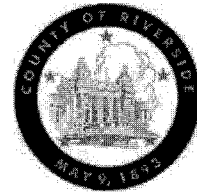


**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**ITEM
3.22
(ID # 6080)**

MEETING DATE:

Tuesday, February 27, 2018

FROM : ECONOMIC DEVELOPMENT AGENCY (EDA):

SUBJECT: ECONOMIC DEVELOPMENT AGENCY (EDA): Approve Loan Agreement for the Use of HOME Program Funds [\$288,373] for El Cajon Apartments, in the City of Desert Hot Springs, District 4, 100% HOME Investment Partnership Act Funds, CEQA Exempt

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the project is exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301 and Section 15061(b)(3);
2. Find that the project is a categorically excluded activity subject to Title 24 Code of Federal Regulations (CFR) Section 58.5 and meets the conditions specified for such exemption pursuant to Title 24 CFR Section 58.35(a) and the National Environmental Policy Action of 1969;
3. Approve the attached Loan Agreement for the Use of HOME Program Funds, including all attachments thereto (Loan Agreement), in the amount of \$288,373, between the County of Riverside and Riverside Housing Development Corporation, to pay a portion of the acquisition and rehabilitation costs for the El Cajon Apartments (APN 641-241-038) in the City of Desert Hot Springs, County of Riverside;

Continued on page 2

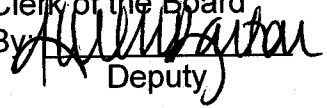
ACTION: Policy

Robert Field, Assistant County Executive Officer/EDA 1/4/2018

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Tavaglione, Washington, Perez and Ashley
Nays: None
Absent: None
Date: February 27, 2018
xc: EDA

Kecia Harper-Ihem
Clerk of the Board
By 
Deputy

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

RECOMMENDED MOTION: That the Board of Supervisors:

4. Approve the attached Deed of Trust, Security Agreement and Fixture Filing with Assignment of Rents (Deed of Trust), Promissory Note, and Covenant Agreement;
5. Authorize the Chairman of the Board of Supervisors to execute the attached Loan Agreement and Covenant Agreement;
6. Authorize the Assistant County Executive Officer/EDA or designee, to negotiate and execute a Subordination Agreement subordinating the County's Deed of Trust to a Deed of Trust for the benefit of Provident Savings Bank securing a permanent loan for the project in an amount up to \$70,500, subject to approval by County Counsel;
7. Authorize the Assistant County Executive Officer/EDA, or designee, to take all necessary steps to implement the Loan Agreement, Promissory Note, Deed of Trust, and Covenant Agreement including, but not limited to, signing subsequent necessary and relevant documents, subject to approval by County Counsel; and
8. Direct EDA staff to file the Notice of Exemption within five working days.

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 188,373	\$ 100,000	\$ 288,373	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: HOME Investment Partnerships Act Funds 100% (Federal Funds)			Budget Adjustment: No	
			For Fiscal Year: 2017/18- 2018/19	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

Riverside Housing Development Corporation, a California nonprofit public benefit corporation and Community Housing Development Organization (RHDC), participates in the development and operation of housing that is affordable to low and moderated income people within the County of Riverside, combating community deterioration, and eliminating neighborhood blight.

RHDC is proposing to utilize \$288,373 in HOME funds (HOME Loan) to acquire and rehabilitate a sub-standard 3-unit multi-family housing rental property for qualified low-income families located at 13600 El Cajon Drive, Desert Hot Springs, CA 92240 in the County of Riverside, also identified as Assessor's Parcel Number 641-241-038. If approved, the HOME Loan will be evidenced by a Promissory Note in favor of the County (HOME Loan Note), which would be secured by a Deed of Trust with Assignment of Rents for the benefit of the County (HOME Loan Deed of Trust). The proposed HOME Loan Deed of Trust and HOME Loan Note are attached hereto.

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

The proposed project will consist of the acquisition and rehabilitation of an existing building consisting of three units (one 2-bedroom and two 1-bedroom units) (Proposed Project). All units will be designated as HOME assisted units pursuant to HOME regulations. One 1-bedroom unit will be restricted for occupancy and rent by households whose incomes do not exceed 50% of the area median income for the County of Riverside. One 1-bedroom and one 2-bedroom unit will be restricted for occupancy and rent by households whose incomes do not exceed 60% of the area median income for the County of Riverside. The use and occupancy of the Property and the HOME-assisted units located thereon will be restricted for the earlier to occur of (i) July 1, 2073 or (ii) 55- years from the recordation of the Notice of Completion for which rehabilitation is completed for the Proposed Project. The aforementioned use and occupancy restrictions will be set forth in a recorded Covenant Agreement (see attached).

The total development cost for the Proposed Project is estimated to be \$358,873 which will be funded by the HOME Loan and a \$70,500 loan from Provident Savings Bank evidenced by a Promissory Note and secured by a Deed of Trust which will be recorded against the Property in a first priority lien position. Provident Savings Bank is requiring the subordination of the HOME Loan as a condition precedent to the funding of the bank loan. As such, subordination of the HOME Loan is necessary since an economically feasible alternative method of financing the Project on comparable terms is not available without subordination. As a result of such subordination, the HOME Loan will be in a junior lien position. The terms of the proposed HOME Loan and obligations of RHDC and the County are memorialized in the proposed Loan Agreement for the Use of HOME Program Funds, including all exhibits, attached hereto (HOME Loan Agreement).

