to collect and apply such proceeds in accordance with a Senior Lien Holder Deed of Trust.

11. Preservation, Maintenance and Protection of the Property; Trustor's Loan Application; Leaseholds. Trustor shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property; normal wear and tear excepted. Trustor shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Beneficiary's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Deed of Trust or Beneficiary's security interest. Trustor may cure such a default and reinstate, as provided in **Section 23**, by causing the action or proceeding to be dismissed with a ruling that, in Beneficiary's good faith determination, precludes forfeiture of the Trustor's interest in the Property or other material impairment of the lien created by this Deed of Trust or Beneficiary's security interest. Trustor shall also be in default if Trustor, during the loan application process, gave materially false or inaccurate information or statements to Beneficiary (or failed to provide Beneficiary with any material information) in connection with the loan evidenced by the Note, including, but not limited to representations concerning Trustor's use of Property for affordable housing. If this Deed of Trust is on a leasehold, Trustor shall comply with all provisions of the lease. If Trustor acquires fee title to the Property, the leasehold and the fee title shall not merge unless Beneficiary agrees to the merger in writing.

a. The Trustor acknowledges that this Property is subject to certain use and occupancy restrictions (which may be further evidenced by a separate agreement recorded in the land records where the Property is located), limiting the Property's use to "low-income housing" within the meaning of the NSP1 Program. The use and occupancy restrictions may limit the Trustor's ability to rent the Property. The violation of any use and occupancy restrictions may, if not prohibited by federal law, entitle the Beneficiary to the remedies provided in **Section 27** hereof.

12. **Protection of Beneficiary's Rights in the Property.** If Trustor fails to perform the covenants and agreements contained in this Deed of Trust, or there is a legal proceeding that may significantly affect Beneficiary's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then, subject to any applicable grace periods or cure periods, Beneficiary may do and pay for whatever is necessary to protect the value of the Property and Beneficiary's rights in the Property. Beneficiary's actions may include paying any sums secured by a lien which has priority over this Deed of Trust, appearing in court, paying reasonable attorneys' fees, and entering on the Property to make repairs. Although Beneficiary may take action under this **Section 12**, Beneficiary does not have to do so.

a. Any amounts disbursed by Beneficiary under this **Section 12** shall become additional debt of Trustor secured by this Deed of Trust. Unless Trustor and Beneficiary agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Beneficiary to Trustor requesting payment.

13. **Reserved.**

14. **Inspection.** Beneficiary or its agent may make reasonable entries upon and inspections of the Property. Beneficiary shall give Trustor at least forty-eight (48) hours advanced notice in connection with an inspection specifying reasonable cause for the inspection.

15. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Beneficiary, subject to the terms of a Senior Lien Holder Deed of Trust, if any.

a. In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Deed of Trust, whether or not then due, with any excess paid to Trustor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Deed of Trust immediately before the taking, unless Trustor and Beneficiary otherwise agree in writing, the sums secured by this Deed of Trust shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Trustor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Trustor and Beneficiary otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Deed of Trust whether or not the sums are then due. Notwithstanding the foregoing, so long as the value of Beneficiary's lien is not impaired, any condemnation proceeds may be used by Trustor for repair and/or restoration of the project.

b. If the Property is abandoned by Trustor, or if, after notice by Beneficiary to Trustor that the condemner offers to make an award or settle a claim for damages, Trustor fails to respond to Beneficiary within 30 days after the date the notice is given, Beneficiary is authorized to collect

and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust, whether or not then due.

c. Unless Beneficiary and Trustor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the payments referred to in **Sections 5 and 6** or change the amount of such payments.

16. Trustor Not Released; Forbearance By Beneficiary Not a Waiver. Except in connection with any successor in interest approved by Beneficiary in writing, extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Beneficiary to any successor in interest of Trustor shall not operate to release the liability of the original Trustor or Trustor's successors in interest. Beneficiary shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust by reason of any demand made by the original Trustor or Trustor's successors in interest. Any forbearance by Beneficiary in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

17. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements of this Deed of Trust shall bind and benefit the successors and assigns of Beneficiary and Trustor, subject to the provisions of **Section 22**. Trustor's covenants and agreements shall be joint and several.

