

SUBMITTAL TO THE BOARD OF COMMISSIONERS  
HOUSING AUTHORITY  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM  
10.2  
(ID # 5446)

**MEETING DATE:**

Tuesday, November 7, 2017

**FROM :** HOUSING AUTHORITY:

**SUBJECT:** HOUSING AUTHORITY: Approve the Affordable Housing Loan Agreement for the Use of 2011 Taxable Tax Allocation Housing Bonds, Series A-T for Paseo de Los Heroes III Affordable Rental Housing Project Located in the Unincorporated Community of Mecca, between the Housing Authority of the County of Riverside and Paseo III Housing Associates, L.P., District 4, [\$850,000], 2011 Taxable Tax Allocation Housing Bonds, Series A-T, 100%, No Further CEQA Action Required

**RECOMMENDED MOTION:** That the Board of Commissioners:

1. Affirm that the environmental effects of the Affordable Housing Loan Agreement for the use of 2011 Taxable Tax Allocation Housing Bonds, Series A-T for Paseo De Los Heroes III will not have a significant effect on the environment. Any potential significant effects of the Project have been adequately analyzed and addressed in the Initial Study/Mitigated Negative Declaration Schedule # EA 42414 adopted by the County of Riverside Board of Supervisors on August 16, 2011. 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 9/25/2017

---

**MINUTES OF THE BOARD OF COMMISSIONERS**

On motion of Commissioner Tavaglione, seconded by Commissioner 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: Housing Authority

Kecia Harper-Ihem  
Clerk of the Board  
By:   
Deputy

**SUBMITTAL TO THE BOARD OF COMMISSIONERS HOUSING AUTHORITY  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

**RECOMMENDED MOTION:** That the Board of Commissioners:

2. Approve the attached form of Affordable Housing Loan Agreement Paseo De Los Heroes III (2011 Taxable Tax Allocation Housing Bonds, Series A-T), including all exhibits, (Loan Agreement), between the Housing Authority of the County of Riverside and Paseo III Housing Associates, L.P., a California Limited Partnership, providing a loan derived from 2011 Taxable Tax Allocation Housing Bonds, Series A-T, in the amount of \$850,000 (Housing Authority Loan), to be used to pay a portion of the development and construction costs for a multi-family affordable rental housing project for farmworker families, located in the unincorporated community of Mecca;
3. Approve the attached form of Deed of Trust with Assignment of Rents, Promissory Note, and Covenant Agreement;
4. Authorize the Executive Director, or designee, to execute an Affordable Housing Loan Agreement and Covenant Agreement, conforming in form and substance to the attached Loan Agreement, including exhibits, and Covenant Agreement, approved by County Counsel;
5. Authorize the Executive Director, or designee, to negotiate and execute a Subordination Agreement subordinating the Housing Authority Loan Deed of Trust to a Deed of Trust securing a construction loan issued by Wells Fargo Bank, N.A., in an amount up to \$22,000,000, subject to approval by County Counsel;
6. Authorize the Executive Director of the HACR, or designee to execute a Subordination Agreement subordinating the Housing Authority Loan Deed of Trust to a Section 514 Farm Labor Housing construction loan issued by the United States Department of Agriculture (USDA), in an amount up to \$5,300,000, subject to County Counsel approval;
7. Authorize the Executive Director of the HACR, to designee, to take all necessary steps to implement the Loan Agreement, including all exhibits attached thereto and the Board approved Subordination Agreements, including but not limited to, signing subsequent necessary and relevant documents, subject to approval by County Counsel; and
8. Direct HACR staff to file a Notice of Determination within five business days of the approval of the Loan Agreement.

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 850,000	\$ 0	\$ 850,000	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> 100% 2011 Taxable Tax Allocation Housing Bonds, Series A-T			<b>Budget Adjustment:</b>	No
			<b>For Fiscal Year:</b>	17/18

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

Summary

**SUBMITTAL TO THE BOARD OF COMMISSIONERS HOUSING AUTHORITY  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

On June 7, 2016, the Board of Commissioners of the Housing Authority of the County of Riverside (Housing Authority) approved Resolution No. 2016-006 which accomplished the following (i) approved and authorized an allocation of financial assistance in an amount not to exceed \$850,000 derived from 2011 Taxable Tax Allocation Housing Bonds, Series A-T (2011 Taxable Bonds) to Paseo III Housing Associates, L.P., a California Limited Partnership (Developer) to pay a portion of the construction and development costs for Paseo De Los Heroes III Project (discussed below), subject to the satisfaction of certain conditions contained therein, and (ii) supported the submission of a low income housing tax credit application by the Partnership to the California Tax Credit Allocation Committee (CTCAC) for. The Paseo De Los Heroes III Project is an 81 unit multi-family affordable rental housing complex for farmworker families, located in the unincorporated community of Mecca (Project). The Project is located on 10 acres of vacant land located south of Lincoln on Avenue 64, in the unincorporated community of Mecca, identified as Assessor's Parcel Number 727-030-041 (Project Site).

The Project was awarded 9% tax credits by CTCAC and staff recommends that the Board approve the attached proposed form of Affordable Housing Loan Agreement Paseo De Los Heroes III (2011 Taxable tax Allocation Housing Bonds, Series A-2), including all exhibits (Loan Agreement) between the Housing Authority and the Partnership, to memorialize the Housing Authority proposed financial assistance towards the Project in the form of an \$850,000 loan derived from the 2011 Taxable Bonds (Housing Authority Loan) since all of the conditions to funding set forth in Resolution No. 2016-006 have been satisfied. The Housing Authority Loan will be evidenced by a Promissory Note which will be secured by a Deed of Trust and Assignment of Rents encumbering the Project Site. The form of Housing Authority Loan Promissory Note and Deed of Trust with Assignment of Rents are each attached.

The proposed Project will be comprised of 16 two-bedroom units (approximately 1029 square feet each), 48 three-bedroom units (approximately 1152 square feet each), 5 three-bedroom units (approximately 1296 square feet), 3 four-bedroom units (approximately 1296 square feet) and 8 four-bedroom units (approximately 1,440 square feet). Forty nine percent of the units will be rented to and occupied by households whose incomes do not exceed 50% of the area median income for a period of 55 years as more specifically set forth in the Loan Agreement. The Project will also be equipped with a 1,121 square foot community room with a computer lab, fitness center and outdoor recreational space. The aforementioned use and occupancy restrictions will be memorialized in a Covenant Agreement with a 55 -year term which will be recorded against the Project Site. The form of Covenant Agreement is attached.

The total development cost for the Project is estimated at \$30,560,798. Sources of financing for the development of Project, in addition to the Housing Authority Loan in the amount of \$850,000, include a construction loan from Wells Fargo, N.A. (Construction Lender) in the amount of \$21,266,718 (Wells Fargo Loan), a USDA 514 Loan in the amount of \$5,300,000 (USDA Loan) and a General Partner equity in the amount of \$600,000, and tax credit equity in the amount of \$2,544,080.

**SUBMITTAL TO THE BOARD OF COMMISSIONERS HOUSING AUTHORITY  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

The Construction Lender and USDA (collectively, the Senior Lenders), require as a condition precedent to the funding of each respective loan that the Housing Authority Loan is subordinate to the Senior Lenders liens. Subordination of the Housing Authority Loan is necessary since an economically feasible alternative method of financing Project on comparable terms is not available without subordination. As a result of each subordination the Housing Authority Loan will be in third priority position during the construction phase of the Project subordinate to the construction loan and USDA loan. Once the project is completed the construction loan will be paid in its entirety with the tax credit equity and the Housing Authority Loan will be in second priority position subordinate only to the USDA loan.

Staff recommends that the Board of Commissioners affirm that the environmental effects of the 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 County of Riverside in the Mitigated Negative Declaration (EA 42414), which was adopted by the County of Riverside Board of Supervisors on August 16, 2011. Acting as the Responsible Agency, the Housing Authority, has considered EA 42414 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 Commissioners approve the Loan Agreement, including all exhibits attached thereto. Staff further recommends that the Board of Commissioners authorize the Executive Director, or designee, to execute the aforementioned subordination agreements as required conditions to the Senior Lenders financing, subordinating the Housing Authority Loan Deed of Trust to the Deeds of Trust securing the Wells Fargo Loan and the USDA Loan, subject to County Counsel approval.

Previous Agenda Items:

6/7/16 10.2

2/7/17 MinuteTraq ID 3370

**Impact on Residents and Businesses**

The development of Paseo De Los Heroes III in the unincorporated Community of Mecca will have a positive impact on citizens 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 2011 Taxable Tax Allocation Housing Bonds, Series A-T.

Attachments:



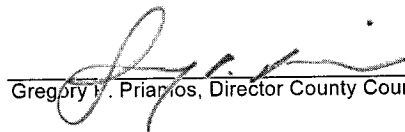
**SUBMITTAL TO THE BOARD OF COMMISSIONERS HOUSING AUTHORITY  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

- Form of Affordable Housing Loan Agreement Paseo De Los Heroes III (2011 Taxable Tax Allocation Housing Bonds, Series A-T), including all exhibits
- Form of Housing Authority Loan Deed of Trust and Promissory Note
- Form of Covenant Agreement
- Notice of Determination

RF:HM:JA:JG:SA

MT#5446

  
Nehini Dasika, Principal Management Analyst 10/30/2017

  
Gregory V. Priarios, 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 Housing Authority of the County of Riverside  
9 5555 Arlington Avenue  
10 Riverside, CA 92504  
11 Attn: Stephanie Adams

12 SPACE ABOVE THIS LINE FOR RECORDERS USE

13 AFFORDABLE HOUSING LOAN AGREEMENT  
14 Paseo De Los Heroes III  
15 (2011 Taxable Tax Allocation Housing Bond, Series A-T)

16 This AFFORDABLE HOUSING LOAN AGREEMENT Paseo De Los Heroes III  
17 (2011 Taxable Tax Allocation Housing Bond, Series A-T)) (“Agreement”) is made and entered  
18 into this \_\_\_\_ day of \_\_\_\_\_, 2017 by and between THE HOUSING AUTHORITY OF  
19 THE COUNTY OF RIVERSIDE, a public entity corporate and politic, in its capacity as housing  
20 successor to the former Redevelopment Agency for the County of Riverside (“HOUSING  
21 AUTHORITY” or “Authority”) and PASEO III HOUSING ASSOCIATES LP, a California  
22 limited partnership (“Borrower”). HOUSING AUTHORITY and Borrower are collectively  
23 referred to herein as the “Parties” and individually as a “Party.”

24 RECITALS:

25 WHEREAS, HOUSING AUTHORITY is a California housing authority acting  
26 under the California Housing Authorities Law, Part 2 of Division 4 of the Health and Safety  
27 Code (“Housing Authorities Law”);

28 WHEREAS, the County of Riverside Redevelopment Agency (“RDA”), was  
duly created pursuant to California Community Redevelopment Law (Health and Safety Code  
Section 33000 et seq. the “CRL”);

WHEREAS, Assembly Bill No. x1 26, as modified by Assembly Bill No. 1484

1 (“Dissolution Act”), added parts 1.8 and 1.85 to Division 24 of the CRL. As a result, the RDA  
2 was dissolved on February 1, 2012 such that the RDA is now deemed a former redevelopment  
3 agency under Health and Safety Code Section 34173;

4 WHEREAS, pursuant to Health and Safety Code Section 34176 (a), County of  
5 Riverside Board of Supervisors Resolution No. 2012-035, and Housing Authority Board of  
6 Commissioners Resolution Nos. 2012-001 and 2012-005, all housing functions previously  
7 performed by the former RDA, including related rights, powers, duties, obligations and housing  
8 assets were transferred to Housing Authority.;

9 WHEREAS, subsequently on September 22, 2015 state budget trailer bill SB107  
10 passed which made amendments to the existing dissolution law as defined in ABx1 26. Under  
11 the prior dissolution law, only housing bond proceeds from bonds issued prior to January 1,  
12 2011, that were issued for affordable housing purposes and secured by a pledge of low and  
13 moderate income housing funds, remaining after satisfaction of enforceable obligations approved  
14 on a Recognized Payment Obligation Schedule, were considered housing assets and were  
15 allowed to be expended. SB 107 changed the date by which the applicable housing bonds must  
16 have been issued from January 1, 2011 to June 28, 2011;

17 WHEREAS, HACR has unused housing bond proceeds issued prior to June 28,  
18 2011 derived from former RDA 2011 Taxable Tax Allocation Housing Bonds, Series A-T;

19 WHEREAS, Borrower desires to develop and construct an eighty one (81) unit  
20 multi-family affordable rental housing complex, consisting of 16 two-bedroom units, 53 three-  
21 bedroom units (1 three-bedroom unit to be designated as a manager’s unit), and 11 four-bedroom  
22 units, a portion of which shall be rented to and occupied by extremely low income households,  
23 for a period of no less than 55 years (“Project”), on real property located on approximately 10  
24 acres of vacant land located south of Lincoln on Avenue 64, Assessor Parcel Number 727-030-  
25 041, as more specifically described in the legal description attached hereto as Exhibit A and  
26 incorporated herein by this reference (“Property”):

27 WHEREAS, HOUSING AUTHORITY desires to provide to Borrower financing  
28 necessary to pay a portion of the Development Costs (defined below) in the maximum total

1 amount of Eight Hundred and Fifty Thousand Dollars (\$850,000.00) (“Authority Loan”) for the  
2 development and construction of the Project and to maximize the affordability of the units.;

3 WHEREAS, the Authority Loan shall be evidenced by a Promissory Note and  
4 secured by, among other instruments, a Deed of Trust and Covenant Agreement; and

5 WHEREAS, in furtherance of the public purposes set forth in the Housing Authorities  
6 Law and the CRL, the HOUSING AUTHORITY desires to provide the Authority Loan to  
7 Borrower to pay Development Costs for the Project, as more specifically described herein.

8 NOW, THEREFORE, in consideration of the foregoing, and the promises and  
9 mutual covenants and conditions hereinafter set forth, the HOUSING AUTHORITY and  
10 Borrower hereby do agree as follows:

11 **PART 1. SUBJECT OF AGREEMENT**

12 SECTION 101 PURPOSE OF AGREEMENT

13 The purpose of this Agreement is to effectuate the Redevelopment Plan for the Desert  
14 Communities Project Area by providing part of the financing for the development and of the  
15 Project. The Project will be developed with eighty one residential rental apartments 49% of  
16 which shall be made available at an Affordable Rent and occupied by Extremely Low and Very  
17 Low Income (as defined herein) households (along with one manager’s unit made available at  
18 market rate rent), community space and related parking (collectively, the “Project”). The  
19 development and use of the Project pursuant to this Agreement, and the fulfillment generally of  
20 this Agreement, are in the vital and best interests of the County of Riverside and the health, safety,  
21 morals and welfare of its residents, and in accord with the public purposes and provisions of  
22 applicable federal, state and local laws and requirements.

23 SECTION 102 DEFINITIONS

24 For purposes of this Agreement, the following capitalized terms shall have the following  
25 meaning:

26 “Affordability Period” means no less than fifty-five (55) years from the recordation of the  
27 Notice of Completion in the Official Records of the Recorder’s Office of the County of Riverside  
28 (“Official Records”) for the Project (without regard to (i) the term of the Authority Promissory

1 Note, or (ii) transfer of the ownership of the Project.).

2 "Affordable Rent" means rent, including a reasonable utility that does not exceed the  
3 following respective amounts:

4 a. for a Very Low Income household with an income not exceeding fifty percent  
5 (50%) of the Area Median Income, the product of thirty percent (30%) times fifty percent (50%)  
6 of the Area Median Income adjusted for family size appropriate for the unit;

7 b. for a Very Low Income household with an income not exceeding fifty percent  
8 (50%) of the CTCAC Area Median Income, the product of thirty percent (30%) times fifty percent  
9 (50%) of the CTCAC Area Median Income adjusted for family size appropriate for the unit;

10 c. for an Extremely Low Income household with an income not exceeding thirty  
11 percent (30%) of the Area Median Income, the product of thirty percent (30%) times thirty percent  
12 (30%) of the Area Median Income adjusted for family size appropriate for the unit;

13 d. for an Extremely Low Income household with an income not exceeding thirty  
14 percent (30%) of the CTCAC Area Median Income, the product of thirty percent (30%) times  
15 thirty percent (30%) of the CTCAC Area Median Income adjusted for family size appropriate for  
16 the unit.

17 "Authority Executive Director" or "Executive Director" means the Executive Director of  
18 the Housing Authority of the County of Riverside or designee.

19 "Authority Loan Documents" means the Authority Loan Note, Authority Deed of Trust,  
20 and Covenants.

21 "Affiliate" means (1) any Person directly or indirectly controlling, controlled by or under  
22 common control with another Person; (2) any Person owning or controlling ten percent (10%) or  
23 more of the outstanding voting securities of such other Person; or (3) if that other Person is an  
24 officer, director, member or partner, any company for which such Person acts in any such capacity.  
25 The term "control" as used in the immediately preceding sentence, means the power to direct the  
26 management or the power to control election of the board of directors. It shall be a presumption  
27 that control with respect to a corporation or limited liability company is the right to exercise or  
28 control, directly or indirectly, more than fifty percent (50%) of the voting rights attributable to the

1 controlled corporation or limited liability company, and, with respect to any individual, partnership,  
2 trust, other entity or association, control is the possession, indirectly or directly, of the power to  
3 direct or cause the direction of the management or policies of the controlled entity. It shall also be  
4 a presumption that the managing General Partner of a limited partnership controls the limited  
5 partnership.

6 “Affordable Units” means the approximately 39 residential apartment units to be  
7 constructed on the Property by Borrower in accordance with this Agreement and the Scope of  
8 Development (Exhibit “A”). The Affordable Units shall be restricted by Borrower for rental to  
9 Extremely Low Income and Very Low Income at an Affordable Rent, in accordance with the terms  
10 and conditions of this Agreement and the Covenant Agreement (Exhibit “E”).

11 “Area Median Income” means the median income of the Riverside-San Bernardino-  
12 Standard Metropolitan Statistical Area, adjusted for family size by the United States Department of  
13 Housing and Urban Development (“HUD”) pursuant to Section 8 of the United States Housing Act  
14 of 1937, as determined by HUD and published from time to time by the California Department of  
15 Housing and Community Development.

16 “Authority Deed of Trust” means the deed of trust to be recorded against title to the  
17 Property. The Authority Loan Deed of Trust is attached hereto as Exhibit “D” and incorporated  
18 herein by this reference and shall be subordinate to the Senior Loan deed of trust.

19 “Authority Loan” means a loan to be made by Authority to BORROWER in the amount not  
20 to exceed amount of \$850,000, in which Authority is the initial maker of the loan. The Authority  
21 Loan is subject to the CRL. The Authority Loan shall be evidenced by the Authority Promissory  
22 Note (Exhibit “F”) and secured by, among other things, an Authority Deed of Trust (Exhibit “D”)  
23 and Covenant Agreement (Exhibit “E”).

24 “Authority Promissory Note” means the promissory note in favor of the Authority  
25 evidencing an Authority Loan, executed by Borrower. The Authority Promissory Note is attached  
26 hereto as Exhibit “F” and incorporated herein by this reference.

27 “County” means unincorporated territory under the County of Riverside.

28 “Closing” or “Close of Escrow” means the finalization and recording of all Senior Loans.

1 Authority Loan, and other necessary financing instruments and documents for the financing of the  
2 development and construction of the Project as set forth herein and in the Method of Financing.

3 "Closing Date" means the date on which the Closing has occurred.

4 "Completion" means the point in time at which all of the following have been satisfied: (a)  
5 issuance of a certificate of occupancy by the County of Riverside for all buildings required to be  
6 constructed pursuant to this Agreement, (b) recordation of a Notice of Completion pursuant to Civil  
7 Code section 8182, (c) submission to the Authority, of unconditional lien releases or waivers  
8 obtained by Borrower or Borrower's agent, (d) certification by the County of Riverside Inspector  
9 that construction of the Improvements (with the exception of minor "punch list" items) has been  
10 completed in a good and workmanlike manner and substantially in accordance with the approved  
11 plans and specifications; (e) payment, settlement or other extinguishment, discharge, release,  
12 waiver, bonding or insuring against any mechanic's liens that have been recorded or stop notices  
13 that have been delivered; and (f) the Property has been developed in accordance with this  
14 Agreement, the Scope of Development and plans approved by the Authority pursuant to this  
15 Agreement.

