

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



ITEM
3.4
(ID # 5213)

MEETING DATE:

Tuesday, November 7, 2017

FROM : ECONOMIC DEVELOPMENT AGENCY (EDA):

SUBJECT: ECONOMIC DEVELOPMENT AGENCY (EDA): Approve Loan Agreement for the Use of Neighborhood Stabilization Program Funds [\$782,788] and Loan Agreement for the Use of HOME Funds [\$316,374] for Villa Hermosa Apartments II, in the City of Indio, District 4, 71% Neighborhood Stabilization Program 1 funds and 29% HOME Investment Partnership Act Funds, 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 (NSP Loan Agreement) and the Loan Agreement for the Use of HOME Funds (HOME Loan Agreement) for Villa Hermosa Apartments II (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 Indio, as Lead Agency under Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMP) 10-4-494, adopted by the City of Indio, City Council on December 15, 2010 and filed on December 15, 2010 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 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;

ACTION: Policy

Robert Field, Assistant County Executive Officer/EDA 9/5/2017

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Tavaglione, Washington and Perez
Nays: None
Absent: Ashley
Date: November 7, 2017
xc: EDA

Kecia Harper-Ihem
Clerk of the Board

By:
Deputy

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

RECOMMENDED MOTION: That the Board of Supervisors:

2. Affirm the Finding of No Significant Impact adopted by the Board of Supervisors on April 11, 2017 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 of 24 CFR Parts 50 and 58;
3. Approve the attached form of Loan Agreement for the Use of Neighborhood Stabilization Program Funds (Villa Hermosa Apartments II) including all attachments thereto, (NSP Loan Agreement) between the County of Riverside (County) and Fred Young Phase II Associates, L.P., a California limited partnership (Partnership), providing a loan derived from Neighborhood Stabilization Program 1 Funds in the amount of \$720,000 (NSP Loan), to be used to pay a portion of the development and construction costs for phase II of a multi-family farmworker affordable rental housing project in the City of Indio;
4. Approve the attached form of NSP Loan Deed of Trust and Assignment of rents, NSP Loan Promissory Note and NSP Covenant Agreement;
5. Approve the allocation of approximately \$71,162 derived from Neighborhood Stabilization Program 1 funds to be used to pay County staff related costs to the Project;
6. Authorize the Assistant County Executive Officer/EDA, or designee, to execute a NSP Loan Agreement and Covenant Agreement conforming in form and substance to the attached NSP Loan Agreement and NSP Covenant Agreement, subject to approval by County Counsel;
7. Approve the attached form of Loan Agreement for the Use of HOME Program Funds, including all attachments thereto, (HOME Loan Agreement), between the County and Partnership, providing a loan derived from the HOME Investment Partnerships Program in the amount of \$280,000 (HOME Loan), to be used to pay a portion of the development and construction costs for phase II of a multi-family farmworker affordable rental housing project in the City of Indio;
8. Approve the attached form of HOME Loan Deed of Trust and Assignment of Rents, HOME Loan Promissory Note and HOME Loan Covenant Agreement;
9. Authorize the Assistant County Executive Officer/EDA, or designee, to execute a HOME Loan Agreement and Covenant Agreement conforming in form and substance to the attached HOME Loan Agreement and Covenant Agreement, subject to approval by County Counsel;
10. Authorize the Assistant County Executive Officer/EDA, or designee, to negotiate and execute a Subordination Agreement subordinating the NSP Loan Deed of Trust and Assignment of Rents and the HOME Loan Deed of Trust and Assignment of Rents to a Deed of Trust for the benefit of Wells Fargo Bank, N.A., senior lender, securing a construction loan for the Project in an amount up to \$16,500,000, subject to approval by County Counsel;
11. Authorize the Assistant County Executive Officer/EDA, or designee, to negotiate and execute a Subordination Agreement subordinating the NSP Loan Deed of Trust and Assignment of Rents and the HOME Loan Deed of Trust and Assignment of Rents to a

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

Deed of Trust for the benefit of the United States Department of Agriculture (USDA), as a senior lender, securing a Section 514 Farm Labor Housing (FLH) construction loan for the Project in an amount up to \$5,300,000, subject to approval by County Counsel;

12. Authorize the Assistant County Executive Officer/EDA, or designee, to negotiate and execute a Subordination Agreement subordinating the NSP Loan Deed of Trust and Assignment of Rents and the HOME Loan Deed of Trust and Assignment of Rents to a Deed of Trust for the benefit of the USDA securing two existing loans relating to replacement housing units constructed as part of the Project, in an amount up to \$265,000 and \$367,000 respectively (\$632,000 total), that will be assumed by the Partnership from its affiliate The Coachella Valley Housing Coalition once the Project is placed in service, subject to the approval by County Counsel;
13. Authorize the Assistant County Executive Officer/EDA, or designee, to take all necessary steps to implement the NSP Loan Agreement, HOME Loan Agreement, and the Board approved Subordination Agreements, including but not limited to, signing subsequent necessary and relevant documents, subject to approval by County Counsel; and
14. Direct EDA staff to file the Notice of Determination within 5 working days.

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 1,099,162	\$ 0	\$ 1,099,162	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Neighborhood Stabilization Program 1 Funds (72%) and HOME Investment Partnership Act Funds (28%)			Budget Adjustment:	No
			For Fiscal Year:	17/18

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

On February 7, 2017, in connection with Villa Hermosa Apartments II, a 68 unit multi-family affordable rental housing complex for farmworker families, located in the City of Indio (Project), the Board of Supervisors approved Resolution No. 2017-035 which achieved the following (i) allocated up to \$720,000 in Neighborhood Stabilization Program 1 Funds (NSP Loan) and \$280,000 in HOME Investment Partnerships Act Funds (HOME Loan), subject to the satisfaction of certain conditions contained therein, and (ii) supported the submission of a low income housing tax credit application by Fred Young Phase II Associates, L.P., a California limited partnership (Partnership), to the California Tax Credit Allocation Committee (CTCAC) for the Project.

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

The Project was awarded 9% tax credits by CTCAC and, since all of the conditions to funding set forth in Resolution No. 2017-035 have been satisfied, staff recommends that the Board approve the following attached documents memorializing the NSP Loan and the HOME Loan (i) form of Loan Agreement for the Use of Neighborhood Stabilization Program Funds, including exhibits, (NSP Loan Agreement) between the County of Riverside (County) and Partnership memorializing the loan of \$720,000 derived from NSP 1 funds to pay a portion of the development and construction costs for the Project, and (ii) the Loan Agreement for the Use of HOME Funds, including exhibits (HOME Loan Agreement) between the County and Partnership memorializing the loan of \$280,000 derived from HOME Program funds to pay a portion of the development and construction costs for the Project. The NSP Loan and the HOME Loan will each be evidenced by individual Promissory Notes which will be secured by separate Deeds of Trust encumbering the Project, the forms of which are each attached.

The Project will be located on a 6.32 acre parcel of vacant land located on the southwest corner of Van Buren Street and Dr. Carreon Boulevard, in the City of Indio, identified as Assessor's Parcel Number 612-170-017 (Project Site). The Project is phase II of a recently completed affordable housing rental project consisting of 85 units (Phase I) which are adjacent to Project. Phase I and the Project are part of a master plan development to relocate residents that currently reside at Fred Young Farmworker Housing Labor Camp (Fred Young), a substandard housing development. The Project will be comprised of 4 one-bedroom units, 32 two-bedroom units, 24 three-bedroom units and 8 four-bedroom units. The one-bedroom units are approximately 621 square feet, the two-bedroom units are approximately 861 square feet, the three-bedroom units are approximately 1150 square feet and the four-bedroom units are approximately 1293 square feet. For a period of 55 years thirty-two of the units will be subject to NSP occupancy and use restrictions and occupied by and rented to households whose incomes do not exceed 50% of the area median income for the County (NSP Restricted Units) and, 11 units will be subject to HOME Program occupancy and use restrictions, and will be rented to and occupied by households whose incomes do not exceed 50% of the area median income for the County (HOME Restricted Units). The aforementioned use and occupancy restrictions will be memorialized in separate covenant agreements recorded against the Project with concurrent 55-year terms.

Phase I and the Project will be owned by separate limited partnerships, but will share a general partner/developer, The Coachella Valley Housing Coalition. The limited partnerships for Phase I and Project will enter into a joint use agreement to allow tenants to enjoy all site common areas and amenities, including a 3,172 square foot community room with internet access, soccer fields, four tot-lots and a swimming pool.

The total development cost for the Project is estimated at \$25,664,317. Sources of financing for the development of Project include NSP Loan in the amount of \$720,000, HOME Loan in the amount of \$280,000, a United States Department of Agriculture (USDA) Section 514 Farm Labor Housing (FLH) construction loan in the total amount of \$5,300,000, which will be evidenced by two separate promissory notes and secured by two separate Deeds of Trusts in

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

the amounts of \$3,000,000 and \$2,300,000 respectively (USDA 514 Loans), a construction loan from Wells Fargo Bank, N.A., in the amount of \$15,359,498 (Wells Fargo Loan), an Affordable Housing Program loan in the amount of \$670,000, a deferred developer fee in the amount of \$100, and Limited Partnership Tax Credit Equity in the amount of \$18,694,217 which will be utilized to pay-off the Wells Fargo Loan at Project completion.