The HOME Loan Agreement meets the conditions of categorical exclusion under Title 24 Code of Federal Regulations (CFR) Section 58.35 (a) and is an exempt activity pursuant to Title 24 CFR Section 58.34 (a)(12) and is in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA). Therefore, an Environmental Impact Statement under NEPA was not required.

In addition, pursuant to the California Environmental Quality Act (CEQA), the HOME Loan Agreement was reviewed and determined to be categorically exempt from CEQA under State CEQA Guidelines 15301, Class 1-Existing Facilities and State CEQA Guidelines 15061(b) (3), General Rule or "Common Sense" Exemption. The proposed project, the HOME Loan Agreement, involves the loan of HOME funds and the acquisition and rehabilitation of an existing facility and no expansion of an existing use will occur. In addition, there is no possibility that the proposed project will have a significant effect on the environment and the project will not lead to any direct or reasonably indirect physical environmental impacts since the existing use will be maintained. A Notice of Exemption will be filed with the County Clerk upon approval of the HOME Loan Agreement.

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

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

Impact on Citizens and Businesses

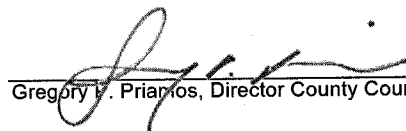
The acquisition and rehabilitation of the property on El Cajon Drive in the City of Desert Hot Springs will have a positive impact on residents and businesses as it will provide needed affordable housing and mitigate health and safety issues affecting the property making it a decent and safe place for residents to live. The project is also expected to create jobs in construction, property maintenance and property management.

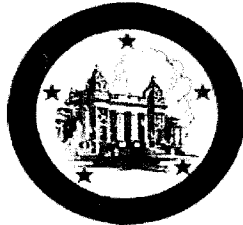
Attachments:

- Notice of Exemption
- Loan Agreement for the Use of HOME Program Funds, including all exhibits
- Deed of Trust, Promissory Note and Covenant Agreement

RF:HM:CH:MW:SE:JG


Nehini Dasika, Principal Management Analyst 2/21/2018


Gregory V. Priamos, Director County Counsel 2/15/2018



Original Negative Declaration/Notice of Determination was routed to County Clerks for posting on.

Date _____ Initial Via EDA

Notice of Exemption

To:
 Office of Planning and Research
 For U.S Mail: P.O. Box 3044 Sacramento, CA 95812-3044
 Street Address: 1400 Tenth St. Sacramento, CA 95814

From:
 Public Agency: County of Riverside
 Address: Economic Development Agency
 5555 Arlington Avenue
 Riverside, CA 92504
 Contact: Mervyn Manalo, Housing Specialist
 Phone: (951) 343-5495

County Clerk
 County of: Riverside
 2724 Gateway Drive
 P.O. Box 751
 Address: Riverside, CA 92502-0751

Lead Agency (if different from above):
 Address: _____
 Contact: _____
 Phone: _____

SUBJECT: Filing of Notice of Exemption in Compliance with 15301, Class 1-Existing Facilities and 15061(b)(3) of State CEQA Guidelines.

Project Title: El Cajon Apartments

Project Location: 13600 El Cajon Drive, Desert Hot Springs, CA 92240; Assessor's Parcel Number: 641-241-038

Project Description:

Riverside Housing Development Corporation (RHDC) proposes to utilize \$288,373 in federal HOME Investment Partnership Act funds (HOME Loan) to acquire and rehabilitate a property consisting of three units (one 2-bedroom and two 3-bedroom units) located at 13600 El Cajon Drive, Desert Hot Springs, CA 92240, also identified as Assessor's Parcel Number 641-241-038 (Property). All units will be designated as HOME-assisted units pursuant to HOME regulations. The use and occupancy of the Property and the HOME-assisted units located thereon will be restricted for the following period, the earlier to occur of (i) July 1, 2073 or (ii) fifty-five years from the recordation of the Notice of Completion for which rehabilitation is completed for the project. The aforementioned use and occupancy restrictions will be set forth in a recorded covenant agreement.

Project Sponsor: Riverside Housing Development Corporation

This is to advise that the County of Riverside Board of Supervisors approved the above project on

Lead agency or Responsible Agency

February 27, 2018 and has made the following determinations regarding the above described project:
(tentative date)

Exempt Status: California Environmental Quality Act (CEQA) Guidelines, Section 15301, Class 1-Existing Facilities, and 15061 (b)(3), General Rule Exemption or "Common Sense" Exemption.

Reasons Why Project is Exempt: Pursuant to the California Environmental Quality Act (CEQA), the HOME Loan Agreement was reviewed and determined to be categorically exempt from CEQA under State CEQA Guidelines 15301, Class 1-Existing Facilities and State CEQA Guidelines 15061(b)(3), General Rule or "Common Sense" Exemption. The proposed project, the HOME Loan Agreement, involves the loan of HOME funds and the acquisition and rehabilitation of an existing facility and no expansion of an existing use will occur. In addition, there is no possibility that the proposed project will have a significant effect on the environment and the project will not lead to any direct or reasonably indirect physical environmental impacts since the existing use will be maintained.