18. Loan Charges. If the loan secured by this Deed of Trust is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Trustor which exceeded permitted limits will be promptly refunded to Trustor. Beneficiary may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Trustor. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

19. Notices. Any notice to Trustor provided for in this Deed of Trust shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Trustor's mailing address stated herein or any other address Trustor designates by notice to Beneficiary. All such notices to Trustor shall also be provided to the investment limited partner at the address set forth in the NSPI Loan Agreement. Any notice to Beneficiary shall be given by first class mail to Beneficiary's address stated herein or any other address Beneficiary designates by notice to Trustor. Any notice required to be given to a Senior Lien Holder shall be given by first class mail to such other address the Senior Lien Holder designates by notice to the Trustor. Any notice provided for in this Deed of Trust shall be deemed to have been given to Trustor or Beneficiary when given as provided in this Section.

20. Governing Law; Severability. This Deed of Trust shall be governed by federal law and the laws of the State of California. In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision. To

this end the provisions of this Deed of Trust and the Note are declared to be severable. Any action at law or in equity arising under this Deed of Trust or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed in the Superior Courts of Riverside County, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.

21. **Trustor's Copy.** Trustor shall be given one conformed copy of the Note and of this Deed of Trust.

22. **Transfer of the Property or a Beneficial Interest in Trustor.** Except as otherwise allowed under the NSP1 Loan Agreement, if all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Trustor is sold or transferred and Trustor is not a natural person) without Beneficiary's prior written consent (including a transfer of all or any part of the Property to any person who, at initial occupancy of the Property, does not use the Property for "low-income housing" within the meaning of the NSP1 Program) Beneficiary may, at its option, require immediate payment in full of all sums secured by this Deed of Trust. However, this option shall not be exercised by Beneficiary if exercise is prohibited by federal law as of the date of this Deed of Trust. Nothing in this Deed of Trust shall be deemed to require Beneficiary's approval of a transfer of a limited partnership interest in the Trustor or of a conveyance of an easement interest in the Property for utility purposes.

a. If Beneficiary exercises the aforementioned option, Beneficiary shall give Trustor and the Senior Lien Holder, prior written notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Trustor must pay all sums secured by this Deed of Trust. If Trustor fails to pay these sums prior to the expiration of this period, Beneficiary may invoke any remedies permitted by this Deed of Trust without further notice or demand on Trustor.

b. Notwithstanding anything to the contrary contained herein, the transfer of the limited partner interest to the investment limited partner or the assignment of that interest to a limited liability company or limited partnership in which the investor limited partner or an affiliate is the managing member or general partner, respectively, shall not constitute a prohibited transfer under this Deed of Trust.

23. **Trustor's Right to Reinstate.** If Trustor meets certain conditions, Trustor shall have the right to have enforcement of this Deed of Trust discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Deed of Trust; or (b) entry of a judgment enforcing this Deed of Trust. Those conditions are that Trustor: (a) pays Beneficiary all sums which then would be due under this Deed of Trust and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Deed of Trust, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Beneficiary may reasonably require to assure that the lien of this Deed of Trust, Beneficiary's rights in the Property and Trustor's obligation to pay the sums secured by this Deed of Trust shall continue unchanged. Upon reinstatement by Trustor, this Deed of Trust and the obligations secured hereby shall remain fully effective as if no

acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under **Section 22**.

24. **Sale of Note; Change of Loan Servicer.** The Note or a partial interest in the Note (together with this Deed of Trust) may be sold one or more times without prior notice to Trustor. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note and this Deed of Trust. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Trustor will be given written notice of the change in accordance with **Section 19** above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.

25. **No Assignment.** The Note and this Deed of Trust shall not be assigned by Trustor without the Beneficiary's prior written consent and the consent of the Senior Lender.

26. **Hazardous Substances.** Trustor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Trustor shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses, construction, and to maintenance of the Property.

a. Trustor shall promptly give Beneficiary written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Trustor has actual knowledge. If Trustor learns, or is notified in writing by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Trustor shall promptly take all necessary remedial actions in accordance with Environmental Law.

b. As used in this **Section 26**, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials, excluding household products in normal quantities. As used in this **Section 26**, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

27. **Acceleration; Remedies.** Beneficiary shall give notice to Trustor prior to acceleration following Trustor's breach of any covenant or agreement in this Deed of Trust. The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, which shall not be more than ten (10) calendar days from the date of the mailing of the notice for a monetary default, or a date, which shall not be more than thirty (30) calendar days from the mailing of the notice for a non-monetary default, by which the default must be cured. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and BORROWER (i) initiates corrective action within said period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then BORROWER shall have such

additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the injured party, but in no event no more than sixty (60) days from the date of the notice of default. In no event shall COUNTY be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within sixty (60) days after the first notice of default is given; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice shall further inform Trustor of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Trustor to acceleration and sale. If the default is not cured by the Trustor on or before the date specified in the notice, and the Senior Lien Holder or the investor limited partner have not cured the default within that same period, subject to any non-recourse provisions then in effect, then Beneficiary at its option may require immediate payment in full of all sums secured by this Deed of Trust without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Beneficiary shall be entitled to collect all expenses incurred in pursuing the remedies provided in this **Section 27**, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

a. If Beneficiary invokes the power of sale, Beneficiary or Trustee shall mail copies of a notice of sale in the manner prescribed by applicable law to Trustor, the investor limited partner, the Senior Lien Holder and to the other persons prescribed by applicable law. Trustee shall give notice of sale by public advertisement for the time and in the manner prescribed by applicable law. Trustee, without demand on Trustor, shall sell the Property at public auction to the highest bidder for cash at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property to any later time on the same date by public announcement at the time and place of any previously scheduled sale. Beneficiary or its designee may purchase the Property at any sale.

b. Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Deed of Trust; and (c) any excess to the person or persons legally entitled to it.

28. **Release.** Upon payment of all sums secured by this Deed of Trust, Beneficiary shall release this Deed of Trust without charge to Trustor. Trustor shall pay any recordation costs. The lien of the Covenant Agreement shall not be released or reconveyed until the expiration of the term set forth therein notwithstanding the payment of all sums secured by this Deed of Trust.

29. **Substitute Trustee.** Beneficiary, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county in which this Deed of Trust is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

30. **Modification of Senior Loan Documents.** Any agreement or arrangement, in which a Senior Lender waives, postpones, extends, reduces, or modifies any provisions of the Senior Lien Holder Deed of Trust or any other Senior Lenders loan documents, including any provisions requiring the payment of money, shall require the prior written approval of Beneficiary.

31. **Prohibition against tenancy under foreclosure.** Notwithstanding anything to the contrary set forth in this Deed of Trust or in any documents secured by this Deed of Trust or contained in any subordination agreement, the Beneficiary acknowledges and agrees that, in no event will any action be taken which violates Section 42(h)(6)(E)(ii) of the U.S. Internal Revenue Code of 1986, as amended, regarding prohibitions against evicting, terminating tenancy or increasing rent of tenants for a period of three (3) years after acquisition of a building by foreclosure or deed-in-lieu of foreclosure.

32. **General Partner Change.** Except as otherwise provided in the NSP1 Loan Agreement, the withdrawal, removal, and/or replacement of a general partner of the Trustor pursuant to the terms of the Partnership Agreement shall not constitute a default under any of the Secured Obligations, and any such actions shall not accelerate the maturity of the NSP1 Loan, provided that any required substitute general partner is reasonably acceptable to Beneficiary and is selected with reasonable promptness. Any proposed General Partner replacement shall have the qualifications and financial responsibility as reasonably determined by Beneficiary necessary and adequate to fulfill the obligations undertaken in the NSP1 Loan Agreement, as amended.

33. **Removal, Demolition or Alteration of Personal Property and Fixtures.** Except to the extent permitted by the following sentence, no personal property or fixtures shall be removed, demolished or materially altered without the prior written consent of the Beneficiary. Trustor may remove and dispose of, free from the lien of this Deed of Trust, such personal property and fixtures as from time to time become worn out or obsolete, providing that, (a) the same is done in the ordinary course of business, and (2) either (i) at the time of, or prior to, such removal, any such personal property or fixtures are replaced with other personal property or fixtures which are free from liens other than encumbrances permitted hereunder and which have a value at least equal to that of the replaced personal property and fixtures (and by such removal replacement Trustor shall be deemed to have subjected such replacement personal property and fixtures to the lien of this Deed of Trust), or (ii) such personal property and fixtures may not require replacement if functionally, economically or operationally obsolete and so long as the fair market value of and operational efficiency of the Project is not reduced or adversely effected thereby.

[Remainder of Page Blank]

[Signatures on Following Page]

BY SIGNING BELOW, TRUSTOR accepts and agrees to the terms and covenants contained in this Deed of Trust.