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

Villa Hermosa Apartments II	\$720,000	NSP Project Funding
Villa Hermosa Apartments II	\$ 71,162	NSP Direct Staffing Cost (10%)
Villa Hermosa Apartments II	\$280,000	HOME Project Funding
<u>Villa Hermosa Apartments II</u>	<u>\$ 28,000</u>	<u>HOME Direct Staffing (10%) (Previously approved via Minute Order No. 3.38 on 3/7/17)</u>
Total	\$1,099,162	

Wells Fargo Bank, N.A, as construction lender, and USDA (collectively, Senior Lenders), require as a condition precedent to the funding of their respective loans that both the NSP Loan and HOME Loan are subordinate to the Senior Lenders liens. Subordination of the NSP Loan and HOME 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 the aforementioned subordination requirement, lien priority during the construction phase shall be as follows: 1st priority, 2nd and 3rd priority USDA 514 Loans, 4th priority NSP Loan, 5th priority HOME Loan, 6th priority AHP Loan. Once the Project is completed, the Wells Fargo Loan will be repaid in its entirety with the tax credit equity. Upon Project completion, lien priority will be as follows: 1st and 2nd priority USDA 514 Loans, 3rd and 4th priority USDA Assumed Loans (discussed below), 5th priority NSP Loan, 6th priority HOME Loan, 7th priority AHP Loan. Since the Project includes replacement housing units in connection with an affiliate affordable housing project, the Partnership will assume two related USDA loans in an amount up to \$265,000 and \$367,000 each (\$632,000 total), from its affiliate Coachella Valley Housing Associates, once the Project is placed in service(USDA Assumed Loans).

On April 11, 2017 the Board of Supervisors adopted a Finding of No Significant Impact for the Project and concluded 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 implementing regulations at 24 CFR Parts 50 and 58. Staff recommends that the County Board of Supervisors affirm that the environmental effects of the NSP Loan Agreement and HOME Loan Agreement 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 Indio, as Lead Agency in the Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMP) 10-4-494, adopted by the City of Indio, City Council

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

on December 15, 2010 and filed on December 15, 2010 with the Riverside County Clerk's Office. Acting as the 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 attached form of NSP Loan Agreement, including all exhibits, including, but not limited to the NSP Loan Deed of Trust and Assignment of Rents, NSP Loan Promissory Note, and the NSP Covenant Agreement, and the HOME Loan Agreement, including all exhibits, including, but not limited to the HOME Loan Deed of Trust and Assignment of Rents, HOME Loan Promissory Note and HOME Covenant Agreement. Staff further recommends that the Board of Supervisors authorize the Assistant County Executive Officer/EDA, or designee, to negotiate and execute subordination agreements, as required conditions to the Senior Lenders financing, subordinating the NSP Loan Deed of Trust and Assignment of Rents and HOME Loan Deed of Trust and Assignment of Rents to the Deeds of Trust securing each Senior Lender loan as discussed herein, subject to County Counsel approval.

Previous Agenda Items:

2/7/17 Item No. 3.18

3/7/17 Item No. 3.38

4/11/17 Item No. 3.27

Impact on Residents and Businesses

The development of Villa Hermosa Apartments II in the City of Indio will have a positive impact on the citizen and businesses within the County of Riverside. The Project is expected to generate construction, permanent maintenance and property management jobs, as well as provide affordable housing for residents of the County of Riverside.

SUPPLEMENTAL:

Additional Fiscal Information

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

Attachments:

- Form of Loan Agreement for the Use of NSP funds, including all exhibits
 - Form of NSP Deed of Trust and Promissory Note
 - Form of NSP Covenant Agreement

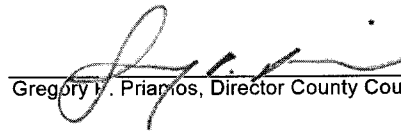
**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

- Form of Loan Agreement for the Use of HOME funds, including all exhibits
 - Form of HOME Deed of Trust and Promissory Note
 - Form of HOME Covenant Agreement
- Notice of Determination

RF:JV:HM:JA:JG:SA

MT#5213


Rohini Dasika, Principal Management Analyst 10/30/2017


Gregory V. Priamos, Director County Counsel 10/26/2017

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: Stephanie Adams

13 SPACE ABOVE THIS LINE FOR RECORDERS USE

14 LOAN AGREEMENT FOR THE USE OF
15 NEIGHBORHOOD STABILIZATION PROGRAM FUNDS
16 (Villa Hermosa Apartments II)

17 This Loan Agreement for the Use of Neighborhood Stabilization Program funds
18 (“Agreement”) is made and entered into this _____ day of _____, 2017
19 by and between the COUNTY OF RIVERSIDE, a political subdivision of the State of California
20 (“COUNTY”) and Fred Young Phase II Associates, 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 WITNESETH:

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 created
27 under the heading of Emergency Assistance for Redevelopment of Abandoned and Foreclosed
28 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 and

1 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 funds
4 to perform those activities described herein;

5 WHEREAS, BORROWER’s administrative general partner is Fred Young Phase
6 II, LLC, a California limited liability company whose sole member/manager is The Coachella
7 Valley Housing Coalition, a California nonprofit public benefit corporation organized to provide
8 housing for low income persons;

9 WHEREAS, BORROWER has proposed to utilize NSP1 funds to develop and
10 construct a multi-family affordable rental housing project consisting of sixty eight (68) rental
11 units including one (1) residential manager’s unit (“Project”) on real property located on
12 approximately 6.32 acres of vacant land located on the Southwest corner of Van Buren Street
13 and Dr. Carreon, in the City of Indio, also identified as APN 612-170-017 as more specifically
14 described in the legal description and depicted on the site map attached hereto as **Exhibit A** and
15 incorporated herein by this reference (“Property”);

16 WHEREAS, Project is part of a master site plan to construct new units to relocate
17 residents residing in Fred Young Farm Labor Center (“Fred Young”);

18 WHEREAS, a total of thirty two (32) units on the property will be reserved as
19 NSP1 assisted units restricted to households whose incomes do not exceed 50% of the Riverside
20 County area median income as determined by the U.S. Department of Housing: Urban
21 Development (“NSP1-Assisted Units”);

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

25 WHEREAS, the purpose of this Agreement is, among other things, for COUNTY
26 to reserve and commit up to Seven Hundred and Twenty Thousand Dollars (\$720,000) of NSP1
27 funds, to provide financial assistance to BORROWER to pay a portion of development and
28 construction costs related to the Project, as more fully described herein; and

1 WHEREAS, funding for development and construction activities described herein
2 complies with NSP-eligible use E, redevelopment of demolished or vacant properties, pursuant
3 to NSP1 regulations set forth under Federal Register Notice, Vol. 73, No. 194, Docket No. FR-
4 5255-N-01, dated October 6, 2008, as amended, and is consistent with the COUNTY's
5 Consolidated Plan.

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

9 1. PURPOSE. The aforementioned Recitals are true and correct and
10 incorporated herein by this reference. COUNTY has agreed to lend no more than a total of Seven
11 Hundred and Twenty Thousand Dollars in NSP1 funds ("NSP1 Loan") to BORROWER upon
12 the satisfaction of the terms and conditions set forth herein, including but not limited to the
13 conditions precedent to distribution of NSP1 Loan funds set forth in **Section 11** below. Subject
14 to **Sections 49** and **50** below, BORROWER shall undertake and complete the NSP1 activities
15 required herein and as set forth in **Exhibit A**, and shall utilize the NSP1 Loan funds, as required
16 herein and pursuant to the NSP1 regulations. A total of 32 units consisting of 7 two-bedrooms,
17 17 three-bedrooms, and 8 four-bedrooms shall be reserved as NSP1-Assisted Units. During the
18 Affordability Period (as defined in **Section 14** below), the NSP1-Assisted Units shall be rented
19 to and occupied by Qualified Very Low Income Households for an affordable rent pursuant to
20 **Sections 18 and 19** below, **Exhibit A** and the Covenant Agreement attached hereto as **Exhibit**
21 **G** and incorporated herein by this reference.

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

- 25 a. Satisfy the conditions precedent to distribution of NSP1 Loan funds set
26 forth in **Section 11** below.
- 27 b. Develop the Project in accordance with the timeline set forth in **Exhibit**
28 **A**.

- 1 c. Operate the Project in such a manner so that it will remain affordable
2 to Qualified Very Low Income Households for the Affordability Period
3 as defined in **Section 14** below without regard to (i) the term of the
4 promissory note or (ii) transfer of ownership.
- 5 d. Maintain the Project in compliance with applicable local, state, federal
6 laws, codes and regulations as further described in **Section 17** below
7 until the expiration of the Term of Agreement set forth in **Section 6**
8 below and the Affordability Period set forth in **Section 14** below.
- 9 e. Provide the COUNTY the Data Universal Number as assigned by the
10 Data Universal Number System (DUNS) assigned to BORROWER as
11 required by the Federal Funding Accountability and Transparency Act
12 of 2006.
- 13 f. Cooperate with the Riverside County Work Force Development Center
14 (WDC) and post all jobs created, if any, as a result of this Project with
15 the WDC. Evidence of posted jobs, if any, shall be submitted to the
16 COUNTY prior to start of construction.

17 3. Reserved.

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

- 22 a. Term of NSP1 Loan. The maturity date of the NSP1 Loan amount shall
23 be the later to occur of (i) July 1, 2073 or (ii) fifty-five (55) years from
24 the recordation of the Notice of Completion in the Official Records for
25 the last building for which construction is completed for the Project
26 (the "NSP1 Loan Term"). The term, "Official Records" used herein
27 shall mean the Official Records of the Recorder's Office of the County
28 of Riverside.

1 b. Principal. The total amount of the NSP1 Loan shall not exceed
2 \$720,000, and shall be evidenced by a Promissory Note, substantially
3 conforming in form and substance to the Promissory Note attached
4 hereto as **Exhibit C** and incorporated herein by this reference (“NSP1
5 Note”), which note shall be secured by a Deed of Trust with
6 Assignment of Rents, substantially conforming in form and substance
7 to the Deed of Trust with Assignment of Rents attached hereto as
8 **Exhibit B** and incorporated herein by this reference (“NSP1 Deed of
9 Trust”).