Signature: J Garcia Title: Juan Garcia, Principal Development Specialist Riverside County EDA

Date: 2/13/18 Date received for filing: _____

PROMISSORY NOTE (HOME Loan)

\$288,373

Riverside, CA

In installments as hereafter stated, for value received, RIVERSIDE HOUSING DEVELOPMENT CORPORATION ("BORROWER"), a California non-profit public benefit corporation promises to pay the COUNTY OF RIVERSIDE, a political subdivision of the State of California ("COUNTY"), or order, at 5555 Arlington Avenue, Riverside, CA 92504, the sum of Two Hundred Eighty Eight Thousand Three Hundred Seventy Three Dollars (\$288,373.00 USD) (the "HOME Loan" or "Note Amount") which at the time of payment is lawful for the payment of public and private debts.

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

- (1) The HOME Loan evidenced by this Note and secured by the Deed of Trust are being made pursuant to the HOME Investment Partnerships Program and the regulations issued thereunder (Title II, the Cranston-Gonzales National Affordable Housing Act, Public Law No. 101-625, 104 Stat. 4079 (1990), (24 C.F.R. Part 92) (the "HOME Program"). Borrower agrees for itself, its successors and assigns, that the use of the Property shall be subject to the restrictions on rent and occupancy set forth in the HOME Program regulations, the Home Loan Agreement and that certain Covenant Agreement dated on or about the date hereof and recorded on or about the date hereof in the Official Records between BORROWER and COUNTY.
- (2) That the HOME Loan will accrue simple interest at a rate of zero percent (0%) per annum, except in the case of default as hereinafter provided, and shall be repaid on an annual basis from the Project's Residual Receipts as defined herein. Interest will accrue 30 days from the date of recordation of the Notice of Completion in the Official Records.
- (3) This Note shall be repaid according to the following: Fifty percent (50%) of the Project's Residual Receipts shall be used towards the payment of the HOME Loan. Such payment of fifty percent (50%) of the Project's Residual Receipts to COUNTY shall continue until the HOME Note is repaid in full.
- (4) The Project's Residual Receipts shall be determined based on an annual review of certified financial statements for the Project. Annual audited financial statements shall be submitted by BORROWER within one hundred twenty (120) days following the close of the project fiscal year commencing on April 1 of the first full calendar year following the recordation of the Notice of Completion. All outstanding principal along with accrued interest shall be

due upon the later to occur of (i) July 1, 2073 or (ii) fifty-five (55) years from and after the recordation of the Notice of Completion (the "Maturity Date"). The first payment shall be due on July 1st in the first full calendar year following the date of the recordation of the Notice of Completion for the Project, to the extent of available Residual Receipts, as set forth herein. Subsequent payments shall be made on July 1st thereafter to the extent of available Residual Receipts until sooner of full repayment of the HOME Loan or the HOME Loan Maturity Date as set forth above.

- (5) The Project's Residual Receipts shall be determined based on an annual review of certified financial statements for the Project. Annual audited financial statements shall be submitted by BORROWER to COUNTY within one hundred twenty (120) days following the close of the project fiscal year commencing on April 1st of the first full calendar year following the recordation of the Notice of Completion. All outstanding principal along with accrued interest shall be due upon the maturity date of the HOME Note and the expiration of the HOME Loan Term as set forth in Section 4(a). The first payment from BORROWER to COUNTY shall be due on July 1st in the first full calendar year following the date of the recordation of the Notice of Completion, to the extent of available Residual Receipts, as set forth herein. Subsequent payments shall be made on July 1st thereafter to the extent of available Residual Receipts until the earlier of full repayment of the HOME Loan or the HOME Loan Maturity Date as set forth above. The term "Project Residual Receipts" used herein shall mean the gross rental income from all residential and non-residential components of the Project, proceeds from loss of rent insurance, and any other income to the Developer derived from the ownership, operation and management of the Property, not including interest on required reserve accounts, less the following operating expenses:
- i) auditing and accounting fees;
 - ii) a reasonable property management fee not to exceed \$55 per unit per month, increased annually by an amount equal to the increase in the Consumer Price Index for Los Angeles-Riverside-Orange County, CA area ("CPI"), provided, however, that in the event of a decrease in the CPI, the property management fee shall remain the same as the immediate preceding year;
 - iii) Operating Expenses (any expense reasonably and normally incurred in carrying out the Project's day-to-day activities, which shall include administration, on-site management, utilities, on-site staff payroll, payroll taxes, and maintenance);
 - iv) replacement reserves, established in a separate account from operating reserves, limited to \$400 per unit per year for all units in the Project, as defined in Exhibit A of the HOME Loan Agreement, increased annually by an amount equal to the increase in CPI;
 - v) Operating Reserves replenishment in an amount up to \$25,000;
 - vi) payments of principal and interest on amortized loans and indebtedness senior to the HOME Loan, which have been approved by COUNTY (collectively, the "Senior Debt"); and
 - vii) COUNTY's Annual Monitoring Fee in the total annual amount of \$300, increased annually by an amount equal to the increase of the Consumer Price Index (CPI), as more specifically discussed in Section 29 of the HOME Loan Agreement.
- (6) The HOME Loan evidenced by this Note is secured by that certain HOME Deed of Trust executed by BORROWER for the benefit of COUNTY, dated on or about the date hereof and recorded in the Official Records.