TRUSTOR:

Summerhouse Housing 3, L.P.,
a California limited partnership

By: BRIDGE SC, LLC,
a California limited liability company
Its: Administrative General Partner

By: _____
Kimberly McKay, Vice President

Date: _____

By: BRIDGE Regional Partners, Inc.,
a California nonprofit benefit corporation,
Its: Managing General Partner

By: _____
Kimberly McKay, Vice President

Date: _____

(Signature needs to be notarized)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

Notary pages

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

The land referred to in this Report is situated in the County of Riverside, City of Temecula, State of California, and is described as follows:

PARCEL ONE:

That certain parcel of land situated in the City of Temecula, County of Riverside, State of California, being that portion of Lot "B" of No. Tract 33891 as shown on the map recorded in Book 424, Pages 82 through 84, inclusive, of Maps in the Office of the County Recorder of said Riverside County, together with that portion of Parcel 1 of Parcel Map No. 36219 as shown on the map filed in Book 231, Page 58 through 60, inclusive of Parcel Maps in the Office of said Riverside County Recorder, described as follows:

Commencing at the northeasterly corner of said Lot "B";

Thence along the easterly line of said Lot "B" South 16° 56' 06" East 91.99 feet to the easterly prolongation of the northerly line of Parcel 2 of said Parcel Map No. 36219;

Thence along the easterly prolongation, said northerly line of Parcel 2 and the westerly prolongation of said northerly line South 73° 04' 07" West 562.85 feet to the westerly line of said Parcel 1;

Thence along said westerly line North 09° 21' 50" West 92.83 feet to the northwesterly corner of said Parcel 1;

Thence along the northerly line of said Parcel 1 and the northerly line of said Lot "B" North 73° 04' 17" East 550.62 to the Point of Beginning.

Being Parcel B as shown on the Lot Line Adjustment No. PA13-0056, recorded April 1, 2013, Instrument No. 2013-0154092, in the Official Records of Riverside County.

PARCEL TWO:

Rights and Easements granted in that certain Reciprocal Easement, Joint Use and Maintenance Agreement dated April 2, 2013, and recorded April 4, 2013 as instrument No. 2013-161381, in the Official Records of Riverside County.

APN: 959-080-033 (formerly portion of 959-080-023 & 959-080-024)

EXHIBIT "C"

PROMISSORY NOTE (NSP1 Loan)

\$1,650,000

Riverside, CA

In installments as hereafter stated, for value received, Summerhouse Housing 3, L.P., a California limited liability partnership ("Borrower"), promises to pay the COUNTY OF RIVERSIDE, a political subdivision of the State of California ("COUNTY"), or order, at 5555 Arlington Avenue, Riverside, CA 92504, the sum of One Million Six Hundred Fifty Thousand Dollars and No/100 Dollars (U.S. \$1,650,000.00) (the "NSP1 Loan" or "Note Amount") which at the time of payment is lawful for the payment of public and private debts.

This Promissory Note (the "Note") is given in accordance with that certain Loan Agreement for the Use of Neighborhood Stabilization Program Funds executed by COUNTY and Borrower, dated as of _____ and recorded in the Official Records ("Official Records") of the County of Riverside (the "NSP1 Loan Agreement"). Except to the extent otherwise expressly defined in this Note, all capitalized terms shall have the meanings established in the NSP1 Loan Agreement. The Note is secured by a Deed of Trust executed by Borrower for the benefit of the County recorded on or about the date hereof in the Official Records of the County of Riverside (the "NSP1 Deed of Trust"). The rights and obligations of the Borrower and COUNTY under this Note shall be governed by the NSP1 Loan Agreement and the following terms:

- (1) The NSP1 Loan evidenced by this Note and secured by the Deed of Trust are being made pursuant to the Neighborhood Stabilization Program and the regulations issued thereunder (Title III of Division B of the Housing and Economic Recovery Act of 2008, as amended) (the "NSP1 Program"). Borrower agrees for itself, its successors and assigns, that the use of the Property shall be subject to the restrictions on rent and occupancy set forth in the NSP1 Program regulations, the NSP1 Loan Agreement and that certain Covenant Agreement dated on or about the date hereof and recorded concurrently herewith in the Official Records of Riverside County ("Official Records"), between Borrower and County.
- (2) That the NSP1 Loan will accrue simple interest at a rate of three percent (3%) per annum, except in the case of default as hereinafter provided, and shall be repaid on an annual basis from the Project's Residual Receipts as defined herein. Interest will accrue 30 days from the date of recordation of the Notice of Completion in the Official Records.
- (3) This Note shall be repaid according to the following: Fifty percent (50%) of the Project's Residual Receipts shall be used towards the payment of the loans secured by the Project, and the payment shall be prorated based on the percentage of each relative loan amount based upon the total amount of all such loans, until the NSP1 Note is repaid in full; and fifty percent (50%) of the Project's Residual Receipts will be paid to BORROWER.
- (4) The Project's Residual Receipts shall be determined based on an annual review of certified financial statements for the Project. Annual audited financial statements shall be submitted by BORROWER within one hundred twenty (120) days following the close of the project fiscal year commencing on April 1 of the first full calendar year following the recordation of the Notice of Completion. All outstanding principal along with accrued interest shall be due upon maturity of the NSP1 Loan Agreement, which shall be the first to occur of (i) July 1, 2073 or (ii) fifty-five (55) years from and after the recordation of the Notice of Completion (the "NSP1 Loan Term"). The first payment shall be due on July 1st in the first full calendar year following the date of the recordation of the Notice of