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

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

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

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

22 i) Fifty percent (50%) of the Project’s Residual
23 Receipts shall be used towards the payment of the
24 County of Riverside HOME Loan in the
25 approximate amount of \$280,000 (“Home Loan”)
26 and the Affordable Housing Program Loan in the
27 approximate amount of \$670,000 (“AHP Loan”)
28 (collectively “Residual Receipts Loans”). The

1 payment of 50% of the residents receipts shall be
2 allocated to the aforementioned loans on a pro rate
3 basis (i.e. allocates in proportion to its share of the
4 total amount of the Residual Receipts Loans, until
5 the NSP1 Note is repaid in full; and

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

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

25 4. The term "Project's Residual Receipts" as used herein shall
26 mean gross receipts, not including interest on required reserve
27 accounts, less the following costs reasonably and actually
28 incurred for operation and maintenance of the project:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- i) auditing and accounting fees;
- ii) a reasonable property management fee not to exceed \$55 per unit per month, increased annually by an amount equal to the increase in the Consumer Price Index for 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, limited to \$400 per unit for all units in the Project, as defined in **Exhibit A**, increased annually by an amount equal to the increase in CPI;
- v) Operating Reserves in an amount up to \$25,000;
- vi) deferred developer's fee in the approximate amount of \$_____;
- vii) asset management fee payable to the limited partner in an amount not to exceed \$5,000 per year, increasing at CPI annually and partnership management fee payable to the general partner in an amount not to exceed \$5,000 per year, increasing at CPI annually (and terminating after the expiration

1 of the 15-year tax credit compliance period);

2 viii) payments of principal and interest on amortized
3 loans and indebtedness senior to the NSPI Loan,
4 which have been approved by COUNTY
5 (collectively, the "Senior Debt"); and

6 ix) COUNTY's Annual Monitoring Fee in the total
7 annual amount of \$6800 increased annually by an
8 amount equal to the increase of the Consumer Price
9 Index (CPI), as more specifically discussed in
10 **Section 28.**

11 Operating Expenses shall not include repayment of advances to the
12 BORROWER from its limited partner(s), general partner(s), their affiliates, and/or third parties
13 (including without limitation, any advances of any portion of the Deferred Developer's Fee to
14 pay (or reimburse for) and construction cost overruns), depreciation, amortization, depletion or
15 other non-cash expenses, any amount expended from a reserve account, and any capital cost
16 associated with development of the project. The calculation of Operating Expenses shall be
17 subject to the reasonable approval of the COUNTY's Assistant County Executive Officer/EDA
18 or designee.

19 5. Security. The NSPI Deed of Trust and this Agreement shall be in
20 a fourth priority position during the construction phase. Lien
21 priority during construction shall be as follows: (1) deed of trust for
22 the benefit of Wells Fargo Bank, N.A. securing a construction loan
23 for the Project in an amount up to \$15,359,498; (2) deed of trust for
24 the benefit of United States Department of Agricultural 514 Loan
25 securing a loan for the Project in an amount up to \$3,000,000; (3)
26 deed of Trust for the benefit of United States Department of
27 Agriculture 514 Loan securing a loan for the Project in an amount
28 up to \$2,300,000 (collectively "USDA Loans") (collectively

1 “Senior Loans”); (3) Deed of Trust for the benefit COUNTY
2 securing the NSP 1 Loan and the terms of this Agreement in fourth
3 priority position junior to the above deeds of trust; (4) County of
4 Riverside HOME Deed of Trust for the benefit of COUNTY
5 securing the HOME Loan in the amount of \$280,000; and (5) AHP
6 Loan Deed of Trust securing a loan for the Project in the amount of
7 \$670,000. The NSP 1 Deed of Trust and this Agreement shall be
8 in fifth priority at the conversion of the 8609 Form. Lien priority
9 after conversion shall be as follows: (1) 1st and 2nd priority deeds of
10 trust for the benefit of the USDA Loans in an amount up to
11 \$5,300,000; (2) two deeds of trust for the benefit of two loans in
12 the total amount of \$630,000 assumed from Fred Young for the
13 benefit of the United States Department of Agriculture (“USDA
14 Assumed Loans”); (3) Deed of Trust for the benefit COUNTY
15 securing the NSP 1 Loan and the terms of this Agreement (4)
16 County of Riverside HOME Loan Deed of Trust for the benefit of
17 COUNTY securing the HOME Loan in the amount of \$280,000;
18 and (5) AHP Loan Deed of Trust securing a loan for the Project in
19 the amount of \$670,000. Borrower shall cause the Senior Loans
20 or any other COUNTY approved senior lender to execute and
21 record in the Official Records, a Subordination Agreement,
22 substantially in a form and of substance approved by the COUNTY,
23 which, among other things, grants the COUNTY notice and
24 opportunity to cure events of default under the Senior Loan
25 documents. The term “conversion” used herein shall mean the date
26 upon which (i) issuance of 8609 form by TCAC (ii) re-conveyance
27 of Deed of Trust for construction loan.

28 e. Prepayment. Prepayment of principal and/or interest under the NSP1

1 Note may occur at any time without penalty; provided, however (i) the
2 requirements of **Section 17**, Compliance with Laws and Regulations,
3 shall remain in full force and effect for the term of the Agreement
4 specified in **Section 6** below; and (ii) the affordability requirements set
5 forth in the Covenant Agreement, attached hereto as **Exhibit G**, shall
6 remain in effect until the expiration of the Affordability Period.

7 5. PRIOR COUNTY APPROVAL.

8 a. Except as otherwise expressly provided in this Agreement,
9 approvals required of COUNTY or BORROWER in this Agreement, including the attachments
10 hereto, shall not be unreasonably withheld or delayed. All approvals shall be in writing. Failure
11 by either party to approve a matter within the time provided for approval of the matter shall not
12 be deemed disapproval, and failure by either party to disapprove a matter within the time
13 provided for approval of the matter shall not be deemed an approval.

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

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

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

1 7. BORROWER'S REPRESENTATIONS. BORROWER represents and
2 warrants to COUNTY as follows:

3 a. Authority. BORROWER is a duly organized limited partnership
4 in good standing under the laws of the State of California. The
5 copies of the documents evidencing the organization of
6 BORROWER, which have been delivered to COUNTY, are true
7 and complete copies of the originals, amended to the date of this
8 Agreement. BORROWER has full right, power and lawful
9 authority to enter into this Agreement and accept the loan of NSP1
10 Loan funds and undertake all obligations as provided herein. The
11 execution, performance and delivery of this Agreement by
12 BORROWER have been fully authorized by all requisite actions
13 on the part of BORROWER.

14 b. No Conflict. To the best of BORROWER's knowledge,
15 BORROWER's execution, delivery and performance of its
16 obligations under this Agreement will not constitute a default or a
17 breach under contract, agreement or order to which BORROWER
18 is a party or by which it is bound.

19 c. No Bankruptcy. BORROWER is not the subject of a bankruptcy
20 proceeding.

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

and/or operation of the Project Site.

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

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

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

10. EXTENSION OF TIME. COUNTY may grant an extension to the Implementation Schedule set forth in **Exhibit A** for the purpose of completing BORROWER's

1 activities which cannot be completed as outlined in **Exhibit A**. BORROWER shall request said
2 extension in writing, stating the reasons therefore, which extension must be first approved in
3 writing by the COUNTY in its reasonable discretion. The Assistant CEO/EDA or designee, on
4 behalf of the COUNTY and without referring such matter to the County's Board of Supervisor's
5 may extend all pending deadlines in the Implementation Schedule on two (2) or fewer occasions,
6 so long as the aggregate duration of such administrative time extensions is no greater than ninety
7 (90) days. Every term, condition, covenant, and requirement of this Agreement shall continue
8 in full force and effect during the period of any such extension.

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

- 16 a. BORROWER executes this Agreement and delivers to COUNTY for
17 recordation in the Official Records;
- 18 b. Borrower submits written evidence to COUNTY that Borrower has
19 obtained sufficient financing commitments necessary to undertake the
20 construction of Project as required herein;
- 21 c. BORROWER provides COUNTY with the Data Universal Number as
22 assigned by the Date Universal Number System assigned to Borrower
23 as required by the Federal Accountability and Transparency Act of
24 2006;
- 25 d. BORROWER provides COUNTY with evidence of insurance as
26 required herein;
- 27 e. BORROWER executes the NSP1 Deed of Trust, substantially
28 conforming in form and substance to the Deed of Trust with

1 Assignment of Rents attached hereto as **Exhibit B**, in recordable form,
2 and delivers such document to the County of Riverside for recordation
3 in the Official records;

4 f. BORROWER executes the NSP1 Note, substantially conforming in
5 form and substance to the Promissory Note attached hereto as **Exhibit**
6 **C** and delivers to COUNTY;

7 g. BORROWER executes the Covenant Agreement, substantially
8 conforming in form and substance to the Covenant Agreement attached
9 hereto as **Exhibit G** and incorporated herein by this reference, in
10 recordable form, and delivers to the County of Riverside for
11 recordation in the Official Records;

12 h. COUNTY executes and records the Request for Notice of Default
13 conforming in form and substance to **Exhibit I** attached hereto;

14 i. BORROWER provides, at its expense, an ALTA lender's policy in
15 favor of COUNTY, insuring the NSP1 Deed of Trust as a third priority
16 lien against the Property junior only to the Senior Loans identified in
17 **Section 4(d)(5)**;

18 j. BORROWER provides satisfactory evidence that it has all the
19 financing documents required to cause the proceeds of the Senior
20 Loans, when combined with the NSP1 Loan, to pay for all development
21 and construction costs for the Project;