- (7) This Note may be prepaid in whole or in part by the undersigned at any time without prepayment penalty or premium, provided however notwithstanding such prepayment, Borrower shall be required to adhere to the affordability restrictions contained in the Covenants until the expiration of the term contained therein.
- (8) Subject to the provisions and limitations of this Paragraph 8, the obligation to repay the Note Amount is a nonrecourse obligation of BORROWER and its partners. Neither BORROWER nor its partners shall have any personal liability for repayment of the Note Amount, except as provided in this Paragraph 8. The sole recourse of the COUNTY shall be the exercise of its rights against the Property (or any portion thereof) and any related security for the HOME Loan; provided, however, that the foregoing shall not (i) constitute a waiver of any other obligation evidenced by this Note or the Deed of Trust; (ii) limit the right of the COUNTY to name BORROWER as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against BORROWER; (iii) release or impair either this Note or the Deed of Trust; (iv) prevent or in any way hinder the COUNTY from exercising, or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing this Note or as prescribed by law or in equity in case of default; (v) prevent or in any way hinder the COUNTY from exercising, or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing this Note; or (vi) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by this Note and the Deed of Trust. Notwithstanding the first sentence of this **Section 8**, the COUNTY may recover directly from Borrower or, unless otherwise prohibited by any applicable law, from any other party: (a) any damages, costs and expenses incurred by the COUNTY as a result of fraud, misrepresentation or any criminal act or acts of BORROWER or any general partner, shareholder, officer, director or employee of BORROWER, or of any member or general partner of BORROWER, or of any general partner of such member or general partner; (b) any damages, costs and expenses incurred by the COUNTY as a result of any misappropriation of funds provided to pay costs as described in the HOME Loan Agreement, rents and revenues from the operation of the Project, or proceeds of insurance policies or condemnation proceeds; (c) any misappropriation of rental proceeds resulting in the failure to pay taxes, assessments, or other charges that could create statutory liens on the Project and that are payable or applicable prior to any foreclosure under the Deed of Trust; (d) the fair market value of any personal property or fixtures removed or disposed of by the Borrower other than in accordance with the Deed of Trust; (e) any and all amounts owing by Borrower pursuant to any indemnity set forth in the HOME Loan Agreement and/or Deed of Trust or the indemnification regarding Hazardous Substances pursuant to the HOME Loan Agreement and/or Deed of Trust, and (f) all court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions.

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

- a. Monetary Default. (1) Borrower's failure to pay when due any

sums payable under the HOME Note or any advances made by COUNTY under this Agreement, (2) BORROWER'S or any agent of BORROWER'S use of HOME funds for costs other than those costs permitted under the HOME Loan Agreement or for uses inconsistent with terms and restrictions set forth in this Agreement, (3) BORROWER'S or any agent of BORROWER'S failure to make any other payment of any assessment or tax due under the HOME Loan Agreement, and /or (4) default past any applicable notice and cure period under the terms of (i) that certain Deed of Trust executed by Borrower for the benefit of Provident Savings Bank securing a construction loan in a principal amount up to \$70,500 and (ii) any other instrument or document secured against the Property;

b. Non-Monetary Default - Operation. (1) Discrimination by BORROWER or BORROWER'S agent on the basis of characteristics prohibited by this Agreement or applicable law, (2) the imposition of any encumbrances or liens on the Project without COUNTY's prior written approval that are prohibited under this agreement or that have the effect of reducing the priority or invalidating the lien of the HOME Deed of Trust, (3) Borrower's failure to obtain and maintain the insurance coverage required under the HOME Loan Agreement, (4) any material default under the HOME Loan Agreement, HOME Deed of Trust with Assignment of Rents, Covenant Agreement, HOME Note, or any document executed by the COUNTY in connection with this Agreement, and/or (5) default past any applicable notice and cure period under the terms of that certain Deed of Trust executed by BORROWER for the benefit of Provident Savings Bank securing an acquisition loan in a principal amount up to \$70,500 and any other instrument or document secured against the Property;

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

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

- (9) COUNTY shall give written notice of default to BORROWER, specifying the default complained of by the COUNTY. BORROWER shall have ten (10) calendar days from the mailing of the notice for a monetary default, by which such action to cure must be taken. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.
- (10) Any failures or delays by COUNTY in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by COUNTY in asserting any of its rights and remedies shall not deprive COUNTY of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.
- (11) If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid. In the event that any provision or clause of this Note conflicts with applicable law, such conflict will not affect other

provisions of this Note which can be given effect without the conflicting provision, and to this end the provisions of the Note are declared to be severable.

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

- (19) The relationship of Borrower and the COUNTY pursuant to this Note is that of debtor and creditor and shall not be, or be construed to be, a joint venture, equity venture, partnership or other relationship.
- (20) (a) Formal notices, demands and communications between the County and Borrower shall be deemed sufficiently given if made in writing and dispatched by any of the following methods to the addresses of the COUNTY and Borrower as set forth below: (i) registered or certified mail, postage prepaid, return receipt requested (in which event, the notice shall be deemed delivered on the date of receipt thereof); (ii) electronic facsimile transmission, followed on the same day by delivery of a "hard" copy via first-class mail, postage prepaid (in which event, the notice shall be deemed delivered on the date of its successful facsimile transmission as evidenced by a facsimile confirmation or "kick-out" sheet); or (iii) personal delivery, including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service (in which event, the notice shall be deemed delivered on the documented date of receipt). Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail.
- (b) The address of the COUNTY for purposes of receiving notices pursuant to this Note shall be 5555 Arlington Avenue, Riverside, California 92504, Attention: Assistant Director of Housing. The facsimile number for the COUNTY's receipt of notices is (951) 352-4852.
- (c) The address of Borrower for purposes of receiving notices pursuant to this Note is 4250 Brockton Avenue, Riverside, CA 92501, Attention: Bruce Kulpa, Executive Director.
- (21) The captions and headings in this Note are for convenience only and are not to be used to interpret or define the provisions hereof.
- (22) The undersigned, if comprising more than one person or entity, shall be jointly and severally liable hereunder.
- (23) This Note shall be binding upon Borrower and its heirs, successors and assigns, and shall benefit the COUNTY and its successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