Completion for the Project, to the extent of available Residual Receipts, as set forth herein. Subsequent payments shall be made on July 1st thereafter to the extent of available Residual Receipts until sooner of full repayment of the NSP1 Loan or the NSP1 Loan maturity date as set forth above.

- (5) The Project's Residual Receipts are defined as gross receipts, less the following: i) auditing and accounting fees; ii) property management fee not to exceed \$55 per unit per month and increased annually by the percentage equal to the percentage increase in the Consumer Price Index for the Los Angeles-Riverside-Orange County, CA area ("CPI"), provided, however, that in the event of a decrease in the CPI, the property management fee shall remain the same as the immediate preceding year; iii) operating expenses (any expense reasonably and normally incurred in carrying out the Project's day-to-day activities, which shall include administration, on-site management, utilities, on-site staff payroll, payroll taxes, and maintenance); iv) replacement reserves, established in a separate account from operating reserves in an amount not to exceed \$400 per NSP1-Assisted Unit; v) operating reserves in an annual amount up to \$25,000 vi) deferred developer's fee; vii) payments of principal and interest on amortized loans and indebtedness senior to the NSP1 Loan, which have been approved by COUNTY (collectively, the "Senior Debt"); viii) COUNTY's Annual Monitoring Fee in the amount of \$3,000 increased annually by an amount equal to the increase of the Consumer Price Index (CPI), provided, however, that in the event of a decrease in the CPI, the County's annual monitoring fee shall remain the same as the immediate preceding year.
- (6) The NSP1 Loan evidenced by this Note is secured by that certain Deed of Trust and Assignment of Rents executed by Borrower for the benefit of the COUNTY, dated on or about the date hereof and recorded in the Official Records of the County of Riverside on or about the date hereof ("Deed of Trust").
- (7) This Note may be prepaid in whole or in part by the undersigned at any time without prepayment penalty or premium, provided however notwithstanding such prepayment, Borrower shall be required to adhere to the affordability restrictions contained in the Covenants until the expiration of the term contained therein.
- (8) Subject to the provisions and limitations of this Paragraph 8, the obligation to repay the Note Amount is a nonrecourse obligation of Borrower and its partners. Neither Borrower nor its partners shall have any personal liability for repayment of the Note Amount, except as provided in this Paragraph 8. The sole recourse of the County shall be the exercise of its rights against the Property (or any portion thereof) and any related security for the NSP1 Loan; provided, however, that the foregoing shall not (i) constitute a waiver of any other obligation evidenced by this Note or the Deed of Trust; (ii) limit the right of the COUNTY to name Borrower as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Borrower; (iii) release or impair either this Note or the Deed of Trust; (iv) prevent or in any way hinder the COUNTY from exercising, or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing this Note or as prescribed by law or in equity in case of default; (v) prevent or in any way hinder the COUNTY from exercising, or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, its remedies in respect

of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing this Note; or (vi) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by this Note and the Deed of Trust. Notwithstanding the first sentence of this Section 20, the COUNTY may recover directly from Borrower or, unless otherwise prohibited by any applicable law, from any other party: (a) any damages, costs and expenses incurred by the COUNTY as a result of fraud, misrepresentation or any criminal act or acts of Borrower or any general partner, shareholder, officer, director or employee of Borrower, or of any member or general partner of Borrower, or of any general partner of such member or general partner; (b) any damages, costs and expenses incurred by the COUNTY as a result of any misappropriation of funds provided to pay costs as described in the NSP1 Loan Agreement, rents and revenues from the operation of the Project, or proceeds of insurance policies or condemnation proceeds; (c) any misappropriation of rental proceeds resulting in the failure to pay taxes, assessments, or other charges that could create statutory liens on the Project and that are payable or applicable prior to any foreclosure under the Deed of Trust; (d) the fair market value of any personal property or fixtures removed or disposed of by the Borrower other than in accordance with the Deed of Trust; (e) any and all amounts owing by Borrower pursuant to any indemnity set forth in the NSP1 Loan Agreement and/or Deed of Trust or the indemnification regarding Hazardous Substances pursuant to the NSP1 Loan Agreement and/or Deed of Trust, and (f) all court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions.