16 "Covenant Agreement" or "Covenant" means the Covenant Agreement (Including Rental  
17 Restrictions) to be recorded upon the occurrence of the Closing, substantially in the form attached  
18 to this Agreement as Exhibit "E" and incorporated herein by this reference.

19 "CTCAC" or "TCAC" means the California Tax Credit Allocation Committee.

20 "CTCAC Area Median Income" as used herein means the area median income for the  
21 County of Riverside determined in accordance with 26 USC 42 (g). In no event shall the (i)  
22 Affordable Rent for Extremely Low Income households exceed the product of thirty percent  
23 (30%) times thirty percent (30%) of Area Median Income, adjusted for household size.

24 "Development Costs" means the total cost of developing and constructing the  
25 Improvements located on the Property, as set forth in the Project Budget.

26 "Extremely Low Income" shall have the meaning set forth in California Health and Safety  
27 Code Section 50106.

28 "Force Majeure" or "Force Majeure Event" means any of the following events, provided

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

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

20       “Governmental Approvals” means and include any and all general plan amendments, zoning  
21 approvals or changes, required approvals and certifications under the California Environmental  
22 Quality Act, variances, conditional use permits, demolition permits, excavation/foundation permits,  
23 grading permits, building permits, inspection reports and approvals, certificates of occupancy, and  
24 other approvals, permits, certificates, authorizations, consents, orders, entitlements, filings or  
25 registrations, and actions of any nature whatsoever required from any Governmental Authority in  
26 order to commence and complete the construction of the Project.

27       “Governmental Authority” means the United States, the State of California, County of  
28 Riverside or any other political subdivision in which the Property is located, and any court or



1 political subdivision, agency or instrumentality having jurisdiction over the Property.

2        “Improvements” or “Project Improvements” means the improvements to be constructed on  
3 the Property, as more particularly described in the Scope of Development (Exhibit A attached  
4 hereto), including, more generally, that the project will consist of 16 two-bedroom units  
5 (approximately 1029 square feet each), 48 three-bedroom units (approximately 1152 square feet  
6 each), 5 three-bedroom units (approximately 1296 square feet), 3 four-bedroom units  
7 (approximately 1296 square feet) and 8 four-bedroom units (approximately 1,440 square feet).  
8 Project will also consist of an approximate 2,496 square foot community room with a computer lab  
9 and appropriate landscaping, all in accordance with applicable County of Riverside requirements  
10 and codes. In addition, the Improvements shall comply with the current California Building Code  
11 that includes comprehensive accessibility and adaptability requirements for multifamily new  
12 construction development and all Governmental Approvals.

13        “Low Income Housing Tax Credit” means the tax credit authorized by the Tax Reform Act  
14 of 1986, governed by Section 42 of the Internal Revenue Code, and administered by CTCAC.

15        “Method of Financing” means the Method of Financing attached hereto as Exhibit “C” and  
16 incorporated herein by this reference.

17        “Notice of Affordability Restrictions” refers to the Notice of Affordability Restrictions to  
18 be recorded in connection with the Affordable Units in the form as attached hereto as Exhibit “H”  
19 and incorporated herein by this reference.

20        “Partnership Agreement” shall mean the agreement governing Borrower and any  
21 amendments thereto entered into in connection with obtaining the Low Income Housing Tax  
22 Credits.

23  
24        “Permitted Transfer” shall mean the following:

- 25        a. A conveyance of a security interest in the Project in connection with any Senior  
26        Loan and any transfer of title by foreclosure, deed or other conveyance in lieu of  
27        foreclosure in connection therewith;
- 28        b. A conveyance of the Project to any Affiliate, including, but not limited to, a

1 conveyance to Borrower's General Partner or Affiliate assignee pursuant to an  
2 option agreement with Borrower, or the acquisition of the Tax Credit Equity  
3 Investor's interest in Borrower by an Affiliate;

4 c. The admission of limited partners to Borrower, or similar mechanism, and the  
5 purchase of any such limited partnership interest or interests by the General Partner;

6 d. The removal for cause of any General Partner by a limited partner of the Borrower,  
7 and the replacement thereof, pursuant to the Partnership Agreement, provided  
8 Housing Authority receives 5 business days advance written notice of such  
9 removal. Without limiting Borrower's obligation to provide advance notice of such  
10 removal for cause of any General Partner by a limited partner and the replacement  
11 thereof set forth in the immediately preceding sentence, amendments to the  
12 Partnership Agreement required to effectuate the Permitted Transfer set forth in this  
13 clause (d) shall not require the consent of the Authority; provided, however,  
14 Borrower shall provide Authority with an executed copy of such amended  
15 agreement within 10 days of execution thereof;

16 e. The withdrawal, removal and/or replacement of any limited partner of Borrower,  
17 provided that any substitute limited partner is reasonably acceptable to Housing  
18 Authority and is selected with reasonable promptness (provided, however, this  
19 subsection excludes transfers of the limited partner interest by the Tax Credit  
20 Equity Investor to Affiliates of the Tax Credit Equity Investor in accordance with  
21 the Partnership Agreement).

22 Any transfer described in (b), (c), and (e) above shall be subject to the reasonable  
23 approval of documentation by the Housing Authority's Executive Director or designee for  
24 conformance with this Agreement.

25 "Permitted Transferee" shall mean the transferee of a Permitted Transfer.

26 "Permitted Mortgage" means a mortgage approved by the HOUSING AUTHORITY as a  
27 source of financing for the Project. All mortgages referred to on Exhibit "C" are Permitted  
28 Mortgages.

1           “Person” means an individual, partnership, limited partnership, trust, estate, association,  
2 corporation, limited liability company, or other entity, domestic or foreign.

3           “Project” refers to the construction of the Improvements on the Property.

4           “Project Budget” means the schedule of sources and uses attached to this Agreement as  
5 Exhibit “I” and incorporated herein by this reference.

6           “Rental Housing Units” means the 81 affordable housing rental units to be constructed and  
7 developed on the Property pursuant to this Agreement, including, but not limited to the Scope of  
8 Development and Governmental Approvals. The Rental Housing Units consist of the Affordable  
9 Units and the Unrestricted Units.

10          “Senior Lender” means the maker of any Senior Loan or beneficiary of any Senior Loan  
11 Deed of Trust. The initial Senior lender is Wells Fargo Bank, N.A.

12          “Senior Loan” means the source of financing in the form of a Construction Loan, the  
13 Permanent Loan or any other loan, credit enhancement or construction period guaranty facility  
14 secured by a deed of trust or other instrument against the property to which the HOUSING  
15 AUTHORITY agrees to subordinate the Authority Deed of Trust and the other Authority Loan  
16 Documents.

17          “Schedule of Performance” means the document attached to this Agreement as Exhibit “J”  
18 and incorporated herein by this reference.

19          “Scope of Development” means the document attached to this Agreement as Exhibit “A”  
20 and incorporated herein by this reference.

21          “Subordination Agreement” means s subordination agreement substantially conforming in  
22 a form and substance approved by the Authority Executive Director, or designee, and County  
23 Counsel provided such subordination agreement subordination does not (i) adversely affect the  
24 receipt of any benefit or right of HOUSING AUTHORITY under this Agreement (including any  
25 attachments thereto), the Authority Promissory Note and/or the Authority Deed of Trust, including  
26 without limitation causing or requiring the subordination of the affordability covenants in the  
27 Covenants, or (ii) increase any HOUSING AUTHORITY obligation or liability under this  
28 Agreement (including any attachments thereto).

1           “Tax Credit Equity Investor” means a Person who will be a limited partner and will  
2 contribute equity to Borrower in consideration of the Low Income Housing Tax Credits.

3           “Title Company” means First American Title Insurance Company or another title insurance  
4 company mutually acceptable to the Authority Executive Director and Borrower.

5           “Unrestricted Units” shall mean the 42 residential units of the Project that are not restricted  
6 to Very Low Income or Extremely Low Income tenants pursuant to this Agreement and the  
7 Covenants, provided such units may be income and rent restricted pursuant to the terms of the  
8 TCAC regulatory agreement.

9           “Very Low Income” shall have the meaning set forth in California Health and Safety Code  
10 Section 50105.

11           SECTION 103           AUTHORITY

12           The HOUSING AUTHORITY is a public entity, corporate and politic, exercising  
13 governmental functions and powers, and organized and existing under the Housing Authorities  
14 Law. The HOUSING AUTHORITY is also the “housing successor” to the former RDA pursuant  
15 to California Health and Safety Code Section 34176. The address of HOUSING AUTHORITY  
16 for purposes of receiving notices pursuant to this Agreement is as follows: 5555 Arlington  
17 Avenue, Riverside, California 92504.

18           “HOUSING AUTHORITY” and “Authority” as used in this Agreement includes the  
19 Housing Authority of the County of Riverside and any assignee or successor to its rights, powers  
20 and responsibilities.

21           SECTION 104           BORROWER

22           Borrower is Paseo III Housing Associates LP, a California limited partnership.  
23 Borrower’s administrative general partner is Paseo III LLC, a California limited liability  
24 corporation, the sole member of which is The Coachella Valley Housing Coalition, a California  
25 non-profit public benefit corporation as its managing general partner. The address of Borrower  
26 for purposes of receiving notices pursuant to this Agreement is as follows:

27           Paseo III Housing Associates, LP  
28

1           Administrative General Partner

2  
3  
4           Managing General Partner

5  
6  
7           Senior Lender

8  
9           Tax Credit Equity Investor

10           Whenever the term "Borrower" is used herein, such term means and include the Borrower  
11 as of the date hereof, and any assignee of or successor to its rights, powers and responsibilities  
12 permitted by this Agreement.

13   SECTION 105           Assignments and Transfers

14           a.       Borrower represents and agrees that its undertakings pursuant to this Agreement  
15 are for the purpose of redeveloping and providing affordable housing on the Property, and not for  
16 speculation in land holding. Borrower further recognizes that the qualifications and identity of  
17 Borrower are of particular concern to the HOUSING AUTHORITY, in light of the following: (1)  
18 the importance of the redevelopment of the Property to the general welfare of the community; (2)  
19 the public assistance that has been made available by law and by the government for the purpose  
20 of making such redevelopment possible; and (3) the fact that a change in ownership or control of  
21 Borrower, or any other act or transaction involving or resulting in a significant change in  
22 ownership or control of Borrower, is for practical purposes a transfer or disposition of the property  
23 then owned by Borrower. Borrower further recognizes that it is because of such qualifications  
24 and identity that the HOUSING AUTHORITY is entering into the Agreement with Borrower.  
25 Therefore, no voluntary or involuntary successor in interest of Borrower shall acquire any rights  
26 or powers under this Agreement except as expressly set forth herein.

27           b.       Except as provided for herein with respect to Permitted Transfers, until full  
28 reconveyance of the Authority Deed of Trust, Borrower shall not assign all or any part of this

1 Agreement, or any interest herein, or convey any part of the Property or the Improvements or any  
2 interest therein, without the prior written approval of the HOUSING AUTHORITY.

3 c. For the reasons cited above, Borrower represents and agrees for itself and any  
4 successor in interest that prior to full reconveyance of the Authority Deed of Trust, without the  
5 prior written approval of the HOUSING AUTHORITY, there shall be no significant change in  
6 the ownership of Borrower or in the relative proportions thereof, or with respect to the identity of  
7 the parties in control of Borrower or the degree thereof, by any method or means, except Permitted  
8 Transfers.

9 d. Any assignment or transfer of this Agreement or any interest herein, any  
10 conveyance of the Property or the Improvements or any interest therein, or any significant change  
11 in ownership of Borrower, other than a Permitted Transfer, shall require the HOUSING  
12 AUTHORITY's approval, which shall not be unreasonably withheld. To the extent the  
13 HOUSING AUTHORITY's approval of an assignment or transfer is required by this Agreement,  
14 in granting or withholding its approval, the HOUSING AUTHORITY shall base its decision upon  
15 the relevant experience, financial capability and reputation of the proposed assignee or transferee  
16 and the effect, if any, of such proposed transfer on the public purposes of this Agreement. In  
17 addition, except with respect to Permitted Transfers and Authority's reasonable review of  
18 documentation in connection therewith (with the exception of section (d) of the definition of  
19 "Permitted Transfers" where review of the documentation is not required), the HOUSING  
20 AUTHORITY shall not approve any assignment or transfer of this Agreement or any interest  
21 herein, any conveyance of the Property or the Improvements or any interest therein, or any  
22 significant change in ownership of Borrower that results in payment of consideration to any  
23 Person prior to the Completion of the Project and that is not conditioned upon Completion of the  
24 Project.

25 e. Borrower shall promptly notify the HOUSING AUTHORITY of any and all  
26 changes whatsoever in the identity of the partners of Borrower, of which Borrower or any of its  
27 officers and/or partners have been notified or otherwise have knowledge or information. Except  
28 for Permitted Transfers, after notice and opportunity to cure, this Agreement may be terminated

1 by the HOUSING AUTHORITY if there is any significant change (voluntary or involuntary) in  
2 partnership, management or control of Borrower (other than such changes occasioned by the death  
3 or incapacity of any individual) prior to full reconveyance of the Authority Deed of Trust. Except  
4 for Permitted Transfers, in the event, prior to full reconveyance of the Authority Deed of Trust,  
5 of the death or incapacity of any individual who owns or controls Borrower or the General Partner  
6 of Borrower, any resulting change in the management of the Project or the control of the day-to-  
7 day operations of the Property and the Affordable Units shall be subject to the HOUSING  
8 AUTHORITY's reasonable approval. The term "control" as used herein shall mean (i) with  
9 respect to a corporation or limited liability company is the right to exercise or control, directly or  
10 indirectly, 49% or more of the voting rights attributable to the controlled corporation, and (ii)  
11 with respect to any individual, partnership, trust, other entity or association, control is the  
12 possession, indirectly or directly, of the power to direct or cause the direction of the management  
13 or policies of the controlled entity.

14 f. The restrictions of this Section 105 shall terminate upon full reconveyance of the  
15 Authority Deed of Trust.

16 SECTION 106 Borrower's Representations and Warranties

17 As an inducement to the Authority to enter into this Agreement and consummate the  
18 transactions described herein, Borrower hereby represents and warrants to the Authority, which  
19 representations and warranties are true and correct as of the date of this Agreement and which  
20 shall survive the Close of Escrow:

21 (1) Borrower has the legal power, right and authority to enter into this Agreement and  
22 the instruments referenced herein, and to satisfy all obligations of the Borrower in this Agreement  
23 or in any instrument or document referred to herein (referred to collectively as the "Borrower's  
24 Obligations");

25 (2) This Agreement and all documents required hereby to be executed by Borrower  
26 are, and shall be, valid, legally binding obligations of and enforceable against Borrower in  
27 accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization,  
28 moratorium laws or similar laws or equitable principles affecting or limiting the rights of

1 contracting parties generally;

2 (3) There is no charter, bylaw, or capital stock provision of Borrower, and no  
3 provision of any indenture, instrument, or agreement, written or oral, to which Borrower is a party  
4 or which governs the actions of Borrower or which is otherwise binding upon Borrower or  
5 Borrower's property, nor is there any statute, rule or regulation, or any judgment, decree, or order  
6 of any court or agency binding on Borrower or Borrower's property which would be contravened  
7 by the execution, delivery or performance of any of Borrower's Obligations;

8 (4) There is no action, suit, or proceeding at law or in equity or by or before any  
9 governmental instrumentality or other agency now pending, or, to the knowledge of Borrower,  
10 threatened against or affecting Borrower, or any properties or rights of Borrower, which, if  
11 adversely determined, would materially impair the right of Borrower to execute or perform any  
12 of the Borrower's Obligations, or would materially adversely affect the financial condition of  
13 Borrower;

14 (5) Neither the execution and delivery of this Agreement, including any attachments  
15 hereto or documents related to this Agreement, nor the incurrence of the Borrower's Obligations,  
16 nor the consummation of the transactions herein contemplated, nor compliance with the terms of  
17 this Agreement and the documents referenced herein conflict with or result in the material breach  
18 of any terms, conditions or provisions of, or constitute a default under, any bond, note or other  
19 evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, the Partnership  
20 Agreement, or other agreements or instruments to which Borrower is a party;

21 (6) No attachments, execution proceedings, assignments for the benefit of creditors,  
22 insolvency, bankruptcy, reorganization or other proceedings are pending or threatened against  
23 Borrower, nor are any of such proceedings contemplated by Borrower;

24 (7) All reports, documents, instruments, information and forms of evidence delivered  
25 to the Authority concerning or required by this Agreement are accurate, correct and sufficiently  
26 complete to give the Authority true and accurate knowledge of their subject matter, and do not  
27 contain any misrepresentation or omission; and

28 (8) No representation, warranty or statement of Borrower in this Agreement contains



1 or will contain any untrue statement of a material fact or omits or will omit to state a material fact  
2 necessary to make the statements or facts contained therein not misleading.

3 Borrower's representations and warranties made in this Section 106 shall be continuing  
4 and shall be true and correct as of the date of the Close of Escrow with the same force and effect  
5 as if remade in a separate certificate at that time. The truth and accuracy of the Borrower's  
6 representations and warranties made herein shall constitute a condition for the benefit of the  
7 Authority to the performance of the Authority's obligations hereunder.

8 Borrower shall upon learning of any fact or condition which would cause any  
9 of the warranties and representations in this Section 106 not to be true as of Closing, immediately  
10 give written notice of such fact or condition to HOUSING AUTHORITY.

11 SECTION 107 Method of Financing

12 a. The Development Costs for the Project shall be financed with a combination of  
13 sources of financing as provided in the Method of Financing, including any amendments or  
14 modifications thereto (Exhibit "C"), including, but not limited to the following intended sources:  
15 capital contributions from the Tax Credit Investor in the approximate amount of \$19,625,310  
16 (subject to reasonable adjustment pursuant to the terms of the Partnership Agreement), deferral of  
17 approximately \$100, United States Department of Agriculture 514 Loan ("USDA Loan") .

18 b. Except as otherwise provided in this Agreement and in the Method of Financing,  
19 Borrower shall not refinance the Senior Loan and/or a Permanent Loan for the Affordable Units  
20 or place any additional financing on the Property without the advanced and express written consent  
21 of the Authority Executive Director or designee.

22 SECTION 108 Authority Assistance

23 a. Authority Loan. In accordance with and subject to the terms and conditions of this  
24 Agreement, including the Method of Financing (Exhibit "C"), the Authority agrees to lend to  
25 Borrower, and Borrower agrees to borrow from the Authority, the Authority Loan, as described in  
26 the Method of Financing, in an amount not to exceed EIGHT HUNDRED AND FIFTY  
27 THOUSAND DOLLARS (\$850,000.00). The Authority Loan shall be evidenced by the Authority  
28 Loan Note (Exhibit "F"), and repayment shall be secured by the Authority Deed of Trust (Exhibit

1 “D”) and Covenants (Exhibit “E”). The HOUSING AUTHORITY represents and warrants that  
2 no portion of the Agency Loan will be funded or subsidized, in whole or in part, directly or  
3 indirectly, by the proceeds of any obligation, the interest on which is exempt from Internal  
4 Revenue Code or by any grant or loan funded by any federal funds.

5 c. Terms of Authority Loan

6 a. Principal. The principal of the HOUSING AUTHORITY Loan shall be  
7 \$850,000 and evidenced by a promissory note substantially conforming in form and Substance to  
8 the Authority Promissory Note attached hereto as Exhibit “F”, executed by BORROWER in favor  
9 of HOUSING AUTHORITY.

10 b. Interest. The interest rate shall be 3.00% per annum.

11 c. Maturity Date. the maturity date of the Authority Loan Note shall be the  
12 later to occur of (i) July 1, 2073 or (ii) fifty-five (55) years from the recordation of the  
13 Notice of Completion in the Official Records.