[SIGNATURES ON FOLLOWING PAGE]

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

BORROWER:

Riverside Housing Development Corporation
a California nonprofit public benefit corporation

By: 
Bruce Kulpa, President & CEO

Date: 2/13/18

EXEMPT RECORDING FEE CODE 6103

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

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

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING
(WITH ASSIGNMENT OF RENTS)**

This DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING WITH ASSIGNMENT OF RENTS ("Deed of Trust") is made this _____ day of _____, 2018 by RIVERSIDE HOUSING DEVELOPMENT CORPORATION, a California nonprofit public benefit corporation, (hereinafter referred to as "Trustor"), whose address is 4250 Brockton Avenue, Riverside, CA 92501. The trustee is Orange Coast Title Company of Southern California ("Trustee"). The beneficiary is the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (hereinafter called "Beneficiary"), whose address is 5555 Arlington Avenue, Riverside, CA 92504.

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

(A) That certain fee interest in the real property in the City of Desert Hot Springs, 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 (HOME Loan) in favor of the Beneficiary ("County" therein) executed by Trustor ("Borrower" therein) of even date herewith (the "Note") in the principal amount of \$288,373;
 - (b) that certain Loan Agreement for the Use of HOME Program Funds dated _____ and recorded in the Official Records of the County of Riverside ("Official Records") concurrently herewith, between Trustor ("Borrower" therein) and Beneficiary ("County" therein) (the "HOME Loan Agreement"); and
 - (c) that certain Covenant Agreement dated on or about the date hereof and recorded concurrently herewith in the Official Records, between Trustor ("Borrower" therein) and Beneficiary ("County" therein) ("Covenant Agreement").
2. payment of indebtedness of the Trustor to the Beneficiary not to exceed **Two Hundred Eighty Eight Thousand Three Hundred and Seventy Three Dollars (\$288,373)** (the "HOME Loan") according to the terms of the Note.

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

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

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

1. That Trustor shall pay the Note at the time and in the manner provided therein, and perform the obligations of the Trustor as set forth in the HOME 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 HOME 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 HOME 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 Section 5 shall be applied: first, to to interest due; second, 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 directly

to the person owed payment. Trustor shall pay these obligations in the manner provided in **Section 6**. Trustor shall promptly furnish to Beneficiary all notices of amounts to be paid under this Section. If Trustor makes these payments directly, Trustor shall promptly furnish to Beneficiary receipts evidencing the payments.

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

9. Third Priority Position. This Deed of Trust shall be recorded in a third priority position junior in priority to the Covenant Agreement and the Deed of Trust executed by Borrower for the benefit of Provident Savings Bank ("Senior Lender" or "Senior Lienholder") securing a construction loan in a principal amount up to \$70,500 ("Senior Loan").

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 HOME 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 HOME Loan Agreement. Trustor shall promptly give to Beneficiary certificates of insurance showing the coverage is in full force and effect and that Beneficiary is named as additional insured. In the event of loss, Trustor shall give prompt notice to the insurance carrier, the Senior Lien Holder, if any, and Beneficiary. Beneficiary may make proof of loss if not made promptly by the Senior Lien Holder, if any, or the Trustor.

b. Unless Beneficiary and Trustor otherwise agree in writing and subject to the rights of senior lenders, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided Trustor determines that such restoration or repair is economically feasible and there is no default continuing beyond the expiration of all applicable cure periods. If Trustor determines that such restoration or repair is not economically feasible or if a default exists after expiration of all applicable cure periods, the insurance proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Trustor. If the Property is abandoned by Trustor, or if

Trustor fails to respond to Beneficiary within 30 days from the date notice is mailed by Beneficiary to Trustor that the insurance carrier offers to settle a claim for insurance benefits, Beneficiary is authorized to collect and apply the insurance proceeds at Beneficiary's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

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

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

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

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

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

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

13. **Reserved.**

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

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

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

b. If the Property is abandoned by Trustor, or if, after notice by Beneficiary to Trustor that the condemner offers to make an award or settle a claim for damages, Trustor fails to respond to Beneficiary within 30 days after the date the notice is given, Beneficiary is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust, whether or not then due.

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

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

the original Trustor or Trustor's successors in interest. Any forbearance by Beneficiary in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

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

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

19. **Notices.** Any notice to Trustor provided for in this Deed of Trust shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Trustor's mailing address stated herein or any other address Trustor designates by notice to Beneficiary. All such notices to Trustor shall also be provided to the investment limited partner at the address set forth in the HOME 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 and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California. Each paragraph and provision of this Deed of Trust is severable from each other provision, and if any provision or part thereof is declared invalid, the remaining provisions shall nevertheless remain in full force and effect. 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 HOME Loan Agreement, if all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Trustor is sold or transferred and Trustor is not a

natural person) without Beneficiary's prior written consent (including a transfer of all or any part of the Property to any person who, at initial occupancy of the Property, does not use the Property for "low-income housing" within the meaning of the HOME Program) Beneficiary may, at its option, require immediate payment in full of all sums secured by this Deed of Trust. However, this option shall not be exercised by Beneficiary if exercise is prohibited by federal law as of the date of this Deed of Trust. Nothing in this Deed of Trust shall be deemed to require Beneficiary's approval of a 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. Reserved.