22 k. BORROWER is not in default under the terms of this Agreement or
23 any other agreement related to the financing of the Project;

24 l. BORROWER submits evidence that all jobs created, if any, as a result
25 of this project shall be posted with the Riverside County Workforce
26 Development Center (WDC);

27 m. BORROWER provides satisfactory evidence that it has secured any
28 and all land use entitlements, permits, approvals which may be required

1 for construction of the Project pursuant to the applicable rules and
2 regulations of COUNTY, or any other governmental agency affected
3 by such construction work. BORROWER shall, without limitation,
4 secure all entitlement, change of zone, lot line adjustment, any and all
5 necessary studies required including but not limited to archaeological,
6 cultural, environmental, traffic studies and lead-based paint surveys, as
7 applicable, and required, and pay all costs, charges and fees associated
8 therewith, all conditions precedent to the issuance of all permits
9 necessary for the construction of the Project and all such permits are
10 available for issuance, other than payment of fees;

- 11 n. BORROWER provides duly executed documents and instruments
12 evidencing that BORROWER owns fee title to the Property;
- 13 o. BORROWER consults and complies with concerned Native American
14 tribes pursuant to Section 106 requirements, including entering into a
15 Native American monitoring agreement, and if necessary, a cultural
16 resource treatment and disposition agreement;
- 17 p. If Davis Bacon and/or prevailing wages are required to be paid,
18 BORROWER hires a qualified professional firm to review and monitor
19 Davis Bacon and/or prevailing wage compliance for all submissions of
20 contractors certified payrolls to COUNTY. In the event that the Project
21 requires prevailing wages, BORROWER shall comply with any
22 applicable labor regulations and all other State laws in connection with
23 the construction of the improvements which compromise the Project,
24 including if applicable, requirements relating to prevailing wages.
25 BORROWER agrees and acknowledges that it is the responsibility of
26 BORROWER to obtain legal determination, at BORROWER's sole
27 cost and expense, as to whether prevailing wages must be paid during
28 the construction of the Project. If the Project is subject to prevailing

1 wage, then BORROWER shall be solely responsible to pay its
2 contractors and subcontractors the required prevailing wage rates.
3 BORROWER agrees to indemnify, defend, and hold COUNTY
4 harmless from and against any and all liability arising out of and related
5 to BORROWER's failure to comply with any and all applicable Davis
6 Bacon and/or prevailing wage requirements;

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

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

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

- 25 1) Conditional lien release from general contractor;
- 26 2) recorded Notice of Completion;
- 27 3) Permanent Certificate of Occupancy;
- 28 4) architect certification identifying units that are accessible to

1 individuals with mobility impairments and units that are
2 accessible to individuals with sensory impairments in
3 compliance with Section 504 of the Rehabilitation Act of
4 1973, as described in **Section 17(i)**;

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

21 12. REALLOCATION OF FUNDS. If Borrower fails to meet (1) the
22 Construction Start Deadline as set forth in **Section 49(a)**, (2) the Completion Deadline as set
23 forth in **Section 49(b)**, (3) the Lease Deadline as set forth in **Section 19(b)**, or (4) the Project
24 Financing Contingency in **Section 50**, all of which are herein (collectively, the “Performance
25 Deadlines”), subject to the notice and cure periods set forth in **Section 32** herein, then the NSP1
26 Loan funds allocated, reserved, or placed in a NSP1 account pursuant to this Agreement may be
27 reallocated by COUNTY after at least thirty (30) days’ prior written notice is given to
28 BORROWER. Upon such reallocation and repayment of funds, this Agreement shall be

1 terminated and be of no further force and effect and Borrower shall be released and discharged
2 from any obligations under this Agreement, except as to those obligations which by their terms
3 survive termination of this Agreement.

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

- 16 a. Up to fifty percent (50%) of the NSP1 loan shall be disbursed at the
17 commencement of construction.
- 18 b. Up to ninety percent (90%) of the NSP1 Loan shall be disbursed at
19 fifty percent completion of the Project.
- 20 c. COUNTY shall release and disburse the final draw down of ten
21 percent (10%) of the NSP1 Loan, following receipt of all of the
22 items listed in **Section 11**.

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

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

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

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

1 deductibles (currently, \$50,000 per occurrence) and shall insure its
2 own machinery, equipment, tools, etc. from any loss of any nature
3 whatsoever.

4 b. Worker's Compensation Insurance.

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

14 c. Commercial General Liability Insurance.

15 Commercial General Liability insurance coverage, including but
16 not limited to, premises liability, contractual liability, products and
17 completed operations liability, personal and advertising injury, and
18 cross liability coverage, covering claims which may arise from or
19 out of BORROWER'S performance of its obligations hereunder.
20 Policy shall name the County of Riverside, its Agencies, Boards,
21 Districts, Special Districts, and Departments, their respective
22 directors, officers, Board of Supervisors, employees, elected or
23 appointed officials, agents or representatives as Additional Insured.
24 Policy's limit of liability shall not be less than \$3,000,000 per
25 occurrence combined single limit. If such insurance contains a
26 general aggregate limit, it shall apply separately to this agreement
27 or be no less than two (2) times the occurrence limit.

28 d. Vehicle Liability Insurance.

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

14 e. General Insurance Provisions – All Lines.

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

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

1 carriers shall either: (a) reduce or eliminate such self-insured
2 retention as respects this Agreement with COUNTY, or (b) procure
3 a bond which guarantees payment of losses and related
4 investigations, claims administration, and defense costs and
5 expenses.

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

1 endorsements for each policy and the Certificate of Insurance.

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

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

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

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

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

27 16. FINANCIAL AND PROJECT RECORDS. BORROWER shall maintain
28 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 of
10 individual tenant income verifications, project rents, and project inspections must be retained for
11 the most recent five (5) year period, until five (5) years after the Affordability Period terminates.
12 If any litigation, claim, negotiation, audit, or other action has been started before the expiration
13 of the regular period specified, the records must be retained until completion of the action and
14 resolution of all issues which arise from it, or until the end of the regular period, whichever is
15 later.

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

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

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

5 b. Section 92.350 Other Federal requirements and nondiscrimination.

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

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

- 13 (1) Methods for informing the public, owners, and potential
14 tenants about Federal fair housing laws and the affirmative
15 marketing policy (e.g., the use of the Equal Housing
16 Opportunity logotype or slogan in press releases and
17 solicitations for owners, and written communication to fair
18 housing and other groups).
- 19 (2) Requirements and practices that BORROWER must adhere
20 to in order to carry out the affirmative marketing procedures
21 and requirements (e.g., use of commercial media, use of
22 community contacts, use of the Equal Housing Opportunity
23 logotype or slogan, and display of fair housing poster).
- 24 (3) Procedures to be used by BORROWER to inform and
25 solicit applications from persons in the housing market area
26 who are not likely to apply without special outreach (e.g.,
27 use of community organizations, employment centers, fair
28 housing groups, or housing counseling agencies).

- 1 (4) Records that will be kept describing actions taken by
2 BORROWER to affirmatively market units and records to
3 assess the results of these actions.
- 4 (5) A description of how BORROWER will annually assess the
5 success of affirmative marketing actions and what
6 corrective actions will be taken where affirmative
7 marketing requirements are not met.
- 8 (6) BORROWER must prescribe procedures to establish and
9 oversee a minority outreach program to ensure the
10 inclusion, to the maximum extent possible, of minorities
11 and women, and entities owned by minorities and women,
12 including, without limitation, real estate firms, construction
13 firms, appraisal firms, management firms, financial
14 institutions, investment banking firms, underwriters,
15 accountants, and providers of legal services, in all contracts
16 entered into by BORROWER with such persons or entities,
17 public and private, in order to facilitate the activities of
18 COUNTY to provide affordable housing authorized under
19 this Act or any other Federal housing law. Section 24 CFR
20 85.36(e) provided affirmative steps to assure that minority
21 business enterprises and women business enterprises are
22 used when possible in the procurement of property and
23 services. The steps include:
- 24 (i) Placing qualified small and minority businesses and
25 women's business enterprises on solicitation lists.
- 26 (ii) Assuring that small and minority businesses, and
27 women's business enterprises are solicited
28 whenever they are potential sources.

- 1 (iii) Dividing total requirements, when economically
2 feasible, into smaller tasks or quantities to permit
3 maximum participation by small and minority
4 business, and women's business enterprises.
- 5 (iv) Establishing delivery schedules, where the
6 requirement permits, which encourage participation
7 by small and minority business, and women's
8 business enterprises.
- 9 (v) Using the services and assistance of the Small
10 Business Administration, and the Minority Business
11 Development Agency of the Department of
12 Commerce.
- 13 (vi) Requiring the prime contractor, if subcontracts are
14 to be let, to take the affirmative steps listed in (i)
15 through (v) above of this section.

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

22 e. Section 92.353 Displacement, relocation, and acquisition. The
23 relocation requirements of Title II and the acquisition requirements
24 of Title III of the Uniform Relocation Assistance and Real Property
25 Acquisition Policies Act of 1970, and the implementing regulations
26 at 24 CFR Part 42. BORROWER must ensure that it has taken all
27 reasonable steps to minimize the displacement of persons as a result
28 of this project assisted with NSP1 Funds.