14 d. Repayment. The Authority Promissory Note shall provide the following:

15 1. That the Authority Loan will accrue simple interest at a rate of three  
16 percent (3.00%) per annum, except in the case of default as hereinafter provided,  
17 and shall be repaid on an annual basis from the Project’s Residual Receipts as  
18 defined herein;

19 2. The Authority Promissory Note shall be repaid according to the  
20 following:

21 (i) Fifty percent (50%) of the Project’s Residual Receipts shall be used  
22 towards the payment of the Residual Receipts loans secured by the Project (“Public  
23 Agency Portion of Residual Receipts”), and the payment shall be prorated based on  
24 the percentage of each respective loan amount based upon the total amount of such  
25 loans, until the Authority Loan is repaid in full. The Residual Receipts payment  
26 split calculation is as follows: 100% of the Public Agency Portion of Residual  
27 Receipts shall be allocated to the Authority Loan and  
28

1 (ii) The remaining fifty percent (50%) of the Project's Residual  
2 Receipts will be retained by BORROWER.

3 3. Project Residual Receipts are defined as gross rental receipts, security  
4 deposits until applied, casualty insurance proceeds, equity contributions and loan proceeds  
5 received, not including interest on required reserve accounts, less the following operating  
6 expenses:

7 i) auditing and accounting fees;

8 ii) a reasonable property management fee not to exceed \$55 per unit  
9 per month, increased annually by an amount equal to the increase in the Consumer  
10 Price Index (CPI), for the Los Angeles-Riverside-Orange County, CA Area,  
11 provided, however, that in the event of a decrease in the CPI, the property  
12 management fee, shall remain the same as the immediate preceding year;

13 iii) operating expenses (any expense reasonably and normally incurred  
14 in carrying out the Project's day-to-day activities, which shall include  
15 administration, on-site management, utilities, on-site staff payroll, payroll taxes and  
16 maintenance);

17 iv) replacement reserves, established in a separate account from  
18 operating reserves, limited to \$600 per unit for all units in the Project, increased  
19 annually by an amount equal to the increase in CPI;

20 v) deferred developer fee;

21 vi) operating reserves, in an annual amount up to \$25,000;

22 vii) a Managing General Partner partnership management fee which  
23 shall be in the initial amount of \$5,000 and increased annually by an amount  
24 equivalent to the rise in the CPI, for the Los Angeles-Riverside-Orange County,  
25 CA Area;

26 viii) a limited partner asset management fee not to exceed \$5,000 per  
27 year increased annually by an amount equivalent to the rise in CPI; and  
28

1                   ix)     payments of principal and interest on amortized loans and  
2                   indebtedness senior to the HOUSING AUTHORITY Loan, which have been  
3                   approved by HOUSING AUTHORITY (collectively, the "Senior Debt"); and

4                   x)     The HOUSING AUTHORITY'S annual monitoring fee in the  
5                   amount of \$8100, increased annually by an amount equal to the increase of the CPI for  
6                   the Los Angeles-Orange County-Riverside, CA Area; provided, however, that in the  
7                   event of a decrease in the CPI, the Agency's annual monitoring fee shall remain the  
8                   same as the immediate preceding year. BORROWER acknowledges and agrees that  
9                   payment of the Agency's annual monitoring fee shall be a priority operating expense,  
10                  junior only to payment of the Senior Debt.

11                  Operating Expenses shall not include repayment of advances to the Borrower from  
12                  its limited partner(s), general partner(s), their affiliates, and/or third parties (including  
13                  without limitation, any advances of any portion of the Deferred Developer's Fee to pay (or  
14                  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  
16                  cost associated with development of the Project. The calculation of Operating Expenses  
17                  shall be subject to the reasonable approval of the Authority's Executive Director or  
18                  designee.

19                  Residual Receipts shall be determined based on a review of certified financial  
20                  statements for the Project. Annual audited financial statements shall be submitted within one  
21                  hundred and twenty (120) days following the close of the project fiscal year commencing on April  
22                  1 of the first full calendar year following the recordation of the Notice of Completion. All  
23                  outstanding principal along with accrued interest shall be due upon the first to occur of (i) July 1,  
24                  2073 or (ii) fifty-five (55) years from the recordation of the last Notice of Completions for the  
25                  Project. The first payment shall be due on, the first July 1st in the first full calendar year following  
26                  the date of the recordation of the Notice of Completion, to the extent of available Residual  
27                  Receipts, as set forth above. Subsequent payments shall be made on July 1st thereafter to the  
28                  extent of available Residual Receipts until the earlier of full repayment of the Authority Loan or  
                  the Authority Loan maturity date as set forth above;

1           d.     Security. The Authority Loan shall be secured by a deed of trust recorded  
2 against the Property substantially conforming in form and substance to the Authority deed of Trust  
3 attached hereto as Exhibit "D". The HOUSING AUTHORITY hereby agrees that the HOUSING  
4 AUTHORITY Deed of Trust and the terms of this Agreement shall be subordinated to: 1) a  
5 construction deed of trust in connection with a construction loan in the amount not to exceed  
6 \$21,266,718 and 2) a deed of trust in connection with the USDA loan in an amount not to exceed  
7 \$5,300,000(the "Senior Loans"). In addition, HOUSING AUTHORITY agrees to execute any and  
8 all documents reasonably necessary to effectuate subordination of the Authority Loan to a Senior  
9 Loan provided that any such subordination does not (i) adversely affect the receipt of any benefit  
10 or right of HOUSING AUTHORITY under this Agreement (including any attachments thereto)  
11 the Authority Promissory Note and/or the Authority Deed of Trust, including without limitation  
12 causing or requiring the subordination of the affordability covenants in the Covenants, or (ii)  
13 increase any HOUSING AUTHORITY obligation or liability under this Agreement (including any  
14 attachments thereto). Subordination of any future refinancing may be considered by HOUSING  
15 AUTHORITY upon BORROWER'S reasonable request.

16           f.     Prepayment. Prepayment of Authority Loan principal and/or interest may occur at  
17 any time without penalty, provided however, such prepayment shall not release Borrower from  
18 complying with the affordability and use restrictions set forth in the Covenants until the term of  
19 the Covenants has expired, and/or Borrowers obligations to comply with all laws and regulations  
20 relating to the operation of the Affordable Units.

21           g.     Gap Assistance. The parties acknowledge that the Authority Loan is intended to be  
22 gap assistance, not to exceed the amount needed to bridge the gap between the total Development  
23 Cost (as defined herein and in the Method of Financing) and the maximum loans obtainable by  
24 Borrower plus Borrower's equity. In furtherance of this acknowledgement, Borrower agrees to the  
25 following conditions ("Conditions"):

- 26           1.     The maximum amount of the Authority Loan shall not exceed Eight  
27                 Hundred and Fifty Thousand Dollars (\$850,000). If there are any increases  
28                 in Project's funding gap due to lower tax credit pricing or development cost

1 increases, the additional gap shall be funded by Borrower through  
2 additional deferment of Borrower fees, Borrower Equity, or other non-  
3 HOUSING AUTHORITY sources. If Borrower proposes to redesign the  
4 Project or add new features to the Project which result in a cost savings, the  
5 Authority Loan shall be reduced to reflect such changes.

6 Borrower understands and agrees that the Borrower's performance of the Conditions are a  
7 material inducement to the Authority's execution of this Agreement and that in the event of any  
8 dispute between the parties, the Agreement shall be interpreted in a manner that furthers the intent  
9 of the Conditions for the benefit of the Authority.

10 h. Allocation of Costs. The proceeds of the Agency Loan shall be used exclusively to  
11 pay Development Costs for the Project, as identified in the Project Budget (Attachment No. 7) and  
12 reasonably approved by the Authority Executive Director.

13 i. Disbursement of \$850,000 Authority Loan. Provided Borrower is not in default  
14 under this Agreement or any other Authority Loan Documents, the proceeds of the \$850,000  
15 Authority Loan shall be disbursed as follows:

16 1. HOUSING AUTHORITY shall pay BORROWER the \$850,000 Authority  
17 Loan on a "cost-as-incurred" basis for all eligible approved costs under the  
18 following schedule:

- 19 (a) Up to fifty percent (50%) of the \$850,000 Portion of the Authority  
20 Loan at the commencement of construction.
- 21 (b) Up to forty percent (40%) of the \$850,000 of the Authority Loan  
22 upon fifty-one percent (51%) completion of Project, as certified  
23 and documented by the project architect.
- 24 (c) HOUSING AUTHORITY shall release final draw down of ten  
25 percent (10%) of the \$850,000 of the Authority Loan following  
26 receipt of all of the items listed in **Section 108 e. 2. Below.**  
27  
28

1           2. HOUSING AUTHORITY will retain ten percent (10%) of the  
2 \$850,000 Authority Loan and release final draw down of the \$850,000 of the Authority  
3 Loan upon receipt of all of the following:

- 4           1) Conditional lien release from general contractor;
- 5           2) Recordation of Notice of Completion;
- 6           3) Issuance of Certificate of Occupancy;
- 7           4) submission of a Project completion report including Tenant  
8 Checklist as shown in Exhibit "J" which is attached hereto and by this reference  
9 incorporated herein;

- 10           5) Tenant Selection Policy;
- 11           6) Management Plan;
- 12           7) final development costs; and
- 13           8) final sources and uses of funds.
- 14           9) A final Certified Public Accountant's construction cost certification  
15 must be provided within 6 months of the Notice of Completion (but not as a  
16 condition to release the \$850,000 Authority Loan retention).

17       J. Project Financing Contingency. This Agreement is expressly conditioned upon  
18 BORROWER's receipt, on or prior to January 30, 2018 of (i) such binding loan commitments for  
19 new loans as may be required by BORROWER, on terms and conditions acceptable to  
20 BORROWER, in its sole discretion, including, without limitation, (a) any conventional  
21 construction and/or permanent financing, including without limitation, a construction and/or  
22 permanent loan from an institutional construction lender (the "Senior Lien Holder"), and (b) a  
23 binding reservation of federal low income housing tax credits pursuant to Section 42 of the  
24 Internal Revenue Code of 1986, as amended (collectively, the "Project Financing"). Either  
25 HOUSING AUTHORITY or BORROWER may elect to terminate this Agreement with ten (10)  
26 days written notice to the other party if BORROWER fails to acquire the project financing as  
27 required by this **Section 108 j**. Upon such termination, this Agreement shall be null and void,  
28 and:

1           1.           If BORROWER elects to terminate this Agreement,  
2 BORROWER shall be released and discharged by HOUSING AUTHORITY from its  
3 obligations under this Agreement, except as to those obligations which by their terms  
4 survive termination; or

5           2.           If HOUSING AUTHORITY elects to terminate this Agreement,  
6 HOUSING AUTHORITY shall be released and discharged by BORROWER from its  
7 obligations under this Agreement, except as to those obligations which by their terms  
8 survive termination.

9           At that time all cost incurred by each party on the Project will be assumed  
10 respectively.

11           k. Letter to Proceed. BORROWER shall not initiate nor incur expenses for  
12 HOUSING AUTHORITY funded activity covered under the terms of this  
13 Agreement prior to receiving written authorization to proceed.

14           l. Reallocation Of Funds. If Borrower fails to meet (1) the Construction Start  
15 Deadline as set forth in the Schedule of Performance (Exhibit "A"); (2) the  
16 Completion Deadline as set forth in the Schedule of Performance (Exhibit "A");  
17 or (4) the Project Financing Contingency in **Section 108 (J)**, all of which are  
18 herein (collectively, the "Performance Deadlines"), subject to the notice and cure  
19 periods as set forth in **Section 501** herein, then the Authority Loan funds as set  
20 forth in this Authority Loan may be reallocated by HOUSING AUTHORITY  
21 after at least thirty (30) days' prior written notice is given to BORROWER if  
22 Borrower fails to cure prior to the expiration of such deadlines. Upon such  
23 reallocation and repayment of funds, this Agreement shall be terminated and be  
24 of no further force and effect and Borrower shall be released and discharged  
25 from any obligations under this Agreement, except as to those obligations which  
26 survive termination by their terms.

27 Section 108.1 RESERVED

28           Section 109     INDEMNIFICATION



1 Notwithstanding anything to the contrary in this Agreement, Borrower shall defend, indemnify and  
2 hold harmless HOUSING AUTHORITY, County of Riverside, its Agencies, Boards, Districts,  
3 Special Districts and Departments, their respective directors, officers, Board of Commissioners,  
4 elected and appointed officials, employees, agents and representatives (individually and  
5 collectively hereinafter referred to as Indemnitees) from and against any and all actions, third  
6 party claims, suits, causes of action, proceedings, demands, liabilities, loss, damages, injuries,  
7 challenges, cost and/or expense (including reasonable attorneys' fees and court costs), (collectively,  
8 "Claims") arising from or as a result of or in any way connected with this Agreement and the  
9 Authority Note, (ii) Borrower further agrees that such indemnification obligation shall include all  
10 fees and costs reasonably incurred in the defense of the Indemnified Parties by counsel selected by  
11 Borrower. With respect to any action or claim subject to indemnification herein by Borrower,  
12 Borrower shall, at their sole cost, have the right to use counsel of their own choice and shall have  
13 the right to adjust, settle, or compromise any such action or claim without the prior consent of  
14 HOUSING AUTHORITY; provided, however, that any such adjustment, settlement or compromise  
15 in no manner whatsoever limits or circumscribes Borrower's indemnification to Indemnitees as set  
16 forth herein.

17 All sums expended by HOUSING AUTHORITY on account of any of the foregoing,  
18 including, but not limited to HOUSING AUTHORITY payment of attorneys' fees, shall be  
19 reimbursable on demand, and until reimbursed by Borrower pursuant hereto, shall be deemed  
20 additional principal evidenced by the Authority Promissory Note and shall bear interest at the  
21 default rate set forth therein. The obligations of the Borrower under this Section shall,  
22 notwithstanding anything to the contrary contained herein, in the Authority Promissory Note,  
23 Authority Deed of Trust, or any other Authority Loan Documents, constitute personal recourse  
24 undertakings, obligations and liabilities of Borrower until payoff of the Senior Loan and shall be  
25 secured by the Authority Deed of Trust.

26 Borrower's obligation hereunder shall be satisfied when Borrower has provided to  
27 Authority the appropriate form of dismissal relieving Authority and the other Indemnitees from any  
28 liability for the action or claim involved.

1 The specified insurance limits required in this Agreement shall in no way limit or  
2 circumscribe Borrower's obligations to indemnify and hold harmless Indemnitees herein from third  
3 party claims.

4 Except as specifically set forth herein, the foregoing defense and indemnification  
5 obligations shall survive the termination of this Agreement and shall continue to remain in effect  
6 after any or all of the following events: Closing, Completion and issuance of the Notice of  
7 Completion for the Project and Certificate of Occupancy.

8 SECTION 110 Evidence of Financing

9 a. Not later than fifteen (15) days prior to the scheduled Closing Date and in no event  
10 later than as provided in the Schedule of Performance, Borrower shall submit to the HOUSING  
11 AUTHORITY evidence satisfactory to the HOUSING AUTHORITY that Borrower has obtained  
12 the financing necessary for the development of the Property in accordance with this Agreement.  
13 Such evidence of financing shall include the following:

- 14 1. A copy of all substantially complete loan documents relating to the  
15 Construction Loan (e.g., notes, deeds of trust, mortgages, indentures and  
16 loan agreements), including a final Project Budget approved by the  
17 Construction Lender, certified by Borrower to be a true and correct copy or  
18 copies thereof;
- 19 2. A copy of a loan commitment evidencing that the Permanent Loan will be  
20 available at Project completion, certified by Borrower to be a true and  
21 correct copy or copies thereof;
- 22 3. Evidence that Borrower has obtained a reservation of tax credits from  
23 TCAC;
- 24 4. A copy of the Partnership Agreement or other documentation acceptable to  
25 the Executive Director demonstrating the commitment of the Tax Credit  
26 Equity Investor to provide the capital contribution to Borrower, or a grant  
27 from CTCAC in lieu of tax credit equity, to demonstrate that Borrower has  
28

1 adequate equity funds committed to provide the amount of Borrower Equity  
2 required by the Method of Financing;

3 5. A copy of the commitments obtained by Borrower and the respective loan  
4 documents for the Construction Loan, and all other commitments described  
5 in the Method of Financing, to finance the development and construction of  
6 the Improvements, each certified by Borrower to be true and correct copies  
7 thereof and each, as applicable, conforming to the HOUSING  
8 AUTHORITY requirements set forth herein.

9 6. Documentation acceptable to the Authority Executive Director of other  
10 sources of capital sufficient to demonstrate that the Borrower has adequate  
11 equity funds committed to provide the amount of Borrower Equity required  
12 by the Method of Financing;

13 7. A copy of the contract between Borrower and the general contractor or  
14 major subcontractors for the construction of the Improvements, certified by  
15 Borrower to be a true and correct copy thereof;

16 8. A copy of a final Project Budget approved by the Authority Executive  
17 Director; and

18 9. All other documents reasonably requested by the Agency Executive  
19 Director.

20 b. The Authority Executive Director shall approve or disapprove such evidence of  
21 financing within the time established in the Schedule of Performance (Exhibit "A"). Such approval  
22 shall not be unreasonably withheld. If the Authority shall disapprove any such evidence of financing,  
23 the Authority shall do so by written notice to Borrower stating the reasons for such disapproval.

24 **PART 2 CLOSING OF AUTHORITY LOAN**

25 SECTION 201 Escrow

26 a. HOUSING AUTHORITY agrees to open an escrow in the County of  
27 Riverside with the Escrow Agent no later than the applicable dates established in the Schedule of  
28 Performance.

1 Sections 201 through 207 (inclusive) of this Agreement shall constitute the joint escrow  
2 instructions of HOUSING AUTHORITY and Borrower with respect to the Authority Loan, and a  
3 duplicate original of this Agreement shall be delivered to the Escrow Agent upon the opening of  
4 the escrow.

5 Housing Authority and Borrower shall provide such additional escrow instructions as shall  
6 be necessary to close the escrow with respect to the Authority Loan, and consistent with this  
7 Agreement. The Escrow Agent hereby is empowered to act under such instructions, and upon  
8 indicating its acceptance thereof in writing, delivered to HOUSING AUTHORITY and to  
9 Borrower within five (5) days after the opening of the escrow, shall carry out its duties as Escrow  
10 Agent hereunder.

11 Upon receipt by the Escrow Agent of all executed and acknowledged documents, as  
12 required by the Method of Financing, the Escrow Agent shall record all documents in accordance  
13 with Section 202 and Section 207. of this Agreement when all of the conditions precedent to the  
14 close of the Authority Loan have been satisfied, or waived by the Authority Executive Director in  
15 writing, in accordance with the terms and provisions of this Agreement. The Escrow Agent shall  
16 buy, affix and cancel any transfer stamps required by law. Any insurance policies governing the  
17 Property or any portion thereof are not to be transferred.

18 b. Borrower shall pay in escrow to the Escrow Agent the following fees, charges and  
19 costs promptly after the Escrow Agent has notified Borrower of the amount of such fees, charges  
20 and costs, but not earlier than 3 days prior to the scheduled date for the Closing:

- 21 1. The escrow fee;
- 22 2. The premium for Authority's Title Policy, including any endorsements  
23 required by the Authority Executive Director, as set forth in Section 207 of  
24 this Agreement; and
- 25 3. Recording fees.

26 c. If this escrow is not in a condition to close on or before the scheduled Closing Date  
27 set forth in the Schedule of Performance, then either party who then shall have fully performed the  
28 acts to be performed before the Closing may, in writing, demand the return of its money, papers

1 or documents from the Escrow Agent. No demand for return shall be recognized until 10 days  
2 after the Escrow Agent (or the party making such demand) shall have mailed copies of such  
3 demand to the other party or parties at the address of its principal place of business. Objections,  
4 if any, shall be raised by written notice to the Escrow Agent and to the other party within the 10-  
5 day period, in which event the Escrow Agent is authorized to hold all money, papers and  
6 documents with respect to the Property until instructed by a mutual agreement of the Parties or,  
7 upon failure thereof, by a court of competent jurisdiction. If no such demands are made, then the  
8 escrow shall be closed as soon as possible.