23. **Trustor's Right to Reinstate.** If Trustor meets certain conditions, Trustor shall have the right to have enforcement of this Deed of Trust discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Deed of Trust; or (b) entry of a judgment enforcing this Deed of Trust. Those conditions are that Trustor: (a) pays Beneficiary all sums which then would be due under this Deed of Trust and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Deed of Trust, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Beneficiary may reasonably require to assure that the lien of this Deed of Trust, Beneficiary's rights in the Property and Trustor's obligation to pay the sums secured by this Deed of Trust shall continue unchanged. Upon reinstatement by Trustor, this Deed of Trust and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under **Section 22**.

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

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

26. **Hazardous Substances.** Trustor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Trustor shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any

Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses, construction, and to maintenance of the Property.

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

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

27. Acceleration; Remedies. Beneficiary shall give notice to Trustor prior to acceleration following Trustor's breach of any covenant or agreement in this Deed of Trust. The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, which shall not be more than ten (10) calendar days from the date of the mailing of the notice for a monetary default, or a date, which shall not be more than sixty (60) calendar days from the mailing of the notice for a non-monetary default, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice shall further inform Trustor of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Trustor to acceleration and sale. If the default is not cured by the Trustor on or before the date specified in the notice, and the Senior Lien Holder has not cured the default within that same period, subject to any non-recourse provisions then in effect, Beneficiary at its option may require immediate payment in full of all sums secured by this Deed of Trust without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Beneficiary shall be entitled to collect all expenses incurred in pursuing the remedies provided in this **Section 27**, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

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

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

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

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

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

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

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

33. **Severability.** Each paragraph and provision of this Deed of Trust is severable from each other provision, and if any provision or part thereof is declared invalid by a competent court of law, the remaining provisions shall nevertheless remain in full force and effect

[Remainder of Page Blank]

[Signatures on Following Page]

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

TRUSTOR:

Riverside Housing Development Corporation,
a California nonprofit public benefit corporation

By: 
Bruce Kulpa, President & CEO

Date: 2/13/18

(TRUSTOR signature needs to be notarized)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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

State of California)
County of Riverside)
On 2-13-18 before me, Jean Barry, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Bruce Kulpa
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature Jean Barry
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

My Comm. Expires Dec 18, 2019
Kiviathe County
Notary Public - Florida
Commission # 123456
JAN 24 2019

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

The land referred to in this report is situated in the County of Riverside, State of California, described as follows:

LOT 543 DESERT HOT SPRINGS ESTATE UNIT NO. 4, IN THE CITY OF DESERT HOT SPRINGS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 34, PAGE 19 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Assessor's Parcel No.: 641-241-038
13600 El Cajon Drive, Desert Hot Springs, CA 92240

1 NO FEE FOR RECORDING PURSUANT
TO GOVERNMENT CODE SECTION 6103

2 Order No.
3 Escrow No.
4 Loan No.

5 RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

6 County of Riverside
7 Economic Development Agency
8 5555 Arlington Avenue
Riverside, CA 92504
Attn: Mervyn Manalo

9 SPACE ABOVE THIS LINE FOR RECORDERS USE

10 LOAN AGREEMENT FOR THE USE OF HOME PROGRAM FUNDS
11 (El Cajon Apartments)

12 This LOAN AGREEMENT FOR THE USE OF HOME PROGRAM FUNDS
13 ("Agreement") is made and entered into this 27th day of February, 2018 by and between
14 the COUNTY OF RIVERSIDE, a political subdivision of the State of California ("COUNTY"),
15 and RIVERSIDE HOUSING DEVELOPMENT CORPORATION, a California non-profit
16 public benefit corporation ("BORROWER"). The COUNTY and BORROWER may be
17 individually referred to herein as a "Party" and collectively as the "Parties."

18 WITNESSETH:

19 WHEREAS, the COUNTY was qualified by the United States Department of
20 Housing and Urban Development ("HUD") as an "Urban County" and an approved participating
21 jurisdiction that has received funds from HUD pursuant to the HOME Investment Partnerships
22 Act and HOME Investment Partnerships ("HOME") Program, which was enacted under Title II
23 of the Cranston-Gonzalez National Affordable Housing Act (the "Act"), as amended
24 (commencing at 42 U.S.C. 12701 et seq.), and the implementing regulations thereto (24 CFR
25 Part 92) (collectively, the "HOME Program"). The purpose of the HOME Program is to expand
26 the supply of decent, safe, sanitary, and affordable housing with primary attention to rental
27 housing for very low-income and low-income families; to strengthen public-private partnerships
28 to carry out affordable housing programs; and to provide for coordinated assistance to

1 participants in the development of affordable low-income housing;

2 WHEREAS, pursuant to the HOME Program (24 CFR Section 92.300), the
3 County has reserved not less than fifteen percent (15%) of its allocation of HOME Program
4 funds for investment in housing to be developed, sponsored, or owned by community housing
5 development organizations (“CHDOs”);