- 1 f. Section 92.354 Lead-based paint. Housing assisted with NSP1
2 funds is subject to the lead-based paint requirements of 24 CFR
3 Part 35 issued pursuant to the Lead-Based Paint Poisoning
4 Prevention Act (42 U.S.C. 4821, et seq.). The lead-based paint
5 provisions of 24 CFR 982.401 (j), except 24 CFR 982.401 (j)(1)(i),
6 also apply, irrespective of the applicable property standard under
7 §92.251.
- 8 g. Section 92.354 Labor. Every contract for the construction of
9 housing that includes twelve (12) or more units assisted with NSP1
10 funds must contain a provision requiring the payment of not less
11 than the wages prevailing in the locality, as predetermined by the
12 Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C.
13 276a-276a-5), to all laborers and mechanics employed in the
14 development of any part of the housing. Such contracts must also
15 be subject to the overtime provisions, as applicable, of the Contract
16 Work Hours and Safety Standards Act (40 U.S.C. 327-332).
17 BORROWER must apply most current wage rate determination at
18 the date of execution of this Agreement.
- 19 h. Section 92.356 Conflict of Interest. In the procurement of property
20 and services by BORROWER, the conflict of interest provisions in
21 24 CFR 85.36 and 24 CFR 85.42, respectively shall apply. Section
22 92.356 shall cover all cases not governed by 24 CFR 85.36 and 24
23 CFR 84.42.
- 24 i. Section 504 of the Rehabilitation Act of 1973; Housing
25 accessibility requirement at 24 CFR Part 8, implementing Section
26 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). The design
27 and construction of multi-family dwellings as defined at 24 CFR
28 100.201 must comply with the requirements set forth in 24 CFR

1 100.205 implementing the Fair Housing Act. Dwelling units must
2 be designed and constructed in accordance with the Uniform
3 Federal Accessibility Standards (UFAS) will be deemed to comply
4 with the Section 504 regulation.

5 (1) 24 CFR Part 8.22 New construction—housing
6 facilities. For new construction of multi-family
7 projects, 5 percent (5%) of the units (but not less
8 than one unit) must be accessible to individuals with
9 mobility impairments, and an additional 2 percent
10 (2%) of the units (but not less than one unit) must
11 be accessible to individuals with sensory
12 impairments.

13 (2) 24 CFR Part 8.23 Alterations of existing housing
14 facilities. If alterations are undertaken to a project
15 that has 15 or more units and the cost of the
16 alterations is 75 percent or more of the replacement
17 cost of the completed facility, then the provisions of
18 §8.22 shall apply. Alterations to dwelling units in a
19 multifamily housing project shall, to the maximum
20 extent feasible, be made to be readily accessible to
21 and usable by individuals with handicaps. If
22 alterations of single elements or spaces of a
23 dwelling unit, when considered together, amount to
24 an alteration of a dwelling unit, the entire dwelling
25 unit shall be made accessible. Once 5 percent (5%)
26 of the dwelling units in a project are readily
27 accessible to and usable by individuals with
28 mobility impairments, then no additional elements

1 of dwelling units, or entire dwelling units, are
2 required to be accessible under this paragraph.
3 Alterations to common areas or parts of facilities
4 that affect accessibility of existing housing facilities
5 shall, to the maximum extent feasible, be made to
6 be accessible to and usable by individuals with
7 handicaps. For purposes of this paragraph, the
8 phrase to the maximum extent feasible shall not be
9 interpreted as requiring that a recipient make a
10 dwelling unit, common area, facility or element
11 thereof accessible if doing so would impose undue
12 financial and administrative burdens on the
13 operation of the multifamily housing project.

14 j. Model Energy Code published by the Council of American
15 Building Officials.

16 k. Section 3 of the Housing and Urban Development Act of 1968. To
17 the greatest extent feasible, opportunities for training and
18 employment arising from NSP1 funds will be provided to low-
19 income persons residing in the program service area. To the
20 greatest extent feasible, contracts for work to be performed in
21 connection with NSP1 funds will be awarded to business concerns
22 that are located in or owned by persons residing in the program
23 service area as outlined in the Riverside County EDA Section 3
24 Contract Requirements attached hereto as **Exhibit D**. Contracts
25 funded from Section 3 covered funding sources must abide by the
26 Section 3 Clause prescribed at 24 CFR 135.38. All contracts
27 subject to the requirements of Section 3 must include the Section 3
28 Clause verbatim that is contained at 24 CFR 135.38 attached hereto

1 as **Exhibit D-2**, which is attached hereto and by this reference
2 incorporated herein.

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

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

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

- 21 (1) BORROWER does not assume COUNTY'S environmental
22 responsibilities described at 24 CFR Part 92.352; and
23 (2) BORROWER does not assume COUNTY's responsibility
24 for initiating the review process under the provisions of 24
25 CFR Part 92.352

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

1 following §§85.6, 85.12, 85.20, 85.22, 85.26, 85.32 through 85.34,
2 85.36, 85.44, 85.51 and 85.52 (for government entities), and the
3 following §§84.2, 84.5, 84.13 through 84.16, 84.21, 84.22, 84.26
4 through 84.28, 84.30, 84.31, 84.34 through 84.37, 84.40 through
5 84.48, 84.51, 84.60 through 84.62, 84.72, and 84.73 (for non-profit
6 organizations). Federal awards expended as a recipient or a
7 subrecipient, as defined by HUD, would be subject to single audit.
8 The payments received for goods or services provided as a vendor
9 would not be considered Federal awards.

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

15 q. Immigration requirements of Federal Register, Vol. 62, No. 221,
16 Department of Justice Interim Guidance on Verification of
17 Citizenship, Qualified Alien Status and Eligibility Under Title IV
18 of the Personal Responsibility and Work Opportunity
19 Reconciliation Act of 1996 ("PRWORA"). Final Attorney
20 General's Order issued pursuant to PRWORA is specified under
21 Federal Register Vol. 66, No. 10, Department of Justice Final
22 Specification of Community Programs Necessary for Protection of
23 Life or Safety Under Welfare Reform Legislation.

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

26 18. INCOME TARGETING REQUIREMENTS. BORROWER shall set aside
27 thirty two (32) units to be designated as NSP1-Assisted Units which shall be occupied and rented
28 to households whose incomes do not exceed fifty percent (50%) of the area median income for

1 the County of Riverside (“Qualified Very Low Income Households”), adjusted by family size at
2 the time of occupancy as published by HUD.

3 19. RENT LIMITATIONS. A total of 32 units consisting of 7 two-bedrooms,
4 17 three-bedrooms, and 8 four-bedrooms shall be reserved as NSP1-Assisted Units. The NSP1-
5 Assisted Units shall be a “floating” designation on the Property such that the requirements of
6 this Agreement will be satisfied so long as the total number of NSP1-Assisted Units and bedroom
7 size remains the same throughout the Affordability Period. NSP1-Assisted Units shall be rented
8 to and occupied by Qualified Very Low Income Households that qualify for an affordable rent
9 as defined by the California Health and Safety Code Section 50053(b)(2). Affordable rents
10 including utility allowance for Qualified Very Low Income Households, is the product of 30
11 percent times 50 percent of the area median income adjusted for family size appropriate for the
12 unit. COUNTY shall review and approve proposed rents to the extent required under this section.
13 BORROWER shall ensure the NSP1-Assisted Units are rented to qualified applicants at the rent
14 levels required herein. The maximum monthly allowances for utilities and services (excluding
15 telephone) shall not exceed the utility allowance as described below.

16 a. Utility Allowance: The California Utility Allowance Calculator
17 (CUAC) is California’s energy consumption model for calculating utility estimates (Treasury
18 Regulation 26 CFR §1.42-10). The BORROWER shall use the California Utility Allowance
19 Calculator (CUAC) to establish maximum monthly allowances for utilities and services to be
20 used by the BORROWER in calculating rents conditioned upon approval by the California Tax
21 Credit Allocation Committee (CTCAC) for Low Income Housing Tax Credit Projects.

22 b. Initial Occupancy of Vacant Units: All thirty two (32) NSP1-
23 Assisted Units consisting of 7 two-bedrooms, 17 three-bedrooms, and 8 four-bedrooms shall be
24 occupied and rented by Qualified Very Low Income Households for an affordable rent within
25 four (4) months from the recordation of the Notice of Completion in the Official Records (“Lease
26 Deadline”). If a COUNTY NSP1-Assisted Unit remains unoccupied or not leased to an eligible
27 tenant, BORROWER must provide to COUNTY information about current marketing efforts
28 and an enhanced plan for marketing the unit so that it is leased promptly. Within twelve (12)

1 months from the recordation of the Notice of Completion (the "Lease Deadline"), if a COUNTY
2 NSP1-Assisted Unit remains unoccupied or not leased to an eligible tenant, then BORROWER
3 agrees to repay NSP1 funds for any COUNTY NSP1-Assisted Unit that is not rented to eligible
4 tenants. BORROWER may request an extension of the Lease Deadline from COUNTY if
5 BORROWER can provide to COUNTY evidence showing efforts of aggressive marketing
6 efforts and proof that the circumstances that led to the failure to lease the COUNTY NSP1-
7 Assisted Unit(s) by the Lease Deadline were beyond the BORROWER's control. The extension
8 and time of extension is subject to COUNTY's approval and not guaranteed. The Assistant
9 County Executive Officer/EDA, or designee, has the authority, at his or her discretion, to consent
10 to an extension of the Lease Deadline. The amount of NSP1 funds to be repaid is based on the
11 NSP1 Loan, defined in Section 1, prorated by the number of COUNTY NSP1-Assisted Units
12 that are or are not rented to eligible tenants. If all COUNTY NSP1-Assisted Units are not rented
13 to eligible tenants, then COUNTY and BORROWER mutually agree that this Agreement will
14 self-terminate and any NSP1 Loan funds drawn shall be returned within thirty (30) calendar
15 days. Upon such termination, this Agreement shall become null and void. COUNTY and
16 BORROWER shall be released and discharged respectively from their obligations under this
17 Agreement. All cost incurred by each party on the Project will be assumed respectively.