9 d. If objections are raised as above provided for, then the Escrow Agent shall not be  
10 obligated to return any such money, papers or documents except upon the written instructions of  
11 both HOUSING AUTHORITY and Borrower, or until the party entitled thereto has been  
12 determined by a final decision of a court of competent jurisdiction. If no such objections are made  
13 within said 10-day period, then the Escrow Agent shall immediately return the demanded money,  
14 papers or documents.

15 e. The Parties understand they may be required to execute additional standard form  
16 escrow instructions required by the Escrow Agent ("General Instructions"). In the event of a  
17 conflict between this Agreement and any such General Instructions, this Agreement shall control.  
18 The Parties agree, however, that they would refuse to execute General Instructions which  
19 (i) purport to relieve the Escrow Agent of liability for negligence or intentional wrong-doing,  
20 (ii) excuse the Escrow Agent from strict compliance with each and all of the provisions of this  
21 document and the General Instructions or (iii) purport to authorize the Escrow Agent to follow the  
22 instructions or directive of any person not a direct signatory party to this Agreement. Any  
23 amendment to the escrow instructions shall be in writing and executed by both HOUSING  
24 AUTHORITY and Borrower. At the time of any amendment, the Escrow Agent shall agree to  
25 carry out its duties as Escrow Agent under such amendment.

1 f. All communications from the Escrow Agent to HOUSING AUTHORITY or  
2 Borrower shall be directed to the addresses set forth in Sections 103 and 104 of this Agreement,  
3 and in the manner set forth in Section 601 of this Agreement for notices between the Parties.

4 SECTION 202 Recordation of Documents

5 HOUSING AUTHORITY and Borrower, respectively, agree to perform all acts necessary  
6 to achieve recordation and delivery of documents in sufficient time for escrow to be closed in  
7 accordance with the foregoing provisions.

8 a. The following documents shall be recorded in the Official Records in the following  
9 order ("Recorded Documents") against the Property upon the Closing:

ORDER OF RECORDATION	DOCUMENT NAME
1	USDA Regulatory Agreement
2	Covenant Agreement
3	Wells Fargo Bank, N.A. security instruments and Subordination Agreement (against Property)
4	USDA Deed of Trust and Subordination Agreement
5	Authority Deed of Trust, Assignment of Rents, Subordination Agreement, and UCC-1 Financing Statement
6	Tax Credit Regulatory Agreement

17  
18 c. Upon the completion of construction the Wells Fargo Bank, N.A. construction loan  
19 will be paid in its entirety and the Authority Deed of Trust will be in 4<sup>th</sup> priority lien position  
20 subordinate to the USDA Regulatory Agreement and Covenant Agreement

21 d. In the event that Borrower subdivides the Property into a vertical subdivision, the  
22 Recorded Documents shall be recorded against each parcel that comprises the vertical subdivision  
23 in the same order as set forth under subsection (a), above.

24 SECTION 203 Exceptions

25 a. Within 10 days after the execution of this Agreement by Housing Authority,  
26 Housing Authority shall cause the Title Company to deliver to Housing Authority a preliminary  
27 report or pro forma title policy (the "Report") with respect to title to the Property, together with  
28 copies of the documents underlying the exceptions (the "Exceptions") set forth in the Report.

1 Housing Authority shall have the right to reasonably approve or disapprove the Exceptions;  
2 provided, however, that Housing Authority hereby approves the following Exceptions:

- 3 1. The Redevelopment Plan and any related Exceptions; and
- 4 2. The lien of any non-delinquent property taxes and assessments.

5 b. Housing Authority shall have 30 days from the date of its receipt of the Report to  
6 give written notice to Borrower of Housing Authority's approval or disapproval of any of such  
7 Exceptions set forth in the Report. If Housing Authority notifies Borrower of its disapproval of  
8 any Exceptions in the Report, then Borrower shall have the right, but not the obligation, within 30  
9 days after receipt of such notification, to provide reasonably acceptable assurances to Housing  
10 Authority that such Exception(s) will be removed on or before the Close of Escrow. If Borrower  
11 does not provide such assurances to Housing Authority within such 30-day period, then Housing  
12 Authority shall have 5 days after the first to occur of the expiration of such 30-day period or receipt  
13 of election by Borrower to not provide such assurances, to elect to terminate this Agreement by  
14 giving Borrower written notice of termination. If Housing Authority does not make such election  
15 within said 5-day period, then Housing Authority shall be deemed to have elected not to proceed  
16 with the transaction due to the disapproved Exception(s). The Exceptions to title approved by  
17 Housing Authority as provided herein together with those which are set forth in this Agreement,  
18 and those which are otherwise consistent with this Agreement and which are acceptable to Housing  
19 Authority, shall hereinafter collectively be referred to as the "Approved Title Conditions."  
20 Housing Authority shall have the right to approve or disapprove any further Exceptions reported  
21 by the Title Company after Housing Authority has approved the Approved Title Conditions for  
22 the Property (which are not created by Housing Authority). Borrower shall not create and shall  
23 use its best efforts not to allow any new exceptions to title following the Effective Date of this  
24 Agreement without the prior written approval of the Housing Authority.

25 SECTION 205 Housing Authority's Title Policy

26 Concurrent with recordation of the Authority Deed of Trust, the Title Company shall  
27 provide and deliver Housing Authority's Title Policy to Housing Authority. Borrower shall be  
28 responsible for paying the title insurance premiums for Housing Authority's Title Policy, including

1 any special coverage or endorsements thereto reasonably required by the Housing Authority  
2 Executive Director. Housing Authority shall have no responsibility for paying the cost of any  
3 portion of the premium for Housing Authority's Title Policy.

4 SECTION 206 Recordation of Housing Authority Deed of Trust

5 Borrower shall execute and deposit the Housing Authority Promissory Note with the  
6 Escrow Agent at least 1 business day before the Close of Escrow. The Escrow Agent shall deliver  
7 the Housing Authority Promissory Note to Housing Authority immediately following the delivery  
8 to Housing Authority of Housing Authority's Title Policy or confirmation that the Title Company  
9 is irrevocably committed to issue Housing Authority's Title Policy and the recording of the  
10 Housing Authority Deed of Trust in the Official Records.

11 SECTION 207 Conditions Precedent to Closing of Authority Loan

12 The Closing and the obligations of the Authority and Borrower hereunder are subject to  
13 the satisfaction prior to the Closing (unless otherwise provided or waived in writing by the  
14 Authority Executive Director), of the following conditions, and the obligations of the parties with  
15 respect to such conditions are as follows:

16 a. BORROWER executes this Agreement and delivers to Housing  
17 Authority for recordation in Official Records.

18 b. Housing Authority's Title Policy Title Company shall be irrevocably committed to issue  
19 the Housing Authority's ALTA Title Policy in the amount of the Authority Loan (\$850,000)  
20 insuring the Authority Loan Deed of Trust as a second priority lien on the Property, subordinate  
21 only to the Deed of Trust securing the Senior Loan, as provided in this Agreement.

22 c. Final Construction Drawings Borrower shall have submitted, and Authority's  
23 Executive Director shall have approved, Final Construction Drawings.

24 d. Project Budget Borrower shall have delivered to the Housing Authority, and  
25 Authority's Executive Director shall have approved, a final Project Budget or any revisions to the  
26 Project Budget attached to this Agreement as Exhibit "A", demonstrating to the satisfaction of the  
27 Authority's Executive Director the availability of sufficient funds to pay all Development Costs.

28



1 e. Construction Contract Borrower shall have delivered to the Housing Authority's,  
2 and Authority's Executive Director shall have approved, a general construction contract, covering  
3 all construction required by this Agreement and the approved final construction drawings, in an  
4 amount that is consistent with the final Housing Authority's -approved Project Budget, together  
5 with a construction schedule showing a detailed trade-by-trade breakdown of the estimated periods  
6 of commencement and completion of construction and complete fixturization of the development  
7 of the Property, demonstrating that construction will be completed within the time provided in the  
8 Schedule of Performance, and such contract shall have been executed by each of the parties thereto.  
9 Borrower shall also have delivered to Authority documentation evidencing a Payment and  
10 Performance Bond or letter of credit to secure performance under the construction contract for the  
11 Project issued by a bonding company or financial institution reasonably approved by HOUSING  
12 AUTHORITY. The bonds shall name Housing Authority of the County of Riverside as Co-  
13 Obligee.

14 f. Evidence of Financing Borrower shall have obtained and submitted to the Housing  
15 Authority's, and Authority's Executive Director shall have approved, all approvals or other  
16 evidences of lender commitments described in Section 110 herein and in the Method of Financing,  
17 and the Authority Executive Director shall have approved such evidence relating to the  
18 Construction Loan, Low Income Housing Tax Credit syndication and other Borrower Equity or  
19 any other funding sources set forth in the Method of Financing. BORROWER provides  
20 satisfactory evidence that it has all the financing documents required to cause the proceeds of the  
21 construction loan and the equity investment from the Tax Credit Equity Investor to be committed  
22 and available, in an amount sufficient, when combined with the County of Riverside HOME Loan  
23 and HOUSING AUTHORITY Loan, to pay all Development Costs as set forth in the Authority  
24 approved Project Budget.

25 h. Limited Partnership. Borrower shall have submitted to the Housing Authority, and  
26 Authority Executive Director shall have approved the Partnership Agreement (but only with  
27 respect to whether such Partnership Agreement is consistent with this Agreement and its  
28

1 attachments, including, but not limited to the Method of Financing and the Authority Promissory  
2 Note).

3 i. Insurance Borrower shall have submitted to the Housing Authority, and Authority  
4 Executive Director shall have approved, evidence of the Insurance Policies required by this  
5 Agreement.

6 j. Other Agreements Borrower shall have submitted to Housing Authority, and  
7 Authority's Executive Director shall have approved each of the agreements described in Part 4 of  
8 this Agreement, and each of such agreements shall have been executed by each of the parties  
9 thereto, as appropriate.

10 k. Permits Borrower shall have delivered to Authority satisfactory evidence that it has  
11 secured any and all land use entitlements, permits, approvals required for construction of the  
12 Improvements and the Project pursuant to the applicable rules and regulations of, the Housing  
13 Authority of the County of Riverside, the County of Riverside, or any other governmental agency  
14 affected by such construction work. BORROWER shall, without limitation, secure all entitlement,  
15 change of zone, lot line adjustment, any and all necessary studies required including but not limited  
16 to archaeological, cultural, environmental, traffic studies and lead-based paint surveys, as  
17 applicable, and required, and pay all costs, charges and fees associated therewith, all conditions  
18 precedent to the issuance of all permits necessary for the construction of the development and all  
19 such permits are available for issuance, other than payment of fees.

20 l. Prevailing Wages. If Davis Bacon and/or prevailing wages are required to be  
21 paid, BORROWER hires a qualified professional firm to review and monitor Davis Bacon and/or  
22 prevailing wage compliance for all submissions of contractors certified payrolls to HOUSING  
23 AUTHORITY. In the event that the Project requires prevailing wages, BORROWER shall comply  
24 with any applicable labor regulations and all other State Laws in connection with the construction  
25 of the improvements which compromise the Project, including if applicable, requirements relating  
26 to prevailing wages. BORROWER agrees and acknowledges that it is the responsibility of  
27 BORROWER to obtain legal determination, at BORROWER's sole cost and expense, as to  
28 whether prevailing wages must be paid during the construction of the Project. If the Project is

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

6 m. Resident Marketing and Selection Plan (benefits Agency). Borrower shall have  
7 delivered to the Housing Authority, and the Authority's Executive Director shall have approved,  
8 a resident marketing and selection plan for the Affordable Units, as required by this Agreement.

9 n. Borrower Formation Documents Borrower shall have delivered to the HOUSING  
10 AUTHORITY documentation relating to the partnership status of Borrower, as the case may be  
11 (and its general partners, and if Borrower is a limited liability company, its members), including,  
12 without limitation and as applicable: Partnership Agreement and any amendments thereto; articles  
13 of incorporation; State of California Limited Liability Company Articles of Incorporation (LLC-  
14 1), Statement of Information and Operating Agreement (including any amendments thereto);  
15 copies of all resolutions or other necessary actions taken by such entity to authorize the execution  
16 of this Agreement and related documents; a certificate of status issued by the California Secretary  
17 of State; and a copy of any Fictitious Business Name Statement, if any, as published and filed with  
18 the Clerk of Riverside County.

19 o. Joint Supplemental Escrow Instructions Housing Authority and Borrower shall  
20 have prepared such joint supplemental instructions for the Escrow Agent as may be necessary to  
21 close the transaction contemplated herein.

22 p. Documents (benefits Borrower and Agency, as applicable). Agency, Borrower, and  
23 other parties, as appropriate, shall have executed, in recordable form as necessary, and delivered  
24 into escrow where appropriate, the following documents:

- 25 1. Authority Deed of Trust, substantially conforming in form and substance to the  
26 Deed of Trust with Assignment of Rents attached hereto as Exhibit "D", and in  
27 recordable form, and delivers such document to the Housing Authority for  
28 recordation in the Official Records.

1           2. The Authority Promissory Note, substantially conforming in form and substance to  
2           the Promissory Note attached hereto as Exhibit "F" and delivers to the Housing  
3           Authority.

4           3. The Covenant Agreement, substantially conforming in form and substance to the  
5           Covenant Agreement attached hereto as Exhibit "E" and incorporated herein by this  
6           reference, in recordable form, and delivers to the Housing Authority for recordation  
7           in the Official Records.

8           q.     Property Manager. Borrower shall have prepared and delivered to the Housing  
9           Authority, and the Authority's Executive Director shall have approved, the property manager for  
10          the Affordable Units and the Management Plan as required by the Covenants.

11          r.     Representations, Warranties and Covenants Borrower shall have duly performed  
12          each and every obligation to be performed by Borrower hereunder and Borrower's representations,  
13          warranties and covenants set forth in this Agreement shall be true and correct as of the date of the  
14          Closing.

15          s.     Deliveries Housing Authority shall have delivered the items to be delivered by  
16          Housing Authority, when and as required in this Agreement.

17          t.     Recording Documents. The Escrow Agency shall have accepted such supplemental  
18          recording instructions as may have been prepared by the Housing Authority.

19          u.     Borrower is not in default under the terms of this Agreement.

20   SECTION 208        Disbursements; Other Actions to be taken by the Escrow Agent

21          Upon the Closing, Escrow Agent shall promptly undertake all of the following in the  
22          manner herein below indicated:

23          a.     Deliver the Authority Promissory Note to Housing Authority.

24          b.     Cause the Authority Deed of Trust and other recordable Authority Loan  
25          Documents, the recordable Senior Loan documents and any other documents which  
26          the Parties may mutually direct, to be recorded in the Official Records, and obtain  
27          conformed copies thereof for distribution to Housing Authority and Borrower.  
28

1 c. Direct the Title Company to issue Housing Authority's Title Policy to Housing  
2 Authority.

3 d. Prepare and distribute to Borrower and Housing Authority each, copies of both  
4 parties' escrow closing statements and a complete copy of all documents handled  
5 by escrow.

6 Escrow Agent agrees that release of Authority Loan proceeds by Housing Authority to  
7 Borrower shall irrevocably commit Escrow Agent, on behalf of Title Company, to issue the  
8 Authority's Title Policy in accordance with this Agreement.

9 SECTION 209 Failure of Conditions to Closing

10 a. In the event that any of the conditions precedent to the Close of Escrow are not  
11 timely satisfied or waived, for a reason other than the default of Housing Authority or Borrower,  
12 the following shall apply:

13 1. Either party shall have the right to terminate this Agreement, the escrow and  
14 the rights and obligations of Housing Authority and Borrower hereunder to  
15 the extent that such party is intended to be benefited by the applicable  
16 condition precedent, except as otherwise provided herein;

17 2. If this Agreement is terminated as provided herein, then Escrow Agent is  
18 hereby instructed to promptly return to Borrower and Housing Authority all  
19 funds, if any, and documents deposited by them, respectively, into escrow  
20 which are held by Escrow Agent on the date of said termination (less, in the  
21 case of the party otherwise entitled to such funds, however, the amount of  
22 any cancellation charges required to be paid by such party under this Section  
23 208); and

24 3. If this Agreement is terminated as provided herein, then neither party shall  
25 have any further rights or obligations hereunder except those that survive  
26 termination of this Agreement as expressly provided herein.

27 b. Cancellation Fees and Expenses. In the event that the escrow terminates in  
28 accordance with this Section 209.a. of this Agreement, the cancellation charges, if any, required

1 to be paid by and to Escrow Agent and the Title Company shall be borne by Borrower and all other  
2 charges shall be borne by the party incurring same.

3 SECTION 210            Condition of the Property

4            SECTION 210.1        Hazardous Substances

5            a.            "Hazardous Substance" as used in this Agreement means any substance, material  
6 or waste which is or becomes regulated by the United States government, the State of California,  
7 or any local or other governmental authority, including, without limitation, (i) any material,  
8 substance or waste which is defined as "extremely hazardous substances", "hazardous substances",  
9 "hazardous materials", "hazardous waste" or "toxic substances" in the Comprehensive  
10 Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C.  
11 sections 9601, et seq., the Hazardous Materials Transportation Uniform Safety Act of 1990, as  
12 amended, 49 U.S.C. sections 5101, et seq.; the Resource Conservation and Recovery Act of 1976,  
13 as amended, 42 U.S.C. sections 6901, et seq.; and those substances defined as "hazardous waste"  
14 in section 25117 of the California Health and Safety Code, as "infectious waste" in section 27054.4  
15 of the California Health and Safety Code, or as "hazardous substances" in section 25316 of the  
16 California Health and Safety Code, or "hazardous material" as defined in section 353 of the  
17 California Vehicle Code, or "hazardous substance" as defined in Section 33459(c) of the California  
18 Health and Safety Code; and in the regulations adopted and publications promulgated pursuant to  
19 said laws; (ii) petroleum, asbestos or any polychlorinated biphenyl; and (iii) any other substance,  
20 whether in the form of a solid, liquid, gas or any other form whatsoever, which by any  
21 governmental requirements either requires special handling in its use, transportation, generation,  
22 collection, storage, treatment or disposal, or is defined as "hazardous" or is harmful to the  
23 environment or capable of posing a risk of injury to public health and safety. "Hazardous  
24 Substances" do not include materials customarily used in the construction, development, operation  
25 or maintenance of real estate, provided such substances are used in accordance with all applicable  
26 laws and regulations.

27            b.            Borrower hereby represents and warrants that the development, construction and  
28 uses of the Property permitted under this Agreement (i) will comply with all applicable

1 environmental laws; and (ii) do not require the presence of any Hazardous Substance on the  
2 Property.

3 Section 210.2 Environmental Indemnity

4 Borrower agrees to indemnify, protect, defend, save and hold harmless Housing Authority,  
5 the County of Riverside and their respective Agencies, Districts, Special Districts and  
6 Departments, their respective directors, officers, Board of Supervisors, Board of Commissioners,  
7 elected and appointed officials, employees, agents, representatives and attorneys, from and against  
8 any and all debts, duties, obligations (including any remediation obligations or clean-up costs  
9 imposed by any Governmental Restrictions), liabilities, suits, claims, demands, penalties, fines,  
10 causes of action, damages, losses, costs and expenses, including, without limitation, attorneys'  
11 fees and expenses (and including any allocable costs of any of the foregoing parties' in-house  
12 counsel) arising on or accruing as a result of the presence, use, storage, handling, treatment,  
13 generation, release, discharge, refining, manufacturing, dumping or disposal of any Hazardous  
14 Substances or other kinds of contamination or pollutants of any kind into the air, soil, groundwater  
15 or surface water on, under, in or about the Property (whether legal or illegal, accidental or  
16 intentional), that is caused by Borrower or its representatives. The indemnity provided in this  
17 Section 210.2 shall survive the Termination of this Agreement.