6 WHEREAS, BORROWER has been certified with the COUNTY as a qualified
7 CHDO under the HOME Program that has among its purposes the provision of decent housing
8 that is affordable to low income persons, and has submitted a proposal to the County for use of
9 CHDO set aside funds for a CHDO-eligible project as described herein;

10 WHEREAS, BORROWER desires to perform the following in the City of Desert
11 Hot Springs, collectively referred to herein as the “Project” (i) acquire that certain real property
12 known as 13600 El Cajon Drive, Desert Hot Springs, CA 92240, identified as Assessor’s Parcel
13 Number 641-241-038, as more specifically described in the legal description and depicted on the
14 site map attached hereto as **Exhibit A** and incorporated herein by this reference (“Property”) and
15 (ii) rehabilitate the existing three (3) unit apartment complex (one 2-bedroom unit and two 1-
16 bedroom units) located thereon which shall be rented to and occupied by very low- and low-
17 income households. The Project will consist of a total of three (3) units;

18 WHEREAS, a total of three (3) units will be reserved as HOME assisted units to
19 be rented to and occupied by qualified very low- and low-income tenants (“HOME-Assisted
20 Units”) as follows, one (1) unit shall be set-aside for a household whose income does not exceed
21 50% of the area median income for the County of Riverside adjusted for family size appropriate
22 to the unit and two (2) units shall be set-aside for households whose incomes do not exceed 60%
23 of the area median income adjusted for family size appropriate to the unit which is more fully
24 described in **Exhibit A**;

25 WHEREAS, the purpose of this Agreement is, among other things, for COUNTY
26 to provide financial assistance to BORROWER in the maximum amount of Two Hundred
27 Eighty-Eight Thousand Three Hundred and Seventy Three Dollars (\$288,373) consisting of
28 HOME CHDO set-aside funds, to pay a portion of the acquisition and rehabilitation costs related

1 to the Project, as more fully described herein; and

2 WHEREAS, the HOME-assisted activities described herein comply with the
3 objectives as required under 24 Code of Federal Regulations (“CFR”) Part 92 and are consistent
4 with the County’s Consolidated Plan.

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

8 1. PURPOSE. The aforementioned Recitals are true and correct and
9 incorporated herein by this reference. COUNTY has agreed to lend no more than a maximum
10 total amount of up to TWO HUNDRED EIGHTY-EIGHT THOUSAND THREE HUNDRED
11 AND SEVENTY THREE DOLLARS (\$288,373) in HOME funds (“HOME Loan”) to
12 BORROWER upon the satisfaction of the terms and conditions set forth herein, including but
13 not limited to the conditions precedent to distribution of HOME Loan funds set forth in **Section**
14 **11** below. Subject to **Sections 49** and **50** below, BORROWER shall undertake and complete the
15 HOME activities required herein and as set forth in **Exhibit A**, and shall utilize the HOME Loan
16 funds, as required herein and pursuant to the HOME Program. A total of 3 units consisting of
17 one 2-bedroom and two 1-bedroom units shall be reserved as HOME-Assisted Units. Once the
18 Project is completed, during the Affordability Period (as defined in **Section 14** below), the
19 HOME-Assisted Units shall be rented to and occupied by qualified very low- and low-income
20 households pursuant to 24 CFR Section 92.2 (“Qualified Household”) for an affordable rent
21 pursuant to 24 CFR Section 92.252, **Sections 18** and **19** below, **Exhibit A**, and the Covenant
22 Agreement attached hereto as **Exhibit G** and incorporated herein by this reference (“Affordable
23 Rent”). To remain a Qualified Household, such household shall occupy their respective unit
24 within the Project as their principal residence.

25 2. BORROWER’S OBLIGATIONS. Upon the commencement of the
26 Effective Date (defined in **Section 56** below), BORROWER shall undertake and complete the
27 following activities within the time periods set forth herein and in **Exhibit A**:

28 a. Satisfy the conditions precedent to distribution of HOME Loan funds

1 set forth in **Section 11** below.

- 2 b. Acquire fee title to the Property no later than the date set forth in
3 **Exhibit A**, including any County approved extensions thereto.
- 4 c. Develop the Project in accordance with the timeline set forth in **Exhibit**
5 **A**.
- 6 d. Operate the Project in such a manner so that it will remain affordable
7 to Qualified Households for the Affordability Period as defined in
8 **Section 14** herein without regard to (i) the term of the promissory note
9 or (ii) transfer of ownership.
- 10 e. Maintain the Project in compliance with applicable local, state, federal
11 laws, codes and regulations as further described in **Section 17** below
12 until the expiration of the Term of this Agreement set forth in **Section**
13 **6** below, and the Affordability Period set forth in **Section 14** below.
- 14 f. Provide the COUNTY the Data Universal Number as assigned by the
15 Data Universal Number System (DUNS) assigned to BORROWER as
16 required by the Federal Funding Accountability and Transparency Act
17 of 2006.
- 18 g. Cooperate with the Riverside County Work Force Development Center
19 (WDC) and post all jobs created, if any, as a result of this Project with
20 the WDC. Evidence of posted jobs, if any, shall be submitted to the
21 COUNTY prior to start of construction.