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

23 20. TENANT PROTECTIONS. During the Affordability Period,
24 BORROWER shall adhere to the tenant protections and selection standard set forth in 24 CFR
25 92.253, as may be amended from time to time, and the following requirements:

- 26 a. Provide written lease agreement for not less than one year, unless by
27 mutual agreement between the tenant and BORROWER. COUNTY
28 shall review the initial form of the lease agreement prior to

1 BORROWER executing any leases and, provided that BORROWER
2 uses the approved lease form, BORROWER shall be permitted to enter
3 into residential leases without COUNTY's prior written consent.

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

6 (1) Agreement to be sued. Agreement by the tenant to be sued,
7 to admit guilt or to a judgment in favor of BORROWER in
8 a lawsuit brought in connection with the lease.

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

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

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

25 (5) Waiver of legal proceeding. Agreement by the tenant that
26 the BORROWER may evict the tenant or household
27 members without instituting a civil court proceeding in
28 which the tenant has the opportunity to present a defense,

1 or before a court decision on the rights of the parties.

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

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

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

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

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

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

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

1 22. SALE, ASSIGNMENT OR OTHER TRANSFER OF THE PROJECT.

2 BORROWER hereby covenants and agrees not to sell, assign, transfer or otherwise dispose of
3 the Project or any portion thereof, without obtaining the prior written consent of the COUNTY,
4 which consent shall be conditioned upon COUNTY's receipt of reasonable evidence satisfactory
5 to the COUNTY in its sole discretion, that transferee has assumed in writing and in full, and is
6 reasonably capable of performing and complying with the BORROWER's duties and obligations
7 under this Agreement, provided, however Borrower shall not be released of all obligations
8 hereunder which accrue from and after the date of such sale. Notwithstanding anything to the
9 contrary contained herein, upon written notice to COUNTY, BORROWER may (i) admit limited
10 partners to BORROWER, and provide for the purchase of any such limited partnership interest
11 or interests by BORROWER's general partner; (ii) remove BORROWER's general partner, and
12 replace with an affiliate of the BORROWER's limited partner, provided that any replacement
13 general partner for BORROWER who is not an affiliate with the BORROWER's limited partner
14 will require the written consent of COUNTY, which consent will not be unreasonably withheld;
15 (iii) the lease for occupancy of all or any of the NSP1-Assisted Units; (iv) the granting of
16 easements or permits to facilitate the development of the Property in accordance with this
17 Agreement; and (v) the withdrawal and/or replacement of any limited partner of BORROWER,
18 (collectively a "Permitted Transfer"). All Permitted Transfers shall be subject to reasonable
19 review of documentation by the COUNTY. The parties hereto acknowledge that "affiliate" for
20 purposes of this section means, as to any Person (as defined below), any general partnership,
21 limited partnership, corporation, joint venture, trust, business trust, cooperative, association,
22 limited liability company or individual (collectively, a "Person") that (A) directly or indirectly
23 controls or is controlled by (such as any partnership or limited liability company in which the
24 Person, directly or indirectly, serves as a general partner or managing member, respectively) or
25 is under common control with the specified Person; (B) is an officer or director of, commissioner
26 of, partner in, member of or trustee of, or serves in a similar capacity with respect to, the specified
27 Person or of which the Specified Person is an officer, director, member, partner or trustee, or
28 with respect to which the specified Person serves in a similar capacity; or (C) is the beneficial

1 owner, directly or indirectly, of 10% or more of any class of equity securities of the specified
2 Person or of which the specified Person is directly or indirectly the owner of 10% or more of any
3 class of equity securities. The term "control" (including the term "controlled by" and "under
4 common control with") means the possession, direct or indirect, of the power to direct or cause
5 the direction of the management and policies of a Person, whether through the ownership of
6 voting securities, by contract or otherwise.

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

11 24. NONDISCRIMINATION. Borrower shall abide by 24 CFR 570.602
12 which requires that no person in the United States shall on the grounds of race, color, national
13 origin, religion, or sex be excluded from participation in, be denied the benefits of, or be
14 subjected to discrimination under any program or activity receiving Federal financial assistance
15 made available pursuant to the Act. Under the Act, Section 109 directs that the prohibitions
16 against discrimination of the basis of age under the Age Discrimination Act and the prohibitions
17 against discrimination of the basis of disability under Section 504 shall apply to programs or
18 activities receiving Federal financial assistance under Title I programs. The policies and
19 procedures necessary to ensure enforcement of Section 109 are codified in 24 CFR Part 6. In
20 addition, BORROWER shall not discriminate on the basis of race, gender, religion, national
21 origin, ethnicity, sexual orientation, age or disability in the solicitation, selection, hiring or
22 treatment of any contractors or consultants, to participate in subcontracting/subconsulting
23 opportunities. BORROWER understands and agrees that violation of this clause shall be
24 considered a material breach of this Lease and may result in termination, debarment or other
25 sanctions. This language shall be incorporated into all contracts between BORROWER and any
26 contractor, consultant, subcontractor, subconsultants, vendors and suppliers. BORROWER shall
27 comply with the provisions of the California Fair Employment and Housing Act (Government
28 Code Sections 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended,

1 and all Administrative Rules and Regulations issued pursuant to said Acts and Orders with
2 respect to its use of the Property.

3 BORROWER herein covenants by and for itself, its successors and assigns, and all persons
4 claiming under or through them, that this Covenant is made and accepted upon and subject to the
5 following conditions: There shall be no discrimination against or segregation of any person or
6 group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the
7 Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and
8 paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code,
9 in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall
10 the transferee itself or any person claiming under or through him or her, establish or permit any
11 such practice or practices of discrimination or segregation with reference to the selection, location,
12 number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the Property.

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

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

1 subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing
2 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: That
6 there shall be no discrimination against or segregation of any person or group of persons,
7 on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government
8 Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and
9 paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government
10 Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the
11 premises herein leased nor shall the lessee himself or herself, or any person claiming under
12 or through him or her, establish or permit any such practice or practices of discrimination
13 or segregation with reference to the selection, location, number, use, or occupancy, of
14 tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

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

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

25. PROHIBITION AGAINST CONFLICTS OF INTEREST:

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

26. RELIGIOUS ACTIVITIES. Under federal regulations, 24 CFR 92.257

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

13 27. PROJECT MONITORING AND EVALUATION.

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

28 b. Inspections. Pursuant to 24 CFR 92.504(d)(ii), during the Affordability

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

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

28 28. MONITORING FEE. BORROWER shall be responsible for paying an

1 annual compliance monitoring fee to the COUNTY in the total annual amount of \$6800
2 (“Monitoring Fee”). The first Monitoring Fee payment is due on July 1st of each year for the
3 monitoring period of July 1st to June 30th commencing July 1, 2019. The Monitoring Fee will
4 be due on July 1st thereafter and will continue until the expiration of the Affordability Period.
5 The Monitoring Fee is to be adjusted upwards annually, increased by an amount equal to the
6 increase in CPI for the Los Angeles-Riverside-Orange County, CA area. In the event of a
7 decrease in the applicable CPI, the Monitoring Fee currently in effect shall remain the same and
8 shall not decrease.

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

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

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

1 encumbrances or liens on the Project without COUNTY's prior
2 written approval that are prohibited under this Agreement or that
3 have the effect of reducing the priority or invalidating the lien of
4 the NSP1 Deed of Trust; (3) BORROWER's failure to obtain and
5 maintain the insurance coverage required under this Agreement; (4)
6 any material default under this Agreement, the NSP1 Loan Deed of
7 Trust, Covenant Agreement, NSP1 Note or any document executed
8 by the County in connection with this Agreement, and /or (5) a
9 default under the terms of any Senior Loan documents or any other
10 instrument or document secured against the Property or the Project;

11 c. General Performance of Loan Obligations. Any substantial or
12 continuous or repeated breach by BORROWER or BORROWER's
13 agents of any material obligations of BORROWER under this
14 Agreement;

15 d. General Performance of Other Obligations. Any substantial or
16 continuous or repeated breach by BORROWER or BORROWER's
17 agents of any material obligations of BORROWER related to the
18 Project imposed by any other agreement with respect to the
19 financing, development, or operation of the Project; whether or not
20 COUNTY is a party to such agreement; but only following any
21 applicable notice and cure periods with respect to any such
22 obligation;

23 e. Representations and Warranties. A determination by COUNTY
24 that any of BORROWER's representations or warranties made in
25 this Agreement, any statements made to COUNTY by
26 BORROWER, or any certificates, documents, or schedules
27 supplied to COUNTY by BORROWER were false in any material
28 respect when made, or that BORROWER concealed or failed to

1 disclose a material fact to COUNTY.

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

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

19 31. NOTICE OF DEFAULT AND OPPORTUNITY TO CURE. Formal
20 notices, demands and communications between the COUNTY and the BORROWER shall be
21 sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt
22 requested, to the principal offices of the COUNTY and the BORROWER, as designated below.
23 Such written notices, demands and communications may be sent in the same manner to such
24 other addresses as either party may from time to time designate by mail as provided in this
25 **Section 31.** Any notice that is transmitted by electronic facsimile transmission followed by
26 delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice that is
27 personally delivered (including by means of professional messenger service, courier service
28 such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed

1 received on the documented date of receipt by the recipient; and any notice that is sent by
2 registered or certified mail, postage prepaid, return receipt required shall be deemed received
3 on the date of delivery thereof.