18 PART 3 DEVELOPMENT OF PROPERTY

19 SECTION 301 Land Use Approvals

20 It is the responsibility of Borrower, to ensure that zoning of the Property and all applicable County  
21 land use requirements will permit development of the Property and construction of the Improvements  
22 and the use, operation and maintenance of such Improvements in accordance with the provisions of  
23 this Agreement. Nothing contained herein shall be deemed to entitle Borrower to any County of  
24 Riverside permit or other County of Riverside approval necessary for the development of the Property,  
25 or waive any applicable County of Riverside requirements relating thereto. This Agreement does not  
26 (a) grant any land use entitlement to Borrower, (b) supersede, nullify or amend any condition which  
27 may be imposed by the County in connection with approval of the development described herein, (c)  
28 guarantee to Borrower or any other party any profits from the development of the Property, or (d)

1 amend any County laws, codes or rules. This is not a Development Agreement as provided in  
2 Government Code Section 65864.

3 Borrower shall provide Housing Authority with copies of all approved plans for the Project  
4 within fifteen (15) days following the written request of Housing Authority.

5 SECTION 302 Scope of Development

6 The Property shall be developed in one phase in accordance with and within the parameters established  
7 in the Scope of Development (Exhibit "A").

8 SECTION 303 Basic Concept and Schematic Drawings

9 a. Borrower shall prepare and submit basic concept and schematic drawings and related  
10 documents for the development of the Property to the Housing Authority for review and written  
11 approval within the time established in the Schedule of Performance. Basic concept and schematic  
12 drawings shall include a site plan, elevations and sections of the Improvements as they are to be  
13 developed and constructed on the Property. Borrower shall consult with and seek the recommendations  
14 of property management and community service providers with experience relating to similar  
15 developments before submission of the basic concept and schematic drawings to the Housing  
16 Authority.

17 b. The Property shall be developed as established in the basic concept and schematic  
18 drawings and related documents. Any changes shall be within the limitations of the Scope of  
19 Development.

20 SECTION 304 Reserved

21 SECTION 305 Construction Drawings and Related Documents

22 a. Borrower shall prepare and submit construction drawings and related documents  
23 (collectively called the "Plans") to the Housing Authority for review (including but not limited to  
24 architectural review), and written approval in the times established in the Schedule of Performance.  
25 Such construction drawings and related documents shall be submitted as 50% and Final Construction  
26 Drawings. Final Construction Drawings are hereby defined as those in sufficient detail to obtain a  
27 building permit.  
28



1           b.       Approval of progressively more detailed Plans will be promptly granted by the  
2 Executive Director or designee if developed as a logical evolution of Plans theretofore approved. Any  
3 items so submitted and approved by the Executive Director or designee shall not be subject to  
4 subsequent disapproval.

5 SECTION 307 Cost of Construction

6 The cost of demolishing any improvements on the Property and developing the Property and  
7 constructing the Improvements, including any offsite or onsite improvements required by the County  
8 in connection therewith, shall be the sole financial responsibility of Borrower, without any cost to  
9 Housing Authority, subject to the terms of this Agreement. Borrower shall also obtain performance,  
10 material and labor, and payment bonds for the Project, in the amount required by any lenders to the  
11 Project and determined by Housing Authority and shall furnish Housing Authority with copies thereof  
12 prior to the commencement of such construction.

13 SECTION 308       General Contractor Disclosure.

14           HOUSING AUTHORITY and BORROWER hereby acknowledge the general contractor  
15 for the Project is affiliated with the Borrower.

16 SECTION 309       Reserved.

17 SECTION 310       Environmental Review. BORROWER must comply with the California  
18 Environmental Quality Act (CEQA) and its implementation regulations.

19 SECTION 311       Schedule of Performance

20           a.       Each party to this Agreement shall perform the obligations to be performed by such  
21 party pursuant to this Agreement within the respective times provided in the Schedule of Performance,  
22 and if no such time is provided, within a reasonable time. The Schedule of Performance shall be subject  
23 to amendment from time to time upon the mutual agreement of the Housing Authority and Borrower.  
24 Housing Authority's Executive Director, or designee, on behalf of Housing Authority and without  
25 referring such matter to the Housing Authority's Board of Commissioners may extend all pending  
26 deadlines in the Schedule of Performance on two (2) or fewer occasions, so long as the aggregate  
27 duration of such administrative time extensions is no greater than ninety (90) days.

1           b.     After the Effective Date, Borrower shall promptly begin and thereafter diligently  
2 prosecute to completion the construction of the Improvements as provided herein and in the Scope of  
3 Development.

4           c.     During periods of construction, Borrower shall submit to the Housing Authority a  
5 written report of the progress of construction when and as reasonably requested by the Housing  
6 Authority, but not more frequently than once every quarter. The report shall be in such form and detail  
7 as may be reasonably required by the Housing Authority and shall include a reasonable number of  
8 construction photographs (if requested) taken since the last report by Borrower.

9 SECTION 312 Nondiscrimination.

10           A.    Borrower shall not discriminate on the basis of race, gender, religion, national origin,  
11 ethnicity, sexual orientation, age or disability in the solicitation, selection, hiring  
12 recruitment of any contractors or consultants, to participate in  
13 subcontracting/subconsulting opportunities. Borrower understands and agrees that  
14 violation of this clause shall be considered a material breach of this Agreement and may  
15 result in termination, debarment or other sanctions. This language shall be incorporated  
16 into all contracts between Borrower and any contractor, consultant, subcontractor,  
17 subconsultants, vendors and suppliers. Borrower shall comply with the provisions of the  
18 California Fair Employment and Housing Act (Government Code Sections 12900 et seq.),  
19 the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended, and all Administrative  
20 Rules and Regulations issued pursuant to said Acts and Orders with respect to its use of  
21 the Property.

22 SECTION 313 Indemnification and Insurance

23           Without limiting any other Borrower indemnities set forth herein, Borrower shall indemnify  
24 and hold harmless the Authority, County of Riverside, its Agencies, Boards, Districts, Special  
25 Districts and Departments, their respective directors, officers, Board of Commissioners, elected and  
26 appointed officials, employees, agents and representatives (individually and collectively hereinafter  
27 referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of  
28 Borrower, its officers, employees, subcontractors, agents or representatives arising out of or in any

1 way relating to this Agreement, including but not limited to property damage, bodily injury, or  
2 death or any other element of any kind or nature whatsoever arising from the performance of  
3 Borrower, its officers, employees, subcontractors, agents or representatives Indemnitors from this  
4 Agreement. Borrower shall defend, at its sole expense, all costs and fees including, but not limited,  
5 to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any  
6 claim or action based upon such alleged acts or omissions.

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

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

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

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

21 The foregoing indemnity shall continue to remain in effect after the Completion.

22 Without limiting or diminishing Borrower's obligation to indemnify or hold Authority  
23 harmless, Borrower shall procure and maintain or cause to be maintained, at its sole cost and  
24 expense, the following insurance coverage's during the term of this Agreement.

25 a) **Worker's Compensation Insurance.** If Borrower has employees as defined by the  
26 State of California, Borrower shall maintain statutory Workers' Compensation Insurance (Coverage  
27 A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability  
28 (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per

1 accident. The policy shall be endorsed to waive subrogation in favor of the Authority, and, if  
2 applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

3       **b) Commercial General Liability Insurance.** Commercial General Liability  
4 insurance coverage, including but not limited to, premises liability, contractual liability, products  
5 and completed operations liability, personal and advertising injury, and cross liability coverage,  
6 covering claims which may arise from or out of Borrower's performance of its obligations  
7 hereunder. Policy shall name the Authority, County of Riverside, its Agencies, Districts, Special  
8 Districts, and Departments, their respective directors, officers, Board of Commissioners,  
9 employees, elected or appointed officials, agents or representatives as Additional Insured. Policy's  
10 limit of liability shall not be less than \$3,000,000 per occurrence combined single limit. If such  
11 insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less  
12 than two (2) times the occurrence limit.

13       **c) Vehicle Liability Insurance.** If vehicles or mobile equipment are used in the  
14 performance of the obligations under this Agreement, then Borrower shall maintain liability  
15 insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000  
16 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall  
17 apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy  
18 shall name the Authority, County of Riverside, its Agencies, Districts, Special Districts, and  
19 Departments, their respective directors, officers, Board of Commissioners, employees, elected or  
20 appointed officials, agents or representatives as Additional Insured or provide similar evidence of  
21 coverage approved by County's Risk Manager ("Risk Manager").

22       **d) Property (Physical Damage).** Borrower shall provide a policy of all-risk property  
23 insurance coverage for the full replacement value of all Borrower's equipment,  
24 improvements/alterations, temporary structures, and systems, including without limitation, items  
25 owned by others in the Borrower's care, custody or control, used on the Property or other Authority-  
26 owned property, or used in any way connected with the performance of the work required pursuant  
27 to this Agreement.

28       **e) Builder's All Risk (Course of Construction) Insurance.** Borrower shall provide

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

18 f) **General Insurance Provisions – All Lines.**

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

23 2. Borrower's insurance carrier(s) must declare its insurance self-insured  
24 retentions. If such self-insured retentions exceed \$500,000 per occurrence such retentions shall  
25 have the prior written consent of Risk Manager. Upon notification of self-insured retention  
26 unacceptable to Authority, and at the election of Risk Manager, Borrower's carriers shall either: (a)  
27 reduce or eliminate such self-insured retention, or (b) procure a bond which guarantees payment of  
28 losses and related investigations, claims administration, and defense costs and expenses.

1           3. Borrower shall cause Borrower's insurance carrier(s) to furnish the Authority  
2 with copies of the Certificate(s) of Insurance and Endorsements effecting coverage as required  
3 herein, and 2) if requested to do so orally or in writing by Risk Manager, provide copies of policies  
4 including all Endorsements and all attachments thereto, showing such insurance is in full force and  
5 effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the  
6 insurance carrier(s) that thirty (30) days written notice shall be given to the Authority prior to any  
7 material modification, cancellation, expiration or reduction in coverage of such insurance.  
8 Borrower shall not continue operations until Authority has been furnished Certificate(s) of  
9 Insurance and copies of endorsements and if requested, copies of policies of insurance including all  
10 endorsements and any and all other attachments as required herein. An individual authorized by  
11 the insurance carrier to do so, on its behalf, shall sign the original endorsements for each policy and  
12 the Certificate of Insurance.

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

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

23           6. Borrower shall pass down the insurance obligations contained herein to all tiers  
24 of subcontractors.

25           7. Borrower agrees to notify Authority of any claim by a third party or any incident  
26 or event that may give rise to a claim arising from the performance of the Agreement.

27           SECTION 314    Notice of Job Availability  
28

1 Borrower is required, and shall require Borrower's contractor, and cause Borrower's contractor to  
2 notify any subcontractor, to notify the Riverside County Workforce Development Center and the  
3 Riverside County Greater Avenues for Independence (GAIN) program of any and all job openings  
4 related to the development and construction of the Project.

5 SECTION 315 Local, State and Federal Laws

6 The Borrower shall carry out development and construction (as defined by applicable law) of the  
7 Improvements on the Property, including, without limitation, any and all public works, (as defined by  
8 applicable law), if any, in conformity with all applicable local, state and federal laws, including,  
9 without limitation, all applicable federal and state labor laws (including, without limitation, any  
10 applicable requirement to pay state prevailing wages). Borrower hereby agrees that Borrower shall  
11 have the obligation to provide any and all disclosures, representations, statements, rebidding, and/or  
12 identifications which may be required by Labor Code Sections 1726 and 1781, as the same may be  
13 enacted, adopted or amended from time to time, or any other provision of law. Borrower hereby agrees  
14 that Borrower shall have the obligation to provide and maintain any and all bonds to secure the payment  
15 of contractors (including the payment of wages to workers performing any public work) which may be  
16 required by the Civil Code, Labor Code Section 1781, as the same may be enacted, adopted or amended  
17 from time to time, or any other provision of law, to the extent required by law. Borrower shall  
18 indemnify, protect, defend and hold harmless Housing Authority, the County of Riverside and their  
19 respective Agencies, Districts, Special Districts and Departments, their respective directors, officers,  
20 Board of Supervisors, Board of Commissioners, elected and appointed officials, employees, agents,  
21 representatives and attorneys, with counsel reasonably acceptable to Housing Authority, from and  
22 against any and all loss, liability, damage, claim, cost, expense, and/or "increased costs" (including  
23 labor costs, penalties, reasonable attorneys' fees, court and litigation costs, and fees of expert  
24 witnesses) which, in connection with the development and/or construction (as defined by applicable  
25 law) of the Improvements, including, without limitation, any and all public works (if any) (as defined  
26 by applicable law), results or arises in any way from any of the following: (1) the noncompliance by  
27 Borrower of any applicable local, state and/or federal law, including, without limitation, any applicable  
28 federal and/or state labor laws (including, without limitation, if applicable, the requirement to pay state

1 prevailing wages); (2) the implementation of Chapter 804, Statutes of 2003; (3) the implementation of  
2 Sections 1726 and 1781 of the Labor Code, as the same may be enacted, adopted or amended from  
3 time to time, or any other similar law; (4) failure by Borrower to provide any required disclosure  
4 representation, statement, rebidding and/or identification which may be required by Labor Code  
5 Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any  
6 other provision of law; and/or (5) failure by Borrower to provide and maintain any and all bonds to  
7 secure the payment of contractors (including the payment of wages to workers performing any public  
8 work) which may be required by the Civil Code, Labor Code Section 1781, as the same may be enacted,  
9 adopted or amended from time to time, or any other provision of law. Borrower hereby expressly  
10 acknowledges and agrees that neither Housing Authority nor County has ever previously affirmatively  
11 represented to the Borrower or its contractor(s) for the Improvements in writing or otherwise, that the  
12 work to be covered by the bid or contract is not a "public work," as defined in Section 1720 of the  
13 Labor Code. It is agreed by the parties that, in connection with the development and construction (as  
14 defined by applicable law) of the Improvements, including, without limitation, any public work (as  
15 defined by applicable law), if any, Borrower shall bear all risks of payment or non-payment of state  
16 prevailing wages and/or the implementation of Chapter 804, Statutes of 2003 and/or Labor Code  
17 Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, and/or  
18 any other provision of law. "Increased costs" as used in this Section shall have the meaning ascribed  
19 to it in Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time.  
20 The foregoing indemnity shall survive termination of this Agreement and shall continue after  
21 Completion. Borrower shall provide documentation of a Payment and Performance Bond or Letter of  
22 Credit to secure performance under the construction contract issued by a bonding company or financial  
23 institution reasonably approved by Housing Authority. The bond shall name Housing Authority as co-  
24 obligee.

25           SECTION 316           Notice of Non-Responsibility

26 Housing Authority shall, at any and all times during the term of this Agreement, have the right to post  
27 and maintain on the Property, and record against the Property, as required by law, any notice or notices  
28 of non-responsibility provided for by the mechanics' lien laws of the State of California; provided,



1 however, upon the written request of the Housing Authority, Borrower shall, on behalf of the Housing  
2 Authority, post and maintain on the Property, and record against the Property, all notices of non-  
3 responsibility provided for by the mechanics' lien laws of the State of California.

4 SECTION 317 Permits

5 Before commencement of demolition, construction or development of any buildings, structures or other  
6 work of improvement upon any portion of the Property, Borrower shall, at its own expense, secure or  
7 cause to be secured, any and all permits which may be required by the County or any other  
8 governmental agency affected by such construction, development or work.

9 SECTION 318 Rights of Access

10 Commencing upon the Effective Date, representatives of the Housing Authority and the County shall  
11 have the reasonable right of access to the Property, upon 24 hours' written notice to Borrower (except  
12 in the case of an emergency, in which case Housing Authority shall provide such notice as may be  
13 practical under the circumstances), without charges or fees, at normal construction hours during the  
14 period of construction for the purposes of this Agreement, including, but not limited to, the inspection  
15 of the work being performed in constructing the Improvements. Such representatives of the Housing  
16 Authority or the County shall be those who are so identified in writing by the Executive Director of  
17 the Housing Authority.

18 SECTION 319 Disclaimer of Responsibility by Housing Authority

19 The Housing Authority neither undertakes nor assumes nor will have any responsibility or duty to  
20 Borrower or to any third party to review, inspect, supervise, pass judgment upon or inform Borrower  
21 or any third party of any matter in connection with the development or construction of the  
22 Improvements, whether regarding the quality, adequacy or suitability of the plans, any labor, service,  
23 equipment or material furnished to the Property, any person furnishing the same, or otherwise.  
24 Borrower and all third parties shall rely upon its or their own judgment regarding such matters, and  
25 any review, inspection, supervision, exercise of judgment or information supplied to Borrower or to  
26 any third party by the Housing Authority in connection with such matter is for the public purpose of  
27 redeveloping the Property, and neither Borrower (except for the purposes set forth in this Agreement)  
28

1 nor any third party is entitled to rely thereon. The Housing Authority shall not be responsible for any  
2 of the work of construction, improvement or development of the Property.

3 SECTION 320 Prohibition against Transfer

4 a. Prior to the full reconveyance of the Authority Deed of Trust, Borrower  
5 shall not, except as permitted by this Agreement, assign or attempt to assign this Agreement or  
6 any right herein, nor make any total or partial sale, transfer, conveyance or assignment of the whole  
7 or any part of the Property, or the Improvements thereon, without prior written approval of the  
8 Authority. This prohibition shall not be deemed to prevent the granting of easements or permits  
9 to facilitate the development or operation of the Property, nor shall it prohibit Permitted Transfers.

10 b. Except as permitted by Section 320, paragraph a. above, in the event Borrower does  
11 assign this Agreement or any of the rights herein, or does sell, transfer, convey or assign the  
12 Property or the buildings or structures thereon prior to Completion without the approval of the  
13 Authority, subject to the notice and cure provisions of Section 501, the Authority shall have the  
14 right to terminate this Agreement.

15 c. In the absence of a specific written agreement by the Authority, and except as  
16 otherwise provided in this Agreement, no such sale, transfer, conveyance or assignment of this  
17 Agreement, or the Property (or any portion thereof), or approval by the Authority of any such sale,  
18 transfer, conveyance or assignment, shall be deemed to relieve Borrower or any other party from  
19 any obligations under this Agreement.

20 SECTION 321 Completion

21 Following completion of such facilities and any other improvements for the Project, Borrower  
22 shall submit to Housing Authority: a complete set of "As Built" drawings showing every detail,  
23 latent or otherwise, of such improvements, alterations and fixtures, including, but not limited to,  
24 electrical circuitry and plumbing for the Project.

25 SECTION 322 Lender Not Obligated to Construct Improvements

26 No lender shall be obligated by the provisions of this Agreement to construct or complete the  
27 Improvements or to guarantee such construction or completion. Nothing in this Agreement shall  
28 be deemed or construed to permit, or authorize any such lender to devote the Property to any uses,

1 or to construct any improvements thereon, other than those uses or improvements provided for or  
2 authorized by this Agreement.

3 SECTION 323 Notice of Default to Lenders; Right of Lender to Cure Defaults.

4 Whenever the Housing Authority shall deliver any notice or demand to Borrower with respect to  
5 any breach or default by Borrower in completion of construction of the Improvements, the Housing  
6 Authority shall at the same time deliver to each Senior Lender of record a copy of such notice or  
7 demand. Each such Senior Lender shall (insofar as the rights of the Housing Authority are  
8 concerned) have the right at its option within sixty (60) days after the receipt of the notice, to cure  
9 or remedy, or commence to cure or remedy, any such default and to add the cost thereof to the  
10 security interest debt and the lien of its security interest. If such default shall be a default which  
11 can only be remedied or cured by such Senior Lender upon obtaining possession of the Property,  
12 such Senior Lender shall seek to obtain possession with diligence and continuity through a receiver  
13 or otherwise, and shall remedy or cure such default within sixty (60) days after obtaining  
14 possession; provided that in the case of a default which cannot with diligence be remedied or cured,  
15 or the remedy or cure of which cannot be commenced within such sixty (60) day period, such  
16 Senior Lender shall have such additional time as reasonably necessary to remedy or cure such  
17 default with diligence and continuity not to exceed ninety (90) days; and provided further that such  
18 Senior Lender shall not be required to remedy or cure any non-curable default of Borrower. Any  
19 Senior Lender who forecloses on its Senior Loan, or is assigned or otherwise succeeds to  
20 Borrower's rights under this Agreement, shall have the right to undertake or continue the  
21 construction or completion of the Improvements by which such Senior Lender expressly assumes  
22 Borrower's rights and obligations under this Agreement.