(9) Event of Default. The occurrence of any of the following events shall constitute an "Event of Default" under this Note after notice and opportunity to cure pursuant to the terms set forth in the NSP1 Loan Agreement:

a. Monetary Default. (1) Borrower's failure to pay when due any sums payable under the NSP1 Note or any advances made by COUNTY under this Agreement, (2) Borrower's or any agent of Borrower's use of NSP1 funds for costs other than those costs permitted under the NSP1 Loan Agreement or for uses inconsistent with terms and restrictions set forth in this Agreement, (3) Borrower's or any agent of Borrower's failure to make any other payment of any assessment or tax due under the NSP1 Loan Agreement, and /or (4) default past any applicable notice and cure period under the terms of (1) that certain deed of trust for the benefit of Citibank, N.A. securing a construction loan for the Project in an amount up to \$6,500,000; and (2) that certain deed of trust for the benefit of Citibank, N.A. securing a permanent loan for the Project in an amount up to \$1,750,000;;

b. Non-Monetary Default - Operation. (1) Discrimination by Borrower or Borrower's agent on the basis of characteristics prohibited by this Agreement or applicable law, (2) the imposition of any encumbrances or liens on the Project without COUNTY's prior written approval that are prohibited under this agreement or that have the effect of reducing the priority or invalidating the lien of the NSP1 Deed of Trust, (3) Borrower's failure to obtain and maintain the insurance coverage required under the NSP1 Loan Agreement, (4) any material default under the NSP1 Loan Agreement, NSP1 Deed of Trust with Assignment of Rents, Covenant Agreement, NSP1 Note, or any document executed by the County in connection with this Agreement, and/or (4) default past any applicable notice and cure period under the terms of (1) a deed of trust for the benefit of Citibank, N.A. securing a construction loan for the Project in an amount up to \$6,500,000; and (2) a deed of trust for the benefit of Citibank, N.A. securing a permanent loan for the Project in an amount up to \$1,750,000. ;

c. General Performance of Loan Obligations. Any substantial or continuous or repeated breach by Borrower or Borrower's agents of any material obligations on Borrower imposed in the NSP1 Loan Agreement; and

d. General Performance of Other Obligations. Any substantial or continuous or repeated breach by Borrower or Borrower's agents of any material obligations on the Project imposed by any other agreement with respect to the financing, development, or operation of the Project; whether or not COUNTY is a party to such agreement.

(10) Notice of Default and Opportunity to Cure.

COUNTY shall give written notice of default to BORROWER, specifying the default complained of by COUNTY. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failures or delays by COUNTY in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by COUNTY in asserting any of its rights and remedies shall not deprive COUNTY of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

If a monetary event of default occurs, prior to exercising any remedies hereunder, COUNTY shall give BORROWER written notice of such default. BORROWER shall have a period of ten (10) days after such notice is given within which to cure the default prior to exercise of remedies by COUNTY.

If a non-monetary event of default occurs, prior to exercising any remedies hereunder, COUNTY shall give BORROWER written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, BORROWER shall have such period to effect a cure prior to exercise of remedies by COUNTY. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and BORROWER (i) initiates corrective action within said period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then BORROWER shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the injured party, but in no event no more than sixty (60) days from the date of the notice of default. In no event shall COUNTY be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within sixty (60) days after the first notice of default is given.

(11) Any failures or delays by COUNTY in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by COUNTY in asserting any of its rights and remedies shall not deprive COUNTY of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

(12) If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining

obligations shall be completely performed and paid. In the event that any provision or clause of this Note conflicts with applicable law, such conflict will not affect other provisions of this Note which can be given effect without the conflicting provision, and to this end the provisions of the Note are declared to be severable.