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

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

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

21 d. If a non-monetary event of default occurs, prior to exercising any remedies
22 hereunder, COUNTY shall give BORROWER written notice of such default. If the default is
23 reasonably capable of being cured within thirty (30) days, BORROWER shall have such period
24 to effect a cure prior to exercise of remedies by COUNTY. If the default is such that it is not
25 reasonably capable of being cured within thirty (30) days, and BORROWER (i) initiates
26 corrective action within said period, and (ii) diligently, continually, and in good faith works to
27 effect a cure as soon as possible, then BORROWER shall have such additional time as is
28 reasonably necessary to cure the default prior to exercise of any remedies by the injured party,

1 but in no event no more than sixty (60) days from the date of the notice of default. In no event
2 shall COUNTY be precluded from exercising remedies if its security becomes or is about to
3 become materially jeopardized by any failure to cure a default or the default is not cured within
4 sixty (60) days after the first notice of default is given.

5 e. Any cure tendered by Borrower's limited partner shall be accepted or
6 rejected on the same basis as if tendered by Borrower.

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

- 12 a. Terminate this Agreement, in which event the entire NSP1 Loan
13 amount as well as any other monies advanced to BORROWER by
14 COUNTY under this Agreement including administrative costs,
15 shall immediately become due and payable to COUNTY at the
16 option of COUNTY.
- 17 b. Bring an action in equitable relief (1) seeking the specific
18 performance by BORROWER of the terms and conditions of this
19 Agreement, and/or (2) enjoining, abating, or preventing any
20 violation of said terms and conditions, and/or (3) seeking
21 declaratory relief.
- 22 c. Accelerate the NSP1 Loan, and demand immediate full payment of
23 the principal payment outstanding and all accrued interest under the
24 NSP1 Note, as well as any other monies advanced to BORROWER
25 by COUNTY under this Agreement.
- 26 d. Enter the Project and take any remedial actions necessary in its
27 judgment with respect to hazardous materials that COUNTY deems
28 necessary to comply with hazardous materials laws or to render the

1 Project suitable for occupancy, which costs shall be due and payable
2 by BORROWER to COUNTY.

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

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

10 33. RESERVED.

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

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

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

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

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

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

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

1 limited, to attorney fees, cost of investigation, defense and settlements or awards, the County of
2 Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors,
3 officers, Board of Supervisors, elected and appointed officials, employees, agents and
4 representatives in any claim or action based upon such alleged acts or omissions, provided,
5 however, BORROWER shall not have any obligation to indemnify any Indemnified Parties' gross
6 negligence or willful misconduct.

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

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

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

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

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

24 37. TERMINATION.

25 a. BORROWER. BORROWER may terminate this Agreement prior to
26 disbursement of any NSP1 Loan funds by COUNTY in accordance with the applicable NSP1
27 regulations.

28 b. COUNTY. Notwithstanding the provisions of **Section 37(a)**, COUNTY

1 may suspend or terminate this Agreement upon written notice to BORROWER of the action being
2 taken and the reason for such action in the event one of the following events occur:

- 3 (1) In the event BORROWER fails to perform the covenants
4 herein contained at such times and in such manner as
5 provided in this Agreement after the applicable notice and
6 cure provision hereof; or
7 (2) In the event there is a conflict with any federal, state or local
8 law, ordinance, regulation or rule rendering any material
9 provision, in the judgment of COUNTY of this Agreement
10 invalid or untenable; or
11 (3) In the event the NSP1 funding from HUD identified in
12 **Section 1** above is terminated or otherwise becomes
13 unavailable.

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

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

24 38. AFFORDABILITY RESTRICTIONS. COUNTY and BORROWER, on
25 behalf of its successors and assigns, hereby declare their express intent that the restrictions set
26 forth in this Agreement shall continue in full force and effect during the Affordability Period (as
27 defined in **Section 14** above). Each and every contract, deed or other instrument hereafter
28 executed covering and conveying the Property or any portion thereof shall be held conclusively

1 to have been executed, delivered and accepted subject to such restrictions, regardless of whether
2 such restrictions are set forth in such contract, deed or other instrument. Borrower shall execute
3 and record as a lien against the Property, a Covenant Agreement, substantially conforming in
4 form and substance to the Covenant Agreement attached hereto as **Exhibit G** and incorporated
5 herein by this reference, setting forth the affordability use and income restriction required in this
6 Agreement. Notwithstanding anything to the contrary continued herein, Covenant Agreement
7 shall be recorded in a first priority lein position superior to the Senior Loans and the Residual
8 Receipts Loans.

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

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

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

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

1 thereafter.

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

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

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

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

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

1 unless it expressly makes reference to this Agreement, is in writing, is signed and acknowledged
2 by duly authorized representatives of all parties, and approved by the County.

3 49. CONDITIONAL COMMITMENT.

4 a. Construction. Pursuant to 24 CFR 92.2, under the definition of
5 Commitment, all necessary financing has been secured, a budget and schedule have been
6 established, and underwriting has been completed and under which construction is scheduled to
7 start within four (4) months of the Effective Date of this Agreement (“Construction Start
8 Deadline”). If BORROWER cannot start construction or provide evidence such as construction
9 permits within four (4) months of the Effective Date, then COUNTY and BORROWER mutually
10 agree that this Agreement will self-terminate and any NSP1 Loan funds drawn to date shall be
11 returned within thirty (30) calendar days. Upon such termination, this Agreement shall become
12 null and void. COUNTY and BORROWER shall be released and discharged respectively from
13 its obligations under this Agreement, except for those provisions which by their terms survive
14 termination. All cost incurred by each party on the Project will be assumed respectively.

15 b. Completion. The Project must be completed and a Notice of
16 Completion shall have been recorded in the Official Records no later than two (2) years from the
17 Effective Date of this Agreement (the “Completion Deadline”). BORROWER may request a one
18 year extension of the Completion Deadline from COUNTY (“Extension”), which may be granted
19 in COUNTY’s sole and absolute discretion, if the BORROWER can provide proof that the
20 circumstances that led to the failure to complete the Project by the Completion Deadline were
21 beyond the BORROWER’s control. Extension is subject to COUNTY’s approval and not
22 guaranteed. The Assistant County Executive Officer/EDA, or designee, has the authority, at his
23 or her discretion, to consent to such Extension. If BORROWER is unable to meet the condition
24 as required by this **Section 49** including Extension, then COUNTY and BORROWER mutually
25 agree that this Agreement will self-terminate and any NSP1 Loan funds disbursed to
26 BORROWER to date shall be returned to COUNTY within thirty (30) calendar days of such
27 termination. Upon such termination, this Agreement shall become null and void. COUNTY and
28 BORROWER shall be released and discharged respectively from their obligations under this

1 Agreement, except for those provisions which by their terms survive termination. All costs
2 incurred by each party on the Project will be assumed respectively.

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

5 50. PROJECT FINANCING CONTINGENCY. This Agreement is expressly
6 conditioned upon BORROWER's delivery to COUNTY, on or prior to **January 1, 2018** of (i)
7 written documentation of such binding loan commitments required to fully finance the
8 development and construction of the Project (less the NSP1 Loan), on terms and conditions
9 acceptable to BORROWER and COUNTY, including, but not limited any conventional
10 construction and/or permanent financing, including without limitation, a construction and
11 permanent loan from an institutional construction lender. Either COUNTY or BORROWER may
12 elect to terminate this Agreement with ten (10) days prior written notice to the other party if
13 BORROWER fails to acquire the project financing as required by this **Section 50**. Upon such
14 termination, this Agreement shall be null and void, and:

15 a. If BORROWER elects to terminate this Agreement,
16 BORROWER shall be released and discharged by COUNTY
17 from its obligations under this Agreement; or

18 b. If COUNTY elects to terminate this Agreement, COUNTY shall
19 be released and discharged by BORROWER from its obligations
20 under this Agreement.

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

24 51. Reserved.

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

27 53. MEDIA RELEASES. BORROWER agrees to allow COUNTY to provide
28 input regarding all media releases regarding the Project. Any publicity generated by

1 BORROWER for the Project must make reference to the contribution of COUNTY in making the
2 Project possible. COUNTY's name shall be prominently displayed in all pieces of publicity
3 generated by BORROWER, including flyers, press releases, posters, signs, brochures, and public
4 service announcements. BORROWER agrees to cooperate with COUNTY in any COUNTY-
5 generated publicity or promotional activities with respect to the Project.

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

11
12 COUNTY

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

BORROWER

Executive Director
Fred Young Phase II Associates, L.P.
45-701 Monroe Street, Suite G
Indio, CA 92201

18 All notices to Borrower should include a copy to Borrower's limited partner at: _____

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

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

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

58. NONLIABILITY OF COUNTY OFFICIALS AND EMPLOYEES. No

1 member, official, employee or consultant of the COUNTY shall be personally liable to the
2 BORROWER, or any successor in interest, in the event of any default or breach by the COUNTY
3 or for any amount which may become due to the BORROWER or to its successor, or on any
4 obligations under the terms of this Agreement.

5 59. CONSTRUCTION AND INTERPRETATION OF AGREEMENT.

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

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

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

27 d. References in this instrument to this Agreement mean, refer to and
28 include this instrument as well as any riders, exhibits, addenda and attachments hereto (which are

1 hereby incorporated herein by this reference) or other documents expressly incorporated by
2 reference in this instrument. Any references to any covenant, condition, obligation, and/or
3 undertaking "herein," "hereunder," or "pursuant hereto" (or language of like import) means, refer
4 to, and include the covenants, obligations, and undertakings existing pursuant to this instrument
5 and any riders, exhibits, addenda, and attachments or other documents affixed to or expressly
6 incorporated by reference in this instrument.

7 e. As used in this Agreement, and as the context may require, the
8 singular includes the plural and vice versa, and the masculine gender includes the feminine and
9 vice versa.

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

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

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

19 63. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS.

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

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

27 c. All waivers of the provisions of this Agreement must be in writing
28 and signed by the appropriate authorities of the COUNTY or the BORROWER, and all

1 amendments hereto must be in writing and signed by the appropriate authorities of the COUNTY
2 and the BORROWER. This Agreement and any provisions hereof may be amended by mutual
3 written agreement by the BORROWER and the COUNTY.