23 SECTION 324 Failure of Lender to Complete Improvements

24 In any case where, ninety (90) after default by Borrower, the holder of any mortgage, deed of trust  
25 or other security interest creating a lien or encumbrance upon the Property (or portion thereof) has  
26 not elected to completed construction of the Improvements, or, if it has elected to complete the  
27 Improvements, it has not proceeded diligently with construction, the Housing Authority shall have  
28 the right, but not the obligation, to purchase the mortgage, deed of trust or other security interest

1 by payment to the holder of the full amount of the unpaid principal debt, plus any accrued and  
2 unpaid interest secured by the mortgage instrument approved by the Housing Authority.

3           SECTION 325           Right of the Housing Authority to Cure Defaults.

4 In the event of a default or breach by Borrower of a Senior Loan prior to Completion and prior to  
5 completion of a foreclosure by a Senior Lender, and the Senior Lender has not commenced to  
6 complete the development, the Housing Authority may cure the default at any time prior to  
7 completion by a Senior Lender of any foreclosure under its Senior deed of trust. In such event, the  
8 Housing Authority shall be entitled to reimbursement from Borrower of all costs and expenses  
9 incurred by the Housing Authority in curing the default. The Housing Authority shall also be  
10 entitled to a lien upon the Property to the extent of such costs and disbursements.

11           SECTION 326           Right of the Housing Authority to Satisfy Other Liens on the  
12 Property.

13           Prior to Completion and after Borrower has had a reasonable time to challenge, cure or  
14 satisfy any liens or encumbrances on its interest in the Property, the Housing Authority shall have  
15 the right to satisfy any such liens or encumbrances; provided, however, that nothing in this  
16 Agreement shall require Borrower to pay or make provisions for the payment of any tax,  
17 assessment, lien or charge so long as Borrower in good faith shall contest the validity or amount  
18 thereof, and so long as such delay in payment shall not subject the Property to forfeiture or sale.  
19 In such event, the Housing Authority shall be entitled to reimbursement from Borrower of all costs  
20 and expenses incurred by the Housing Authority in satisfying any such liens or encumbrances. The  
21 Housing Authority shall also be entitled to a lien upon the Property to the extent of such costs and  
22 expenses.

23 **PART 4.           USE OF THE PROPERTY**

24                           SECTION 401   Uses

25           a.       Borrower covenants and agrees for itself, its successors, its assigns and every  
26 successor in interest to the Property or any part thereof, for the duration of the Affordability Period  
27 that Borrower, such successors and such assignees shall use the Property only for the uses specified  
28 in the Redevelopment Plan, any development agreements entered into between the County and

1 Borrower, this Agreement (including without limitation the Scope of Development (Exhibit "A"),  
2 the Covenants (Exhibit "E") and Governmental Approvals. No change in the use of the Property  
3 shall be permitted without the prior written approval of Housing Authority.

4 b. Notwithstanding the generality of Section 401(a), Borrower, its successors and  
5 assigns, shall use the Property only for the uses permitted in this Agreement, specifically including  
6 the following: (i) residential rental uses, with respect to the Affordable Units, and (ii) parking and  
7 ancillary uses consistent with this Agreement.

8 c. The Project shall remain in compliance with all applicable Federal, State and local  
9 codes, laws, regulations and ordinances for the duration of this Agreement and the Affordability  
10 Period.

11 d. Residential Uses. For a period consisting of fifty-five (55) years from the  
12 recordation in the Official Records of the Notice of Completion for the last building for which  
13 construction is completed for the Project, or (ii) July 1, 2073, whichever is later, without regard to  
14 the term of the Authority Loan, repayment of the Authority Loan, or the transfer of ownership of  
15 the Project, , Borrower on behalf of itself and its successors, assigns, and each successor in interest  
16 to Borrower's interest in the Property or any part thereof, hereby covenants and agrees as follows:

17 (1) All of the Affordable Units shall be available to Very Low Income, and  
18 Extremely Low Income households at an Affordable Rent in accordance with the Covenants  
19 (Exhibit "E"), and the rent limitations set forth in California Health and Safety Code Sections  
20 50053 b(1) and 50053 b(2), as may be amended from time to time;

21 (2) BORROWER agrees that thirty nine (39) of the Rental Housing Units  
22 defined herein as the Affordable Units, shall be rented to and occupied exclusively by extremely  
23 low and low-income households. Of the thirty nine (39) Affordable Units, three (3) two bedroom  
24 units, seven (7) three bedroom units and three (3) four bedroom units shall be rented to and  
25 occupied by households whose incomes do not exceed thirty percent (30%) of the median family  
26 income for the County of Riverside, adjusted by family size at the time of occupancy, and eighteen  
27 (18) three bedroom units and eight (8) four bedroom units shall be rented to and occupied by  
28 households whose incomes do not exceed fifty (50%) of the median family income for the County

1 of Riverside, adjusted by family size at the time of occupancy.

2 (3) The maximum incomes of all tenants eligible to rent an Affordable Unit  
3 shall be determined on the basis of the Area Median Income for County of Riverside.

4 (4) Subject to any applicable state or federal fair housing laws, Borrower agrees  
5 that among Extremely Low Income households who are otherwise eligible to rent an Affordable  
6 Unit, Borrower shall make reasonable efforts to give first priority to those persons who have been  
7 displaced by any redevelopment project within the County of Riverside over other eligible persons.  
8 The Borrower agrees that prior to the initial rent-up of the Affordable Units, Borrower shall consult  
9 with and obtain the approval of the Housing Authority in developing a fair marketing plan for  
10 renting the Affordable Units.

11 (5) No officer, employee, agent, official or consultant of Borrower may occupy  
12 any of the Affordable Units.

13 d. Parking. During the Covenant Period, Borrower on behalf of itself and its  
14 successors, assigns, and each successor in interest to Borrower's interest in the Property or any part  
15 thereof, hereby covenants and agrees that the Affordable Rent for each of the Affordable Units  
16 shall include one (1) non-tandem parking space located on the Property in close proximity to the  
17 Affordable Units at no extra charge to the occupants or tenants.

18 SECTION 402 Maintenance

19 In addition to the property maintenance requirements set forth in the Covenant Agreement,  
20 Borrower covenants and agrees (for itself, its successors, its assigns, and every successor in interest  
21 to the Property or any part thereof) that prior to the construction of the Improvements, Borrower  
22 shall maintain and secure the Property in accordance with reasonable vacant property management  
23 practices, and upon and after completion of construction of the Improvements, Borrower, its  
24 successors and assigns, shall maintain the Property and any improvements thereon and the  
25 landscaping on the Property in a manner consistent with community standards which will uphold  
26 the value of the Property, in accordance with this Agreement, and applicable provisions of the  
27 County of Riverside Municipal Code (the "Codes"), and the following follows:

28 (a) Exterior Maintenance. All exterior, painted surfaces of any structures located on the

1 Property shall be maintained at all times in a clean and presentable manner. Any defacing marks  
2 shall be cleaned or removed within a reasonable time.

3 (b) Front and Side Exteriors. Borrower shall, at all times, maintain the front exterior  
4 and any visible side exteriors and yards, if any, in a clean, safe and presentable manner, free and  
5 clear of trash and/or debris.

6 (c) Graffiti Removal. All graffiti, and defacement of any type, including marks, words  
7 and pictures, must be removed from the Property and any necessary painting or repair completed  
8 within a reasonable time, but in no event more than one (1) week after notice to a Purchaser from  
9 Authority.

10 (d) Landscaping. All landscaping surrounding the Property shall be maintained in a  
11 manner consistent with the Codes and any rules, regulations and standards adopted pursuant to the  
12 Code. In addition, for example, the yard areas shall not contain the following: (i) lawns with grasses  
13 in excess of nine (9) inches in height; (ii) trees, shrubbery, lawns or other plant life which are dying  
14 from a lack of water or other necessary maintenance; (iii) trees and shrubbery grown uncontrolled  
15 without proper pruning; (iv) vegetation so overgrown as to be likely to harbor rats or vermin; (v)  
16 dead, decayed or diseased trees, weeds and other vegetation; and (vi) inoperative irrigation systems.

17 (e) Maintenance by Borrower. Borrower shall, at his, her or their sole cost and expense,  
18 maintain and repair the Property and the improvements thereon, keeping the same in good condition  
19 and making all repairs as may be required by this Agreement and the Code.

20 (f) Damage and Destruction Affecting Property -- Duty to Rebuild. If all or any portion  
21 of the Property and the improvements thereon is damaged or destroyed by fire or other casualty, it  
22 shall be the duty of Borrower to rebuild, repair or reconstruct the Property in a timely manner to  
23 restore it to Code compliance condition or the condition required by the County.

24 (g) Variance in Exterior Appearance and Design. If the Property is damaged or  
25 destroyed by casualty, Borrower may not, without the prior written consent of the Authority,  
26 reconstruct, rebuild or repair the Property in a manner which will provide substantially different  
27 exterior appearance and Property design from that which existed prior to the date of the casualty.

28 (h) Time Limitation. In the event of damage or destruction due to casualty, Borrower

1 shall be obligated to proceed with all due diligence to commence reconstruction within two (2)  
2 months after the damage occurs and to complete reconstruction within a reasonable time after  
3 damage occurs, unless prevented by causes beyond the reasonable control of Borrower as  
4 reasonably determined by Authority.

5 (i) Inspection. In the event the Authority, in the sole discretion of the Authority  
6 Executive Director, determines that the Borrower has failed to maintain the Property, the Authority,  
7 or its designee, on two (2) weeks' prior written notice of any noted code violations and maintenance  
8 deficiencies (collectively, the "Deficiencies"), shall have the right, but not the obligation, to enter  
9 the Property, correct any Deficiency, and hold the Borrower responsible for the cost thereof. Any  
10 cost incurred by the Borrower to cure any such Deficiency, until paid, shall constitute a lien on the  
11 Property pursuant to Civil Code Section 2881.

12 SECTION 403 Obligation to Refrain from Discrimination

13 Borrower covenants and agrees for itself, its successors, its assigns and every successor in  
14 interest to the Property or any part thereof, there shall be no discrimination against or segregation  
15 of any person, or group of persons, on account of sex, sexual orientation, marital status, race, color,  
16 creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy,  
17 tenure or enjoyment of the Property nor shall the Borrower itself or any person claiming under or  
18 through it establish or permit any such practice or practices of discrimination or segregation with  
19 reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants,  
20 sublessees or vendees of the Property. Borrower, specifically and more particularly, covenants by  
21 and for itself, himself or herself, its, his or her heirs, executors, administrators, and assigns, and all  
22 persons claiming under or through them, that there shall be no discrimination against or  
23 segregation of, any person or group of persons on account of any basis listed in subdivision (a) or  
24 (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926,  
25 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section  
26 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or  
27 enjoyment of the Property, nor shall the Borrower or any person claiming under or through it, him  
28 or her, establish or permit any practice or practices of discrimination or segregation with reference



1 to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or  
2 vendees of the Property.

3 Notwithstanding the preceding paragraph, the provisions relating to discrimination on the  
4 basis of familial status shall not be construed to apply to housing for older persons, as defined in  
5 Section 12955.9 of the Government Code nor be construed to affect Sections 51.2, 51.3, 51.4,  
6 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d)  
7 of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section  
8 12955 of the Government Code shall also apply to the preceding paragraph.

9 SECTION 404 Form of Nondiscrimination and Nonsegregation Clauses

10 Borrower covenants and agrees for itself, its successors, its assigns and every successor in  
11 interest to the Property or any part thereof or interest therein, there shall be no discrimination  
12 against or segregation of any person, or group of persons, on account of sex, sexual orientation,  
13 marital status, race, color, creed, religion, ancestry or national origin in the sale, lease, sublease,  
14 transfer, use, occupancy, tenure or enjoyment of the Property nor shall Borrower, itself or any  
15 person claiming under or through it, establish or permit any such practice or practices of  
16 discrimination or segregation with reference to the selection, location, number, use or occupancy  
17 of tenants, lessees, subtenants, sublessees, or vendees of the Property. All deeds, leases or  
18 contracts shall contain or be subject to substantially the following non-discrimination or non-  
19 segregation clauses:

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

1 occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed.

2 The foregoing covenants shall run with the land.”

3 Notwithstanding the preceding paragraph, the provisions relating to discrimination on the  
4 basis of familial status shall not be construed to apply to housing for older persons, as defined in  
5 Section 12955.9 of the Government Code nor be construed to affect Sections 51.2, 51.3, 51.4,  
6 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d)  
7 of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section  
8 12955 of the Government Code shall also apply to the preceding paragraph.

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

18 SECTION 405 Effect and Duration of Covenants

19 The covenants established in this Agreement shall run with the land, without regard to  
20 technical classification and designation, and shall be for the benefit and in favor of and enforceable  
21 against the original Borrower and successors in interest by the Housing Authority or the County.  
22 Unless set forth otherwise, the covenants described in this Part 4 shall commence upon the Closing  
23 and shall be set forth in the Covenants (Exhibit “E”) and shall remain in effect during the periods  
24 specified therein.

25 SECTION 406 Covenants

26 As a material part of the consideration for this Agreement, Borrower covenants and agrees  
27 for itself, its successors, its assigns and every successor in interest to the Property or any part  
28 thereof, that, as a condition precedent to the Closing, Borrower shall execute in recordable form

1 the Covenants in substantially the form appended to this Agreement as Exhibit "E" and  
2 incorporated herein by this reference. The Covenants and the Notice of Affordability Restrictions  
3 (Exhibit "E") shall be recorded against the Property in first priority position senior to all liens and  
4 encumbrances (including, without limitation, any Senior Loan). As a condition precedent to the  
5 Closing, Borrower shall obtain and cause to be recorded (as applicable), at Borrower's sole cost  
6 and expense, any instruments necessary and/or appropriate to subordinate to the Covenants (to the  
7 reasonable satisfaction of Housing Authority Executive Director) any deeds of trust, mortgages,  
8 security instruments, other liens, leases, subleases, and/or other agreements affecting title to or  
9 possession of or providing a security interest in Property which otherwise are or might be senior  
10 to the Covenants.

11 SECTION 407 Project Monitoring and Evaluation

12 BORROWER shall submit a Tenant Checklist Form, as specifically identified in **Exhibit "J"**,  
13 which is attached hereto and by this reference incorporated herein, to HOUSING AUTHORITY,  
14 upon completion of the construction, summarizing the number and percentage of extremely-low  
15 income households who are tenants. BORROWER shall maintain financial, programmatic,  
16 statistical and other supporting records of its operations and financial activities, including the  
17 submission of the form on a semi-annual basis on or before September 30th and March 31st.  
18 Except as otherwise provided for in this Agreement, BORROWER shall maintain and submit  
19 records to HOUSING AUTHORITY within ten (10) business days of HOUSING  
20 AUTHORITY's request. Records must clearly document BORROWER's performance under  
21 each requirement of HOUSING AUTHORITY documents. A list of document submissions and  
22 timeline are shown in the Schedule of Performance.

23 SECTION 408 Notice of Affordability Restrictions.

24 As a condition to the Closing, Housing Authority (and Borrower if requested by Housing  
25 Authority) shall execute and cause the recordation of the Notice of Affordability Restrictions  
26 substantially in the form attached to this Agreement as Exhibit "J". The Notice of Affordability  
27 Restrictions shall be recorded against the Property pursuant to California Health and Safety Code  
28 Section 33334.3(f).

1                   SECTION 409 Other Agreements and Documents

2           In addition to the various document submission requirements set forth herein, Borrower  
3 shall also submit to Housing Authority, for review and written approval by Housing Authority's  
4 Executive Director, each and every other material agreement, instrument and/or document entered  
5 into or proposed to be entered into by Borrower in connection with the Project and the Property  
6 for the sole purpose of ensuring that said agreement, instrument and/or document is consistent with  
7 the terms and conditions of this Agreement and all documents executed in connection herewith.  
8 If the Housing Authority fails to approve such agreement, instrument and/or document within  
9 fifteen (15) business days of receipt of such said agreement, instrument and/or document, Housing  
10 Authority shall provide Borrower with a written statement of its reasons within that fifteen (15)  
11 business day period.

12                   SECTION 410 Annual Operating Budget

13           Borrower shall prepare an annual budget for the operation of the Project for each Fiscal  
14 Year (the "Annual Operating Budget") beginning after the Project has reached Completion. By  
15 no later than thirty (30) days after the Project reaches Completion, Borrower shall prepare a  
16 proposed Annual Operating Budget for the remainder of that Fiscal Year. Thereafter, by no later  
17 than November 1 of each year, Borrower shall prepare an Annual Operating Budget for the next  
18 Fiscal Year and shall submit a copy to the Housing Authority for its review and approval. If the  
19 Housing Authority fails to approve an Annual Operating Budget within fifteen (15) business days  
20 of receipt of such budget, Housing Authority shall provide Borrower with a written statement of  
21 its reasons within that fifteen (15) business day period. If requested by the Housing Authority, the  
22 Borrower shall meet with the Housing Authority at a mutually convenient time and place to discuss  
23 the Annual Operating Budget. If, after approval of the Annual Operating Budget by the Housing  
24 Authority, Borrower determines that the Annual Operating Budget needs to be amended for  
25 reasons that were not reasonably foreseeable when the Annual Operating Budget was prepared,  
26 Borrower may submit an amended Annual Operating Budget to Housing Authority, which  
27 amended Annual Operating Budget shall be approved or disapproved by the Housing Authority in  
28 the same manner as the original Annual Operating Budget.

1                                   SECTION 411 Operating and Replacement Reserve Accounts

2                   Subject to the rights of any Senior Lender, the Housing Authority shall have  
3 approval rights over any operating and/or replacement reserve account requirements and all  
4 withdrawals from such operating and/or replacement reserve accounts.

5 PART 5.        DEFAULTS AND REMEDIES

6                                   SECTION 501 Defaults - General

7           a.       Subject to the extensions of time set forth in Section 604, failure or delay by either  
8 party to perform any term or provision of this Agreement constitutes a default under this  
9 Agreement. The party who fails or delays must commence to cure, correct or remedy such failure  
10 or delay and shall complete such cure, correction or remedy with reasonable diligence.

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

19           c.       If a monetary event of default occurs, prior to exercising any remedies hereunder,  
20 the injured party shall give the party in default written notice of such default. The party in default  
21 shall have a period of ten (10) calendar days after such notice is received or deemed received  
22 within which to cure the default prior to exercise of remedies by the injured party.

23           d.       If a non-monetary event of default occurs, prior to exercising any remedies  
24 hereunder, the injured party shall give the party in default notice of such default. If the default is  
25 reasonably capable of being cured within thirty (30) calendar days after such notice is received or  
26 deemed received, the party in default shall have such period to effect a cure prior to exercise of  
27 remedies by the injured party. If the default is such that it is not reasonably capable of being cured  
28 within thirty (30) days after such notice is received, and the party in default (1) initiates corrective

1 action within said period, and (2) diligently, continually, and in good faith works to effect a cure as  
2 soon as possible, then the party in default shall have such additional time as is reasonably necessary  
3 to cure the default prior to exercise of any remedies by the injured party, but in any event no more  
4 than one hundred and twenty (120) days of receipt of such notice of default from the injured party.

5 e. If Borrower fails to take corrective action or cure the default within a reasonable  
6 time, the Housing Authority shall deliver written notice thereof to each of the Senior Lenders and,  
7 as provided in paragraph f., below, the Tax Credit Equity Investor. The Tax Credit Equity Investor  
8 may take such action, including removing and replacing the general partner of Borrower with a  
9 substitute general partner, who shall effect a cure within a reasonable time thereafter in  
10 accordance with the foregoing provisions. The Housing Authority agrees to accept cures tendered  
11 by any Senior Lender or Tax Credit Equity Investor within the cure periods provided herein;  
12 provided, however, in no event shall the Housing Authority be precluded from exercising remedies  
13 if its rights become or are about to become materially jeopardized by any failure to cure a default or  
14 the default is not cured within one hundred twenty (120) days after the first notice of default is  
15 given.