- (13) Borrower hereby waives diligence, presentment, protest and demand, notice of protest, dishonor and nonpayment of this Note, and expressly agrees that, without in any way affecting the liability of Borrower hereunder, the COUNTY may extend any maturity date or the time for payment of any installment due hereunder, accept additional security, release any party liable hereunder and release any security now or hereafter securing this Note. Borrower further waives, to the full extent permitted by law, the right to plead any and all statutes of limitations as a defense to any demand on this Note, or on any deed of trust, security agreement, guaranty or other agreement now or hereafter securing this Note.
- (14) Should default be made in payment of principal and interest when due and such default shall continue beyond the applicable notice and cure period provided in the NSP1 Loan Agreement, the whole sum of principal and interest shall become immediately due at the option of the holder of this Note. Principal and interest are payable in lawful money of the United States. If action be instituted on this Note, the undersigned promises to pay such sums as the Court may fix as attorney's fees.
- (15) This Note has been negotiated and entered in the State of California, and shall be governed by, construed and enforced in accordance with the internal laws of the State of California, applied to contracts made in California by California domiciliaries to be wholly performed in California. Any action at law or in equity arising under this Note or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Note shall be filed in the Superior Courts of Riverside County, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.
- (16) No modification, rescission, waiver, release or amendment of any provision of this Note shall be made except by a written agreement executed by Borrower and the duly authorized representative of the COUNTY.
- (17) The COUNTY may, in its sole and absolute discretion, assign its rights under this Note and its right to receive repayment of the Note Amount without obtaining the consent of Borrower.
- (18) In no event shall Borrower assign or transfer any portion of this Note or any rights herein without the prior express written consent of the COUNTY, which consent the COUNTY may give or withhold in its sole and absolute discretion. In the absence of specific written agreement by the COUNTY, no unauthorized assignment or transfer, or approval thereof by the COUNTY, shall be deemed to relieve Borrower or any other party from any obligations under the NSP1 Loan Agreement or this Note. This provision shall not affect or diminish the COUNTY's assignment rights under this Note.
- (19) Except as to the Permitted Deeds of Trust identified herein, Borrower shall not encumber the Property for the purpose of securing financing either senior or junior in priority or subordinated to the Deed of Trust without the prior written approval of the COUNTY in its sole and absolute discretion.

(20) The relationship of Borrower and the COUNTY pursuant to this Note is that of debtor and creditor and shall not be, or be construed to be, a joint venture, equity venture, partnership or other relationship.

(21) (a) Formal notices, demands and communications between the County and Borrower shall be deemed sufficiently given if made in writing and dispatched by any of the following methods to the addresses of the COUNTY and Borrower as set forth below: (i) registered or certified mail, postage prepaid, return receipt requested (in which event, the notice shall be deemed delivered on the date of receipt thereof); (ii) electronic facsimile transmission, followed on the same day by delivery of a "hard" copy via first-class mail, postage prepaid (in which event, the notice shall be deemed delivered on the date of its successful facsimile transmission as evidenced by a facsimile confirmation or "kick-out" sheet); or (iii) personal delivery, including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service (in which event, the notice shall be deemed delivered on the documented date of receipt). Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail.

(b) The address of the COUNTY for purposes of receiving notices pursuant to this Note shall be 5555 Arlington Avenue, Riverside, California 92504, Attention: Assistant Director of Housing. The facsimile number for the COUNTY's receipt of notices is (951) 352-4852.

(c) The address of Borrower for purposes of receiving notices pursuant to this Note is 600 California St., Suite 900, San Francisco, CA 94108, Attention: President/CEO.

(22) The captions and headings in this Note are for convenience only and are not to be used to interpret or define the provisions hereof.

(23) The undersigned, if comprising more than one person or entity, shall be jointly and severally liable hereunder.

(24) This Note shall be binding upon Borrower and its heirs, successors and assigns, and shall benefit the COUNTY and its successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Borrower has executed this Note as of the day and year first set forth above.

BORROWER:

Summerhouse Housing 3, L.P.,
a California limited partnership

By: BRIDGE SC, LLC,
a California limited liability company
Its: Administrative General Partner

By: _____
Kimberly McKay, Vice President

Date: _____

By: BRIDGE Regional Partners, Inc.,
a California nonprofit benefit corporation,
Its: Managing General Partner

By: _____
Kimberly McKay, Vice President

Date: _____

EXHIBIT "D"

**RIVERSIDE COUNTY
ECONOMIC DEVELOPMENT AGENCY**

SECTION 3

24 CFR PART 135

**ECONOMIC OPPORTUNITIES FOR
LOW-AND VERY LOW-INCOME PERSONS**

CONTRACT REQUIREMENTS

RIVERSIDE COUNTY ECONOMIC DEVELOPMENT AGENCY

I. Section 135.1 Purpose

The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

Section 135.30 Numerical Goals for Meeting the Greatest Extent Feasible Requirement

A. GENERAL

- (1) Recipients and covered contractors may demonstrate compliance with the "greatest extent feasible" requirement of Section 3 by meeting the numerical goals set forth in this Section for providing training, employment, and contracting opportunities to Section 3 residents and Section 3 Business Concerns.
- (2) The goals established in this section apply to the entire amount of the Section 3 covered assistance awarded to a recipient in any Federal Fiscal Year (FY) commencing with the first FY following the effective date of this rule - (October 1, 1994).
- (3) For Recipients that do not engage in training, or hiring, but award contracts to contractors that will engage in training, hiring and subcontracting, recipients must ensure that, to the greatest extent feasible, contractors will provide training, employment, and contracting opportunities to Section 3 residents and Section 3 Business Concerns.
- (4) The numerical goals established in this Section represent minimum numerical goals.