4
5 (SIGNATURES ON THE NEXT PAGE)
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

_____ ,
Fred Young Phase II Associates, L.P.
a California limited partnership

6
7 By: _____ ,
8 Fred Young Phase II LLC,
9 a California limited liability company
10 Its: Administrative General Partner

11 By: _____ , a
12 The Coachella Valley Housing Coalition
13 California nonprofit public benefit
14 corporation, its sole member/manager

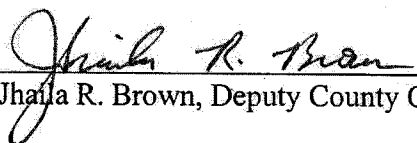
15 By: _____
16 Heidi Marshall, Assistant Director

17 By: _____
18 Julie Bornstein, Executive Director

19 Date: _____

20 Date: _____

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

23 By: 
24 Jhalla R. Brown, Deputy County Counsel

25
26
27
28
(Signatures need to be notarized)

EXHIBIT "A"

Agreement: Villa Hermosa Apartments II Neighborhood Stabilization Program I funds

Borrower: (Partnership Name)

Address: 45-701 Monroe Street, Suite G, Plaza 1

Indio, Ca 92201

Project Title: Villa Hermosa Apartments II

Location: Southwest corner of Van Buren Street and Dr. Carreon Boulevard, City of Indio
also identified as APN 612-170-017

Project Description:

Fred Young Phase II Associates, L.P. shall develop and construct a multi-family affordable rental housing project for farmworker families consisting of sixty eight (68) rental units including one (1) residential manager's unit ("Project" or "Phase 2") on real property located on approximately 6.32 acres of vacant land located on the Southwest corner of Van Buren Street and Dr. Carreon Boulevard, in the City of Indio also identified as APN 612-170-017 ("Property or Phase II").

A total of 32 units (7 two-bedroom units, 17 three-bedroom units, and 8 four-bedroom units) locate on the property 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 and the United States Department of Agriculture. The Project shall include a total of 4 one-bedroom units, 32 two-bedroom units, 23 three-bedroom units and 8 four-bedroom units. The one-bedroom units shall be approximately 621 square-feet, the two-bedroom units are approximately 861 square-feet, the three-bedroom units shall be approximately 1,150 square-feet and the four-bedroom units shall be approximately 1,293 square-feet.

Villa Hermosa Apartments ("Phase 1") consists of 85 affordable rental housing units and is adjacent to the current Project which is the subject of this Agreement, Phase 2. For tax credit purposes, Phase 1 and Phase 2 will be owned by separate limited partnerships, but will share the Developer, The Coachella Valley Housing Coalition, as the same general partner. The limited partner for Phase 1 and the limited partner for Phase 2 will enter into a joint use agreement to allow tenants to enjoy all common areas and amenities, including a 3,172 square foot community room with internet access, soccer fields, four tot-lots and a swimming pool.

All units will be equipped with energy start appliances including stoves, refrigerators, dishwashers and washers and dryers.

IMPLEMENTATION SCHEDULE

Milestone	Completion Date
1. Permanent Financing Commitment	November 30, 2017
2. Construction Start Deadline	January 1, 2018
3. Completion Deadline	January 1, 2020
4. Lease Deadline 4 months from Notice of Completion	May, 2020
5. Submission of Final actual project costs and Sources and Uses of Funds	August, 2020
6. Submission of income & ethnic characteristics report, March 2018	August, 2020

Permanent Sources and Uses of Funds:

Sources:

USDA 514 Loan	\$5,300,000
County of Riverside NSP 1 Loan	\$720,000
County of Riverside HOME Loan	\$280,000
Limited Partner Tax Credit Equity	\$18,694,217
AHP Loan	\$670,000
Deferred Developer Fee/GP Equity	\$100
Total Sources	\$25,664,317

Uses:

Site Improvement (off site)	\$ 0
New construction (includes site work, common area bldgs and structures)	\$ 16,583,563
Contractor's Overhead & Profit & Gen'l Req.	\$ 1,613,233
General Liability Insurance	\$ 390,330
Construction Contingency (Hard and Soft)	\$ 1,642,545
Architectural & Engineering Cost	\$ 950,000
Construction Interest & Fees	\$ 1,225,918
Reserves	\$ 542,580
Land Development Impact and Permit Processing Fees	\$ 583,000
Other Fees, Marketing & Furnishings	\$ 440,000
TCAC Fees	\$ 103,148
Legal Fees	\$ 165,000
Developer's fee	\$ 1,400,000
Land & Acquisition Cost	\$ <u>25,000</u>
Total Uses	\$25,664,317

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. Stephanie Adams

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST AND ASSIGNMENT OF RENTS

This DEED OF TRUST AND ASSIGNMENT OF RENTS is made this ____ day of _____ by Fred Young Phase II Associates, L.P., a California limited partnership, (hereinafter referred to as "Trustor"), whose address 45-701 Monroe Street, Suite G, Indio, CA 92201. The trustee is _____ ("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 Indio, 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 _____ 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 Seven Hundred and Twenty Thousand Dollars (\$720,000) (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. 4a. That upon default here under or __ any of the secured obligations, and after giving any notice and opportunity to our Beneficiary shall be entitled to the appointment of a receiver by any court having jurisdiction without notice to take possession and protect the property described herein and operate same and collect the rents, profits any income there from.

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. **Priority Position.** During the construction period this Deed of Trust shall be recorded in a third priority position junior in priority to the following instruments, (i) Deed of Trust executed by Borrower for the benefit of Wells Fargo Bank, N.A., and (ii) Deed of Trust executed by Borrower for the benefit of a United States Department of Agriculture (USDA) loan (collectively "Senior Lenders" or "Senior Lienholders") securing a construction loan in a principal amount up to \$15,359,498 and a USDA 514 loan in a principal amount up to \$5,300,000 (collectively "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. After conversion of the 8609 form as defined in the NSP 1 Loan Agreement, Deed of Trust shall then be in second priority position junior to the United States Department of Agriculture.

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 NSP1 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 NSPI 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 NSPI 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; 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. **Modifications 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 that is not an affiliate of Trustor's limited 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:

Fred Young Phase II Associates, L.P.,
a California limited partnership

By: Fred Young Phase II LLC
a California limited liability company
Its: Administrative General Partner

By: The Coachella Valley Housing Coalition, a
California nonprofit public benefit corporation,
its sole member/manager

By: _____
Julie Bornstein, Executive Director

Date: _____

(Signature needs to be notarized)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On _____, 2017, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT "C"

PROMISSORY NOTE (NSP1 Loan)

\$720,000

Riverside, CA

In installments as hereafter stated, for value received, Fred Young Phase II Associates, 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 Seven Hundred and Twenty Thousand Dollars and No/100 Dollars (U.S. \$720,000.00) (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 _____, 2017 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 on or about the date hereof 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 Residual Receipts Loans (as defined in the NSP1 Loan Agreement). The payment of 50% of the Residual Receipts shall be allocated to the Residual Receipts Loans on a pro-rata basis (i.e., allocated in proportion to its share of the total amount of the Residual Receipts 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 costs reasonably and actually incurred for operation and maintenance of the project: 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 unit; v) operating reserves in an annual amount up to \$5,000 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 \$6,800 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; ix) asset management fee payable to Borrower's limited partner in an amount not to exceed \$5,000 annually (increasing by CPI annually and terminating after the expiration of the 15-year tax credit compliance period) and partnership management fee payable to Borrower's general partner in an amount not to exceed \$25,000 annually (increasing by CPI annually). Operating Expenses shall not include repayment of advances to the Borrower from its limited partner(s), general partner(s), their affiliates, and/or third parties (including without limitation, any advances of any portion of the Deferred Developer's Fee to pay (or reimburse for) and construction cost overruns), depreciation, amortization, depletion or other non-cash expenses, any amount expended from a reserve account, and any capital cost associated with development of the project. The calculation of Operating Expenses shall be subject to the reasonable approval of the COUNTY's Assistant County Executive Officer/EDA or designee.
- (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) 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 (i) that certain Deed of Trust executed by Borrower for the benefit of Wells Fargo Bank, N.A. securing a construction loan in a principal amount up to \$15,359,498, (ii) that certain Deed of Trust executed by Borrower securing a loan

in a principal amount of \$5,300,000, (iii) that certain Deed of Trust executed by Borrower for the benefit of the County of Riverside securing a loan amount up to \$280,000, (iv) that certain Deed of Trust executed by Borrower for the benefit of the Affordable Housing Program loan securing a loan in a principal amount of \$670,000 and (v) any other instrument or document secured against the Property;

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 (i) that certain Deed of Trust executed by Borrower for the benefit of Wells Fargo Bank, N.A. securing a construction loan in a principal amount up to \$15,359,498; and/or (ii) and/or (iv) any other instrument or document secured against the Property;

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) COUNTY shall give written notice of default to Borrower, specifying the default complained of by the COUNTY. Borrower shall have ten (10) calendar days from the mailing of the notice for a monetary default, by which such action to cure must be taken. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.
- (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 Deeds of Trust securing the Wells Fargo Loan, HOME Loan, USDA Loan and AHP Loan 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 45-701 Monroe Street, Suite G, Indio, CA 92201

- (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:

Fred Young Phase II Associates, L.P.,
a California limited partnership

By: Fred Young Phase II, LLC,
a California limited liability company
Its: Administrative General Partner

By: The Coachella Valley Housing Coalition, a
California nonprofit public benefit corporation,
its sole member/manager

By: _____
Julie Bornstein, Executive Director

Date: _____