16 f. After Borrower gives written notice to Housing Authority of the admission to  
17 Borrower's limited partnership of the Tax Credit Equity Investor, Housing Authority shall send to  
18 the Tax Credit Equity Investor a copy of all notices of default and all other notices that Housing  
19 Authority sends to Borrower, at the address for the Tax Credit Equity Investor as provided in  
20 Section 104 above.

21 SECTION 502 Institution of Legal Actions

22 In addition to any other rights or remedies (and except as otherwise provided in this  
23 Agreement), either party may institute legal action to cure, correct or remedy any default, to recover  
24 damages for any default, or to obtain any other remedy consistent with the purpose of this  
25 Agreement. Such legal actions must be instituted in the Superior Court of the County of Riverside,  
26 State of California, in any other appropriate court of that county.

27 SECTION 503 Applicable Law

1 The laws of the State of California shall govern the interpretation and enforcement of this  
2 Agreement.

3 SECTION 504 Acceptance of Service of Process

4 a. In the event that any legal action is commenced by Borrower against the Housing  
5 Authority, service of process on the Housing Authority shall be made by personal service upon the  
6 Executive Director of the Housing Authority, or in such other manner as may be provided by law.

7 b. In the event that any legal action is commenced by the Housing Authority against  
8 Borrower, service of process on Borrower shall be made by personal service upon Borrower (or  
9 upon the General Partner or managing member, as applicable, or any officer of the General Partner  
10 or managing member, as applicable) and shall be valid whether made within or without the State  
11 of California, or in such manner as may be provided by law.

12 SECTION 505 Rights and Remedies Are Cumulative

13 Except with respect to rights and remedies expressly declared to be exclusive in this  
14 Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of  
15 one or more of such rights or remedies shall not preclude the exercise by it, at the same or different  
16 times, of any other rights or remedies for the same default or any other default by the other party.

17 SECTION 506 Damages

18 Subject to the notice and cure provisions of Section 501, if either party defaults with regard  
19 to any of the provisions of this Agreement, the non-defaulting party shall serve written notice of such  
20 default upon the defaulting party. If the default is not cured within the time provided in Section  
21 501, the defaulting party shall be liable to the non-defaulting party for any damages caused by such  
22 default, and the non-defaulting party may thereafter (but not before) commence an action for  
23 damages against the defaulting party with respect to such default.

24 SECTION 507 Specific Performance

25 Subject to the notice and cure provisions of Section 501, if either party defaults with regard  
26 to any of the provisions of this Agreement, the non-defaulting party shall serve written notice of such  
27 default upon the defaulting party. If the default is not cured within the time provided in Section  
28

1 501, the non-defaulting party, at its option, may thereafter (but not before) commence an action for  
2 specific performance of the terms of this Agreement pertaining to such default.

3 SECTION 508 Termination by Either Party

4 Prior to the Closing, either party shall have the right to terminate this Agreement, by  
5 providing written notice to the other party and Escrow Agent if escrow has been opened, in the  
6 event of a failure of any condition precedent to the occurrence of the Closing as set forth in Section  
7 208, provided that such condition is for the benefit of and such failure is outside the control and  
8 without the fault of the party seeking to terminate this Agreement. Upon any such termination,  
9 neither the Housing Authority nor Borrower shall have any further rights against or liability to the  
10 other under this Agreement.

11 SECTION 509 Termination by Borrower

12 Prior to the Closing, subject to the notice and cure provisions of Section 501 and provided  
13 that Borrower is not in default of this Agreement (including, without limitation, timely applying to  
14 CTCAC), Borrower shall have the right to terminate this Agreement, by providing written notice  
15 to the Housing Authority, in the event of a default by Housing Authority pursuant to this Agreement.

16 SECTION 510 Termination by Housing Authority

17 a. Subject to the notice and cure provisions of Section 501, in addition to other rights  
18 and remedies at law and equity Housing Authority shall have the right, prior to the Closing, to  
19 terminate this Agreement in the event of a default by Borrower or failure of any condition precedent  
20 to the occurrence of the Closing, including but not limited to the following:

21 (1) Borrower does not succeed in its application for Low Income Housing Tax  
22 Credits within the time frame set forth in the Schedule of Performance; or

23 (2) Borrower fails to submit to the Housing Authority evidence of financing  
24 commitments or fails to satisfy any other condition precedent to the occurrence of the Closing as  
25 provided in Sections and 510 herein and in the Method of Financing (Exhibit "C") within the time  
26 established therefor in the Schedule of Performance (Exhibit "A"); or  
27  
28



1           (3) Borrower fails to timely and diligently apply for in good faith for other  
2 funding sources for the Improvements within the time established therefore in the Schedule of  
3 Performance;

4           (4) Borrower (or any successor in interest) assigns or attempts to assign this  
5 Agreement or any right herein, or transfers or assigns any of Borrower's rights in and to the  
6 Property (or any portion thereof on interest therein), except as permitted by this Agreement; or

7           (5) there is substantial change in the ownership of Borrower, or with respect to  
8 the identity of the parties in control of Borrower, or the degree thereof contrary to the provisions of  
9 Section 105 hereof;

10          (6) Borrower fails to submit any of the plans, drawings and related documents  
11 required by this Agreement by the respective dates provided in this Agreement therefore; or

12          (7) there is any other material default by Borrower under the terms of this  
13 Agreement which is not cured within the time provided herein.

14          b. In addition to other rights and remedies at law and equity, after the Closing, but  
15 before Completion, and subject to the notice and cure provisions of Section 501, Housing Authority  
16 shall have the additional right to terminate this Agreement in the event any of the following defaults  
17 shall occur:

18           (1) Borrower fails to commence construction of the Improvements as required  
19 by this Agreement and such breach is not cured within the time provided in Section 501 of this  
20 Agreement, provided that Borrower shall not have obtained an extension or postponement to which  
21 Borrower may be entitled pursuant to Section 604 hereof; or

22           (2) Borrower abandons or substantially suspends construction of the  
23 Improvements and such breach is not cured within the time provided in Section 501 of this  
24 Agreement, provided Borrower has not obtained an extension or postponement to which Borrower  
25 may be entitled to pursuant to Section 604 hereof; or

26           (3) Borrower assigns or attempts to assign this Agreement, or any rights herein,  
27 or transfer, or suffer any involuntary transfer of the Property, or any respective parts thereof, in  
28

1 violation of this Agreement, and such breach is not cured within the time provided in Section 501 of  
2 this Agreement; or

3 (4) Borrower otherwise materially breaches this Agreement, and such breach is  
4 not cured within the time provided in Section 501 of this Agreement; or

5 (5) Borrower otherwise materially breaches the Senior Loan Documents, or any  
6 other security instrument secured against the Property, and such breach is not cured within the  
7 time period provided in the respective documents.

8 SECTION 511 Additional Events of Default

9 In addition to the events of default set forth elsewhere in this Agreement, the following shall also  
10 constitute events of default by Borrower under this Agreement, and, after notice and opportunity  
11 to cure, Housing Authority shall have the right to exercise all remedies available to it under the  
12 law and in equity, including, but not limitation termination of this Agreement:

13 BORROWER's or any agent of BORROWER's use of Authority funds for uses inconsistent with  
14 terms and restrictions set forth in this Agreement; (2) BORROWER's or any agent of the  
15 BORROWER's failure to make any payment of any assessment or tax due under this Agreement:

- 16 1) Discrimination by BORROWER or BORROWER's agent on the basis of characteristics  
17 prohibited by this Agreement or applicable law; (2) the imposition of any encumbrances  
18 or liens on the Project (other than the Permitted Liens) without HOUSING  
19 AUTHORITY's prior written approval that are prohibited under this Agreement or that  
20 have the effect of reducing the priority or invalidating the HOUSING AUTHORITY Deed  
21 of Trust; (3) any material adverse change in the condition of BORROWER or the Project  
22 or permanent financing or funding for the Project that gives HOUSING AUTHORITY  
23 reasonable cause to believe that the Project cannot be operated according to the terms of  
24 this Agreement; (4) the BORROWER's or any agent of the BORROWER's use of  
25 LMIHAF funds for costs other than costs or for uses inconsistent with terms and  
26 restrictions set forth in this Agreement; or (5) BORROWER's failure to obtain and  
27 maintain the insurance coverage required under this Agreement;

- 28 2) Any continuous or repeated breach by BORROWER or BORROWER's agents of any

- 1 material obligations on BORROWER imposed in the Agreement;
- 2 3) Any continuous or repeated breach by BORROWER or BORROWER's agents of any  
3 material obligations on the Project imposed by any other agreement with respect to the  
4 financing, development, or operation of the Project; whether or not HOUSING  
5 AUTHORITY is a party to such agreement; but only following any applicable notice and  
6 cure periods with respect to any such obligation;
- 7 4) Any breach by BORROWER or BORROWER'S agents of any housing affordability  
8 requirements imposed in this Agreement;
- 9 5) In the event that the Project is materially damaged or destroyed by fire or other casualty,  
10 and BORROWER receives an award or insurance proceeds sufficient for the repair or  
11 reconstruction of the Project and fails to make such repair or reconstruction within a  
12 reasonable time; or
- 13 6) BORROWER's or any general partner of the BORROWER's (1) filing for bankruptcy,  
14 dissolution, or reorganization, or failure to obtain a full dismissal of any such involuntary  
15 filing brought by another party before the earlier of final relief or thirty (30) days after  
16 such filing; (2) making a general assignment for the benefit of creditors; (3) applying for  
17 the appointment of a receiver, trustee, custodian, or liquidator, or failure to obtain a full  
18 dismissal of any such involuntary application brought by another party before the earlier  
19 of final relief or sixty (60) days after such filing; (4) insolvency; or (5) failure, inability or  
20 admission in writing of its inability to pay its debts as they become due.

21 PART 6 GENERAL PROVISIONS

22 SECTION 601 Notices, Demands and Communications between the Parties

23 Formal notices, demands and communications between the Authority and the Borrower  
24 shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return  
25 receipt requested, to the principal offices of the Authority and the Borrower, as designated in  
26 Sections 103 and 104 hereof. Such written notices, demands and communications may be sent in  
27 the same manner to such other addresses as either party may from time to time designate by mail  
28 as provided in this Section 601. Any notice that is transmitted by electronic facsimile transmission

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

7 SECTION 602 Conflicts of Interest

8 (a) No member, official or employee of the Authority shall have any personal interest,  
9 direct or indirect, in this Agreement nor shall any such member, official or employee participate in  
10 any decision relating to the Agreement which affects his personal interests or the interests of any  
11 corporation, partnership or association in which he is, directly or indirectly, interested.

12 (b) The Borrower warrants that it has not paid or given, and will not pay or give, any  
13 third party any money or other consideration for obtaining this Agreement.

14 SECTION 603 Nonliability of Authority Officials and Employees

15 No member, official, employee or consultant of the Authority shall be personally liable to the  
16 Borrower, or any successor in interest, in the event of any default or breach by the Authority or for  
17 any amount which may become due to the Borrower or to its successor, or on any obligations under  
18 the terms of this Agreement.

19 SECTION 604 Force Majeure

20 In addition to specific provisions of this Agreement, performance by either party hereunder shall  
21 not be deemed to be in default where delays or defaults are due to Force Majeure Events.

22 SECTION 605 Inspection and Maintenance of Books and Records

23 BORROWER shall maintain financial, programmatic, statistical, and other supporting  
24 records of its operations and financial activities. Said records shall be retained for no less than  
25 five (5) years after the Project completion date. Records of individual tenant income verifications,  
26 project rents, and project inspections must be retained for the most recent five (5) year period,  
27 until five (5) years after the affordability period terminates, and records shall be open to inspection  
28 and audit by authorized representatives of HOUSING AUTHORITY, County of Riverside and

1 the Comptroller General of the United States during regular working hours. HOUSING  
2 AUTHORITY, County of Riverside and the Comptroller General, or any of their representatives,  
3 have the right of access with at least forty-eight (48) hours prior notice, to any pertinent books,  
4 documents, papers, or other records of BORROWER, in order to make audits, examinations,  
5 excerpts and transcripts. If any litigation, claim, negotiation, audit, or other action has been  
6 started before the expiration of the regular period specified, the records must be retained until  
7 completion of the action and resolution of all issues which arise from it, or until the end of the  
8 regular period, whichever is later.

9 SECTION 606 Approvals; Non-Substantive Amendments

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

16 (b) Except as otherwise expressly provided in this Agreement, approvals required of the  
17 Authority shall be deemed granted by the written approval of the Authority Executive Director or  
18 designee. Notwithstanding the foregoing, the Authority Executive Director may, in his or her sole  
19 discretion, refer to the governing body of the Authority any item requiring Authority approval;  
20 otherwise, "Authority approval" means and refers to approval by the Authority Executive Director  
21 or designee.

22 (c) The Authority Executive Director or designee shall have the right to make non-  
23 substantive changes to the attachments to this Agreement in order to ensure that all such attachments  
24 are consistent with the terms and provisions of this Agreement.

25 SECTION 607 Reserved

26 SECTION 608 INDEPENDENT CONTRACTOR.

27 BORROWER and its agents, servants shall not act as, shall not be, nor shall they in any  
28 manner be construed and employees shall act at all times in an independent capacity during the

1 term of this Agreement, and to be agents, officers, or employees of HOUSING AUTHORITY.

2 SECTION 609 RESTRICTIONS TO RUN WITH THE LAND.

3 HOUSING AUTHORITY and BORROWER hereby declare their express intent that the  
4 restrictions set forth in this Agreement shall run with the land, and shall bind all successors in  
5 title to the Property until the expiration of this Agreement. Each and every contract, deed or other  
6 instrument hereafter executed covering and conveying the Property or any portion thereof shall  
7 be held conclusively to have been executed, delivered and accepted subject to the restrictions,  
8 regardless whether such restrictions are set forth in such contract, deed of trust instrument.

9 SECTION 610 MEDIA RELEASES.

10 BORROWER agrees to allow HOUSING AUTHORITY to coordinate all media releases  
11 regarding the Project, with prior approval of BORROWER. Any publicity generated by  
12 BORROWER for the Project must make reference to the contribution of HOUSING  
13 AUTHORITY in making the Project possible. HOUSING AUTHORITY's name shall be  
14 prominently displayed in all pieces of publicity generated by BORROWER, including, but not  
15 limited to, flyers, press releases, posters, signs, brochures, and public service announcements.  
16 BORROWER agrees to cooperate with HOUSING AUTHORITY in any HOUSING  
17 AUTHORITY-generated publicity or promotional activities with respect to the Project.

18 SECTION 611 Further Assurances

19 The Borrower shall execute any further documents consistent with the terms of this  
20 Agreement, including documents in recordable form, as the Authority may from time to time find  
21 necessary or appropriate to effectuate its purposes in entering into this Agreement.

22 SECTION 612 Construction and Interpretation of Agreement

23 (a) The language in all parts of this Agreement shall in all cases be construed simply,  
24 as a whole and in accordance with its fair meaning and not strictly for or against any party. The  
25 parties hereto acknowledge and agree that this Agreement has been prepared jointly by the parties  
26 and has been the subject of arm's length and careful negotiation over a considerable period of time,  
27 that each party has been given the opportunity to independently review this Agreement with legal  
28 counsel, and that each party has the requisite experience and sophistication to understand, interpret,

1 and agree to the particular language of the provisions hereof. Accordingly, in the event of an  
2 ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement shall not be  
3 interpreted or construed against the party preparing it, and instead other rules of interpretation and  
4 construction shall be utilized.

5 (b) If any term or provision of this Agreement, the deletion of which would not  
6 adversely affect the receipt of any material benefit by any party hereunder, shall be held by a court  
7 of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not  
8 be affected thereby and each other term and provision of this Agreement shall be valid and  
9 enforceable to the fullest extent permitted by law. It is the intention of the parties hereto that in lieu  
10 of each clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be  
11 added as a part of this Agreement an enforceable clause or provision as similar in terms to such  
12 illegal, invalid, or unenforceable clause or provision as may be possible.

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

16 (d) References in this instrument to this "Agreement" mean, refer to and include this  
17 instrument as well as any riders, exhibits, addenda and attachments hereto (which are hereby  
18 incorporated herein by this reference) or other documents expressly incorporated by reference in  
19 this instrument. Any references to any covenant, condition, obligation, and/or undertaking "herein,"  
20 "hereunder," or "pursuant hereto" (or language of like import) means, refer to, and include the  
21 covenants, obligations, and undertakings existing pursuant to this instrument and any riders,  
22 exhibits, addenda, and attachments or other documents affixed to or expressly incorporated by  
23 reference in this instrument.

24 (e) As used in this Agreement, and as the context may require, the singular includes the  
25 plural and vice versa, and the masculine gender includes the feminine and vice versa.

26 SECTION 613 Time of Essence

27 Time is of the essence with respect to the performance of each of the covenants and agreements  
28 contained in this Agreement.

1           SECTION 614           No Partnership

2 Nothing contained in this Agreement shall be deemed or construed to create a lending partnership,  
3 other partnership, joint venture, or any other relationship between the parties hereto other than  
4 purchaser and seller and lender and borrower according to the provisions contained herein, or cause  
5 Authority to be responsible in any way for the debts or obligations of Borrower, or any other party.

6           SECTION 615 Compliance with Law

7 Borrower agrees to comply with all the requirements now in force, or which may hereafter be in  
8 force, of all municipal, county, state and federal authorities, pertaining to the Property, and the  
9 Improvements, as well as operations conducted thereon. The judgment of any court of competent  
10 jurisdiction, or the admission of Borrower or any lessee or permittee in any action or proceeding  
11 against them, or any of them, whether Authority be a party thereto or not, that Borrower, lessee or  
12 permittee has violated any such ordinance or statute in the use of the premises shall be conclusive  
13 of that fact as between Authority and Borrower.

14           SECTION 616           Binding Effect

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

18           SECTION 617           No Third Party Beneficiaries

19 The parties to this Agreement acknowledge and agree that the provisions of this Agreement are for  
20 the sole benefit of Authority and Borrower, and not for the benefit, directly or indirectly, of any  
21 other person or entity, except as otherwise expressly provided herein.

22           SECTION 618           Authority to Sign

23 Borrower hereby represents that the persons executing this Agreement on behalf of Borrower have  
24 full authority to do so and to bind Borrower to perform pursuant to the terms and conditions of this  
25 Agreement.

26           SECTION 619           Incorporation by Reference

27 Each of the attachments and exhibits attached hereto is incorporated herein by this reference.

28           SECTION 620           Counterparts



1 This Agreement and any attachment to be executed by the parties may be executed by each party  
2 on a separate signature page, and when the executed signature pages are combined, shall constitute  
3 one single instrument.

4 PART 7 ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

5 (a) This Agreement shall be executed in three duplicate originals each of which is  
6 deemed to be an original. This Agreement, including all attachments hereto and exhibits appended  
7 to such attachments shall constitute the entire understanding and agreement of the parties.

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

11 (c) All waivers of the provisions of this Agreement must be in writing and signed by  
12 the appropriate authorities of the Authority or the Borrower, and all amendments hereto must be in  
13 writing and signed by the appropriate authorities of the Authority and the Borrower. This  
14 Agreement and any provisions hereof may be amended by mutual written agreement by the  
15 Borrower and the Authority.

16 PART 8 EFFECTIVE DATE OF AGREEMENT

17 This Agreement shall be dated for reference purposes as of the date set forth in the introductory  
18 paragraph hereof, but shall not be effective until approved by the Board of Commissioners  
19 (“Board”) and executed by the Chairman of the Board (“Effective Date”).