B. TRAINING AND EMPLOYMENT

The numerical goals set forth in this Section apply to new hires. The numerical goals reflect the aggregate hires. Efforts to employ Section 3 residents, to the greatest extent feasible, should be made at all levels.

Recipients of Section 3 covered community development assistance, and their contractors and subcontractors may demonstrate compliance with the requirements of this part by committing to employ Section 3 residents as:

- (i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995 (October 1, 1994 to September 30, 1995),
- (ii) 20 percent of the aggregate number of the new hires for the one year period beginning in FY 1996 (October 1, 1995 to September 1996); and
- (iii) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997 and continuing thereafter (October 1, 1996 and thereafter).

C. CONTRACTS

Numerical goals set forth in this Section apply to contracts awarded in connection with all Section 3 covered project and Section 3 covered activities. Each recipient and contractor and subcontractor may demonstrate compliance with the requirements of this part by committing to award to Section 3 Business Concerns:

- (1) At least 10 percent to of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and
- (2) At least three (3) percent of the total dollar amount of all other Section 3 covered contracts.

D. SAFE HARBOR AND COMPLIANCE DETERMINATIONS

- (1) In the absence of evidence to the contrary, a recipient that meets the minimum numerical goals set forth in this section will be considered to have complied with the Section 3 preference requirements.
- (2) In evaluating compliance, a recipient that has not met the numerical goals set forth in this section has the burden of demonstrating why it was not feasible to meet the numerical goals set forth in this section. Such justification may include impediments encountered despite actions taken. A recipient or contractor also can indicate other economic opportunities, such as those listed in Sec. 135.40, which were provided in its efforts to comply with Section 3 and the requirement of this part.

III. **SECTION 135.34 Preference for Section 3 Residents in Training and Employment Opportunities.**

- A. Order of providing preference. Recipients, contractors, and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of Section 3 covered assistance to Section 3 residents in the order of priority provided in this section.
- (1) Housing and community development programs. In housing and community development programs, priority consideration shall be given, where feasible, to:
 - (i) Section 3 residents residing in the Riverside or San Bernardino County (collectively, referred to as category 1 residents); and
 - (ii) Participants in HUD Youth build programs (category 2 residents).
 - (iii) Where the Section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.), homeless persons residing in the Riverside or San Bernardino County shall be given the highest priority;
- B. Eligibility for Preference: A Section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Sec. 135.5 (An example of evidence of eligibility for the

preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

- C. Eligibility for employment: Nothing in this part shall be construed to require the employment of a Section 3 resident who does not meet the qualifications of the position to be filled.

IV SECTION 135.36 Preference for Section 3 Business Concerns in Contracting Opportunities.

- A. Order of Providing Preference: Recipients, contractors and subcontractors shall direct their efforts to award Section 3 covered contract, to the greatest extent feasible, to Section 3 Business Concerns in the order of priority provided in this section.
 - (1) Housing and community development programs. In housing and community development programs, priority consideration shall be given, where feasible, to:
 - (i) Section 3 business concerns that provide economic opportunities for Section 3 residents in the Riverside or San Bernardino County (category 1 businesses); and
 - (ii) Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses);
 - (iii) Other Section 3 business concerns.
- B. Eligibility for Preference: A Business Concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence, if requested, that the Business Concern is a Section 3 Business Concern as defined in Section 135.5.
- C. Ability to Complete Contract: A Section 3 Business Concern seeking a contract or a subcontract shall submit evidence to the recipient, contractor, or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. (The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36 (see 24 CFR 85.36 (b) (8)). This regulation requires consideration of, among other factors, the potential contractor's record in complying with public policy requirements. Section 3 compliance is a matter properly considered as part of this determination.

SECTION 135.38 Section 3 Clause.

All Section 3 covered contracts shall include the following clause (referred to as the Section 3 clause):

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance of HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low-and very low-income

persons, particularly persons who are recipients of HUD assistance for housing.

- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate actions, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 35 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

VI. SECTION 135.40 Providing Other Economic Opportunities

- A. General. In accordance with the findings of the Congress, as stated in Section 3, that other economic opportunities offer an effective means of empowering low-income persons, a recipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards, in connection with Section 3 covered assistance.