20  
21  
22 (REMAINDER OF PAGE INTENTIONALLY BLANK)

23  
24  
25  
26 (SIGNATURES CONTINUE ON NEXT PAGE)

1 IN WITNESS WHEREOF, Housing Authority and Developer, have executed this Agreement as  
2 of the dates written below.

3  
4 **HOUSING AUTHORITY:**

5 HOUSING AUTHORITY OF THE COUNTY OF  
6 RIVERSIDE, a public entity, corporate and politic,  
7 in its capacity as housing successor to the former  
8 Redevelopment Agency for the County of  
9 Riverside

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

11 Heidi Marshall,  
12 Deputy Executive Director

13 Date: \_\_\_\_\_

4 **DEVELOPER:**

Paseo III Housing Associates, L.P.,  
a California limited partnership

By: Paseo III LLC,  
a California limited liability company,  
its general partner

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

By: \_\_\_\_\_  
Julie Bornstein, Executive Director

14  
15 **APPROVED AS TO FORM:**

16 GREGORY P. PRIAMOS  
17 COUNTY COUNSEL

18 By:   
19 Jhaila R. Brown, Deputy County Counsel

9/21/17, File No: HA4-17-001  
Paseo De Los Heroes III

[INSERT UPDATED NOTARY ACKNOWLEDGMENT]

**ATTACHMENTS**

- EXHIBIT "A" - Scope of Development**
- EXHIBIT "B" - Legal Description**
- EXHIBIT "C" - Method of Financing**
- EXHIBIT "D" - Deed of Trust**
- EXHIBIT "E" - Covenant Agreement**
- EXHIBIT "F" - Promissory Note**
- EXHIBIT "G" - Tenant Checklist**
- EXHIBIT "H" - Notice of Affordability**
- EXHIBIT "I" - Sources and Uses Budget**
- EXHIBIT "J" - Schedule of Performance**

**Exhibit A**  
**Scope of Development**

## SCOPE OF DEVELOPMENT

**BORROWER:** Paseo III Housing Associates, L.P.  
**Address:** 45-701 Monroe Street, Indio, CA 92201  
**Project Title:** Paseo De Los Heroes III  
**Location:** south of Lincoln on Avenue 64, Assessor Parcel Number 727-030-041  
("Property")

This is the Scope of Development attached to the 2011 Taxable Tax Allocation Housing Bonds, Series A-T, Affordable Housing Loan Agreement, Paseo De Los Heroes III, in the unincorporated community of Mecca ("Loan Agreement") by and between the Housing Authority of the County of Riverside ("Authority") and Paseo III Housing Associates, a California limited partnership ("Borrower") pertaining to the Property. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Loan Agreement.

### Borrower Obligations

#### 1. General

Borrower will utilize \$850,000 in Authority Loan funds to pay the cost to develop and construct (80) 2 – 4 bedroom low income rental units plus (1) managers unit for a total of 81 units. The low income units will be located in 11 buildings in a mix of single story and townhouse style apartments. The manager's unit will be located above the community room. Eight of the single story units are fully handicap accessible. The project is to be constructed on a 10 acre parcel adjacent to the Paseo de los Heroes II development located south of Lincoln on Avenue 64 in Mecca, Riverside County, CA.

A total of 16 two bedroom, 54 three bedroom, and 11 four-bedroom units will be developed. A Summary of type, size and number of units is below:

<b>Project Summary</b>			
<b>Use</b>	<b>Size (Sq. Ft.)</b>	<b>Quantity</b>	<b>Totals (Sq. Ft.)</b>
Two-Bedroom/One Bath	1,029	16	16,464
Three-Bedroom/Two Bath	1,152	48	55,296

Four-Bedroom/Two Bath	1,296	3	3,888
	1,440	8	11,520
Four-Bedroom / Two Bath			
Manager's Unit – 3 Bedroom	1,130	1	1,130
Manager's Office	590	1	590
Maintenance Room / Mechanical	209	1	209
Community Room	1,161	1	1,161
Computer Room	174	1	174
Fitness Room	221	1	221
Janitor / Storage Closet	141	1	141
<b>Total Buildable Area</b>			<b>97,274</b>

All units will be equipped with energy star rated refrigerators, dishwashers, stoves/ovens, heat/air conditioners and washers/dryers. The units will also be equipped with a garbage disposal, carpeting and blinds.

Overall parking consists of one solar carport per unit and 1.2 parking spaces per unit provided. Clusters of units are 4-6 plexes and 7-8 plexes. Units shall consist of 8 inch post tension slabs with conventionally framed single story and townhouse style to form pavilions with Spanish / Mediterranean Architectural styling and materials compatible with Mecca Design Guidelines (colored stucco walls, concrete tile roofs). Units incorporate porches and partial covered walkways to develop indoor / outdoor connection and a sense of neighborhood environment.

The project is designed to provide a high quality living environment for farmworker families. Over one-half of the units are three bedrooms or larger, reflecting the needs of large families. Rents are set at 30%, 40% and 50% of area median income. Rental assistance provided by the USDA-RHS for 80 units will allow tenants to pay no more than 30% of their annual income for rent.

The project features a 2,496 sq. ft. community room. The community room will include a computer lab to be used as a computer learning center and will also be utilized by service providers to provide an afterschool program, ESL classes, computer training, Homeownership Counseling, Fitness classes and Nutrition classes. The community room is also available to residents for special events such as birthday parties, barbeques etc. A full kitchen is located in the community room with access to an outdoor courtyard equipped with bar-b-que grills for indoor/outdoor events and activities.

Formal outdoor areas include a spacious courtyard equipped with tables/benches, barbeque grills, a tot lot, a perimeter walking/exercise trail with pedestrian link to the adjacent Paseo de los Heroes II development and ample space and free flowing paths provide opportunities for informal social interactions.

The project will be designed utilizing materials, equipment and or systems that exceed 2013 Title 24 energy standards by at least 15%. In addition, CVHC will participate in the following Energy Conservation programs:

- Energy Star for Homes Program
- LEED for Homes program by USGBC
- Green Property Management

Additionally the following minimum specifications will be incorporated into the project design:

Landscaping	A variety of plant and tree species that require low water use shall be provided in sufficient quantities based on landscaping practices in the general market area and low maintenance needs. Paseo de los Heroes III shall follow the requirements of the state Model Water Efficient Landscape Ordinance unless a local landscape ordinance has been determined to be at least as stringent as the current model ordinance.
Roofs	Roofing shall carry a three-year subcontractor guarantee and a 20-year manufacturer's warranty.
Exterior doors	Exterior doors shall be made of insulated or solid core, flush, paint or stain grade exterior doors shall be made of metal clad, hardwood faces, or fiberglass faces, with a standard one-year guarantee and all six sides factory primed.
Appliances	Energy Star rated appliances, including frost-free refrigerators, dishwashers, washer/dryers shall be provided in all units.
Window covering	Window coverings shall be provided and will include fire retardant blinds.
Water heater	minimum capacity is to be 28 gallons for one and two bedroom units and 38 gallons for three and four bedroom units.

**Floor covering** Floor coverings are to be provided or replaced, a hard, water resistant, cleanable surface shall be required for all kitchen and bath areas. Any carpet provided or replaced shall comply with U. S. Department of Housing and Urban Development/Federal Housing Administration UM44D.

**Paints & Stains** Use of Low VOC paints and stains for all interior surfaces will be used where paints and stains are applied.

The following is a list of off-site costs associated with the project.

**Off-Site Improvements:**



Off-sites Costs		Included in Eligible Basis	Excluded in Eligible Basis
Demo / Saw Cut	1,320	X	
Asphalt Paving	37,516	X	
Cap / Grind	16,945	X	
Base / Grading	0		
Weed Kill	1,369	X	
Base Buffer @ End of 64th	800	X	
Striping / Signage	4,550	X	
Traffic Control	2,900	X	
Drive Approach	0		
Type C Curb Rivco STD 202	11,564	X	
X-Gutter / Spandrels	0		
H/C Ramps	1,200	X	
Truncated Domes	0		
Sidewalks	27,297	X	
Sewer / Water	0		
Sewer / Water - AC Patch	0		
Landscaping	95,969	X	
Cobble Rock	89,807	X	
Gravel Mulch	0		
<b>Total</b>	<b>291,237</b>		

The project will meet Rural Development's design and construction standards contained in 7 CFR part 1924, subparts A and C and will meet all applicable Federal, State and local accessibility standards.

Construction for the project is scheduled to begin in December 2017.

**LEGAL DESCRIPTION OF PROPERTY**

All that certain real property situated in the County of Riverside, State of California, described as follows:

Parcel 2 of Parcel Map No. 36357, in the County of Riverside, State of California, as per map filed in Book 243 pages 71 through 74 inclusive of Maps, in the Office of the County Recorder of said County.

APN: 727-030-041-2

**Exhibit C**  
**Method of Financing**

Exhibit "C"

METHOD OF FINANCING

This is the Method of Financing attached to the Affordable Housing Loan Agreement, Paseo de los Heroes III for the Use of 2011 Taxable Tax Allocation Housing Bond, Series A-T proceeds ("Loan Agreement") by and between the Housing Authority of the County of Riverside ("Housing Authority") and Paseo III Housing Associates, LP, a California limited partnership ("Developer"), pertaining to the development of a 80-unit multi-family housing project located on Assessor Parcel Numbers 727-030-041 and, in the unincorporated community of Mecca, which shall be operated as rental housing that is affordable to extremely-low, farmworker households ("Project"), as more specifically described in the Loan Agreement. Loan Agreement as used herein shall mean, refer to and include the Loan Agreement, as well as any riders, exhibits, addenda, implementation agreements, amendments and attachments thereto (which are hereby incorporated herein by this reference) or other documents expressly incorporated by reference in the Loan Agreement. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Loan Agreement.

1. Development Costs. The parties estimate that the cost of developing the Property will be approximately \$30,560,798 during the construction financing period. The sources of financing during the construction financing period are set forth in Section 2 of this Method of Financing.

2. Sources of Financing. The parties anticipate that the costs of developing and constructing the Improvements thereon (the "Development Costs") shall be financed with a combination of loans and equity, as set forth in the following chart and as described below, which chart shall be updated if the costs of developing and constructing the Improvements change, or if the financing changes, all subject to the approval of the Housing Authority (as updated, the "Sources of Financing"):

Sources of Funds	Construction	Permanent
Tax Credit Equity	\$2,544,080	\$24,840,798
Wells Fargo Construction Loan	\$21,266,718	\$
2011 Housing Bond Loan	\$850,000	\$850,000
USDA Loan	\$5,300,000	\$5,300,000
GP Equity	\$600,000	\$600,000

2.1 Construction Period Financing

a. Construction Loan Financing. The financing derived from the proceeds of a construction loan in the approximate original principal amount of \$21,266,718 during the construction period (the "Construction Loan") shall be used as part of the construction financing for the Project and shall be secured by one or more senior priority deeds of trust against the Project ( the "Senior Construction Lenders" and, together with the Senior Permanent Lenders described below,

referred to as the "Senior Lenders").

- (1) Developer shall not refinance the Senior Loans for the Project or place any additional financing on the Project except as set forth in this Method of Financing and the Loan Agreement without the advanced and express written consent of the Housing Authority Executive Director or designee.
- b. Developer Equity. Equity from the Developer (the "Developer Equity") consisting of the following:
- (1) Approximately \$ 25,459,796, to be provided by the Tax Credit Equity Investor, derived from Low Income Housing Tax Credits, a portion of which shall be disbursed during construction period and a balance shall be disbursed to pay off the construction loan.
  - (2) A deferred portion of the Developer Fee, in the amount of \$ N/A (the "Deferred Developer Fee"), constituting that portion of the Developer Fee to be paid to Developer from operating revenues, before calculating residual receipts, with the balance of the Developer Fee in the amount of \$ N/A payable to Developer during construction of the Project, in accordance with the following schedule of disbursements:
    - i. 10% upon Closing;
    - ii. 25.53% upon Perm Conversion;
    - iii. 1.18% upon 8609; and
    - iv. .39% upon receipt of Investor K-1.
  - (3) Developer shall be responsible for providing any additional funds which may be needed to pay for cost overruns and contingencies not otherwise funded by the Sources of Financing described above.
  - (4) Developer Equity described in this subsection (c) shall consist of funds provided by Developer or borrowed funds, repayment of which shall not be secured by any deed of trust on the Property.
  - (5) All cost savings from improved debt or equity pricing compared to the terms in this Method of Financing will be used to reduce the deferred portion of the Developer Fee. If proceeds from debt or equity are lower than projected, Developer shall be financially responsible for any differences.
- c. TUMF. Transportation Uniform Mitigation Fee Program waiver in the approximate amount of \$ 103,420.80.

- d. DIF. Development Impact Fee Program waiver in the approximate amount of \$ 1,818,416.
- e. 2011 Taxable Tax Allocation Housing Bond, Series A-T Proceeds Loan Housing Loan-Housing Authority of the County of Riverside in the amount of \$850,000
- f. United States Department of Agriculture 514 Loan ("USDA Loan") in the amount of \$5,300,000

2.2 Permanent Sources of Financing

- a. The Housing Authority Loan as described in subsection (e) of 2.1 above.
- b. The USDA Loan in the amount of \$ 5,300,000 as described in subsection (f) of 2.1 above.
- c. Developer Equity, as described in subsection (b) of Section 2.1, above.
- d. TUMF financing sources, as described in subsection (c) of Section 2.1, above.
- e. DIF financing sources, as described in subsection (d) of Section 2.1, above.
- f. Land Value for TCAC application in the approximate amount of \$ 300,000.

3. Project Budget

The parties anticipate that all Development Costs shall be as set forth in the Project Budget as attached hereto titled "Permanent Sources and Uses of Funds incorporated herein by this reference. Any change order in excess of One Hundred Thousand Dollars (\$100,000) or any amendment to the total Project Budget in excess of One Hundred Thousand Dollars (\$100,000) (collectively referred to as a "Revision") shall require the written approval of the Executive Director or designee in addition to any approval required by any Senior Lender. Except as provided in the previous sentence, the Executive Director or designee shall not unreasonably withhold or delay approval of any requested Revision for which the Senior Lender's approval is not required, under the terms of the Senior Loan documents, or which has been approved by the Senior Lender if, within five (5) working days after receipt of the request, Housing Authority receives such explanation and/or back-up information as was received and relied upon by the Senior Lender in connection with its approval of the Revision, and if the following conditions are satisfied:

- a. to the extent the Revision is limited to a reallocation of budgeted funds among Project Budget line items without any increase in the total Project Budget, (i) the

funds in the line item(s) to be reduced remain sufficient for completion of the Project, and (ii) the requested increase in one or more line item(s) is to be used to pay approved costs; and

- b. to the extent the Revision involves an increase in the total Project Budget, (i) additional funds in an amount equal to the increase in the total Project Budget will be provided by Developer, the Senior Lender or another funding source reasonably approved by the Housing Authority and (ii) the requested increase in the Project Budget is to be used to pay approved costs.

Upon written approval of any Revision, the Project Budget shall be replaced by the approved revised Project Budget.

#### 4. Evidence of Financing

The sum of the Senior Sources of Financing described in Section 2 above shall be sufficient at all times to pay all Development Costs as set forth in the most recently approved Project Budget, and the sum of the permanent Senior Sources of Financing described in Section 2 above, shall be at least equal at all times to the sum of the construction Sources of Financing plus all other Development Costs. Within the time provided therefore in the Schedule of Performance as stated in Exhibit "A" of the Loan Agreement, Developer shall submit for approval by the Executive Director or designee, evidence of such financing, including all documents required by the Construction Lender relating to the Construction Loan and all documents evidencing the availability of permanent financing for the Project upon Completion. The Executive Director or designee shall not unreasonably withhold his or her approval. Developer shall provide written certification to the Housing Authority that such financing documents are correct copies of the actual documents to be executed by Developer on or before the Closing Date. To the extent that the sum of the Sources of Financing described in Section 2, 2.1 and 2.2 above is insufficient to pay all Development Costs, Developer shall demonstrate the availability prior to the Closing of increased Developer's Equity equal to the shortfall.

NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE SECTION 6103

Order No.  
Escrow No.  
Loan No.

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:  
Housing Authority of the County of Riverside  
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 ("Deed of Trust") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by PASEO III HOUSING ASSOCIATES LP, a California limited partnership, (hereinafter referred to as "Trustor"), whose address is 45-701 Monroe Street, Suite G, Indio, CA 92201, to \_\_\_\_\_, (hereinafter called "Trustee"), for the benefit of the HOUSING AUTHORITY OF THE COUNTY OF RIVERSIDE, a public entity corporate and politic, in its capacity as housing successor to the Redevelopment Agency of the County of Riverside, (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 unincorporated community of Mecca, 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 to the Housing Authority of the County of Riverside in favor of the Beneficiary ("Housing Authority" therein) executed by Trustor ("Borrower" therein) of even date herewith ("Note"), in the principal amount of \$850,000;

(b) that certain Affordable Housing Loan Agreement ( 2011 Taxable Tax Allocation Housing Bonds Series A-T) dated \_\_\_\_\_, 2017 between Beneficiary ("Housing Authority" therein) and Trustor ("Borrower" therein) recorded in the Official Records of the Recorder's Office for the County of Riverside ("Official Records") on or about the date hereof ("Affordable Housing Loan Agreement");

(c) that certain Covenant Agreement dated \_\_\_\_\_, between Trustor ("Paseo III LP" therein) and Beneficiary ("Housing Authority" therein) ("Covenant Agreement"), recorded in the Official Records on or about the date hereof ("Covenants"); and

2. payment of indebtedness of the Trustor to the Beneficiary in the amount of EIGHT HUNDRED AND FIFTY THOUSAND DOLLARS AND NO CENTS (\$850,000) ("AH Loan") according to the terms of the Note.

Said Note, Affordable Housing 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, Affordable Housing Loan Agreement and Covenant Agreement as used herein shall mean, refer to and include the Note, Affordable Housing 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 Affordable Housing Loan Agreement.

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

1. 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 Affordable Housing 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 Affordable Housing 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 Affordable Housing Loan Agreement and Covenant Agreement.

4a. That upon default hereunder or under any of the Secured Obligations and after giving notice and opportunity to cure, Beneficiary shall be entitled to the appointment of 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 and income therefrom

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

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

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

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

8. **Prior Deeds of Trust; Charge; Liens.** Trustor shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Deed of Trust, and leasehold payments or ground rents, if any, subject to applicable cure periods. Trustor shall pay these obligations in the manner provided in **Section 6**, or if not paid in that manner, Trustor shall pay them on time directly to the person owed payment. Trustor shall promptly furnish to Beneficiary all notices of amounts to be paid under this Section. If Trustor makes these payments directly, Trustor shall promptly furnish to Beneficiary receipts evidencing the payments.

a. Except for the liens permitted in writing by the Beneficiary, Trustor shall promptly discharge any other lien which shall have attained priority over this Deed of Trust unless Trustor:

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

9. **Third Priority Position.** The Deed of Trust shall be in fifth priority position during the construction period junior to the following instruments: (1) USDA Regulatory Agreement (2) Authority Covenant Agreement (3) deed of trust for the benefit of Wells Fargo Bank, N.A. securing a construction loan for the Project in an amount up to \$21,266,718; and (4) deed of trust for the benefit of the United States Department of Agriculture ("USDA") securing a loan for the Project in an amount up to \$5,300,000; ("Senior Lenders" or "Senior Lienholders"), and fourth priority position during permanent financing, junior to the following instruments (1) USDA Regulatory Agreement (2) Authority Covenant Agreement and (3) deed of trust for the benefit of the United States Department of Agriculture ("USDA") securing a loan for the Project in an amount up to \$5,300,000.

Beneficiary hereby agrees to execute any and all documents necessary to effectuate such priority, including, but not limited to subordination agreements first approved as to form and content by Beneficiary and Beneficiary's legal counsel.

10. **Hazard or Property Insurance.** Trustor shall keep the improvements now existing or hereafter erected on the Property insured against loss of fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Beneficiary requires insurance. This insurance shall be maintained in the amounts and for the periods as required in the Housing Authority 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 Affordable Housing 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". 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 Affordable Housing 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 Affordable Housing 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") 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.