22 3. COUNTY'S OBLIGATIONS. COUNTY hereby agrees to undertake and
23 complete the following activities, subject to its receipt of HOME funds from U.S. Department
24 of Housing and Urban Development ("HUD") and Borrower's satisfactory completion of the
25 conditions precedent to disbursement of HOME funds set forth in this Agreement:

- 26 a. Provide the HOME Loan to Borrower in the amount identified in
27 **Section 1**, to be used to pay a portion of the acquisition costs and
28 HOME-eligible rehabilitation/construction costs for the Project

1 pursuant to the HOME Program.

- 2 b. Comply with all of its obligations as participating jurisdiction under
3 the applicable regulations set forth in 24 CFR Part 92.

4 4. HOME Loan. Subject to the satisfaction of the conditions precedent to
5 disbursement of the HOME Loan set forth in **Section 11** below, COUNTY shall provide
6 financing to Borrower in the form of a loan in the amount of the HOME Loan, pursuant to the
7 following terms and conditions:

- 8 a. Term of HOME Loan. . The maturity date of the HOME Loan shall be
9 the later to occur of (i) July 1, 2073 or (ii) fifty-five (55) years from the
10 recordation of the Notice of Completion in the Official Records for the
11 building for which rehabilitation is completed for the Project (the
12 “HOME Loan Term”). The term, “Official Records” used herein shall
13 mean the Official Records of the Recorder’s Office of the County of
14 Riverside.

- 15 b. Principal. The total amount of the HOME Loan shall not exceed
16 \$288,373, and shall be evidenced by a Promissory Note, substantially
17 conforming in form and substance to the Promissory Note attached
18 hereto as **Exhibit C** and incorporated herein by this reference (“HOME
19 Note”), which note shall be secured by a Deed of Trust and Assignment
20 of Rents, substantially conforming in form and substance to the Deed
21 of Trust and Assignment of Rents attached hereto as **Exhibit B** and
22 incorporated herein by this reference (“HOME Deed of Trust”).

- 23 c. Interest. The interest rate shall be zero percent (0%) simple interest per
24 annum.

- 25 d. Repayment. The terms of the HOME Note shall be as follows:

- 26 1. That the HOME Loan will accrue simple interest at a rate of
27 zero percent (0%) per annum, except in the case of an event of
28 default as hereinafter provided wherein a higher default interest

1 rate shall apply as more specifically set forth in the HOME
2 Note, and shall be repaid on an annual basis from the Project's
3 Residual Receipts (defined in **Section 4 (d)(4)** below). Interest
4 will begin to accrue 30 days from the recordation of the Notice
5 of Completion in the Official Records.

6 //

7 2. The HOME Note shall be repaid by BORROWER to COUNTY
8 as follows:

9 //

10 i) Fifty percent (50%) of the Project's Residual
11 Receipts shall be used towards the payment of the
12 HOME Loan, Such payment of fifty percent (50%)
13 of the Project's Residual Receipts to County shall
14 continue until the HOME Note is repaid in full; and

15 //

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

18 //

19 //

20 3. The Project's Residual Receipts shall be determined based on
21 an annual review of certified financial statements for the
22 Project. Annual audited financial statements shall be submitted
23 by BORROWER to COUNTY within one hundred twenty
24 (120) days following the close of the project fiscal year
25 commencing on April 1st of the first full calendar year
26 following the recordation of the Notice of Completion. All
27 outstanding principal along with accrued interest shall be due
28 upon the maturity date of the HOME Note and the expiration

1 of the HOME Loan Term as set forth in **Section 4(a)**. The first
2 payment from BORROWER to COUNTY shall be due on July
3 1st in the first full calendar year following the date of the
4 recordation of the Notice of Completion, to the extent of
5 available Residual Receipts, as set forth herein. Subsequent
6 payments shall be made on July 1st thereafter to the extent of
7 available Residual Receipts until the earlier of full repayment
8 of the HOME Loan or the HOME Loan maturity date as set
9 forth above.

10 4. The term "Project Residual Receipts" used herein shall mean
11 the gross rental income from all residential and non-residential
12 components of the Project, proceeds from loss of rent
13 insurance, and any other income to the Developer derived from
14 the ownership, operation and management of the Property
15 receipts, not including interest on required reserve accounts,
16 less the following operating expenses:

- 17 i) auditing and accounting fees;
- 18 ii) a reasonable property management fee not to exceed
19 \$55 per unit per month, increased annually by an
20 amount equal to the increase in the Consumer Price
21 Index for Los Angeles-Riverside-Orange County,
22 CA area ("CPI"), provided, however, that in the
23 event of a decrease in the CPI, the property
24 management fee shall remain the same as the
25 immediate preceding year;
- 26 iii) Operating Expenses (any expense reasonably and
27 normally incurred in carrying out the Project's day-
28 to-day activities, which shall include

- 1 administration, on-site management, utilities, on-
2 site staff payroll, payroll taxes, and maintenance);
3 iv) replacement reserves, established in a separate
4 account from operating reserves, limited to \$400 per
5 unit per year for all units in the Project, as defined
6 in **Exhibit A**, increased annually by an amount
7 equal to the increase in CPI;
8 v) Operating Reserves replenishment in an amount up
9 to \$25,000;
10 vi) payments of principal and interest on amortized
11 loans and indebtedness senior to the HOME Loan,
12 which have been approved by COUNTY
13 (collectively, the "Senior Debt"); and
14 vii) COUNTY's Annual Monitoring Fee in the total
15 annual amount of \$300, increased annually by an
16 amount equal to the increase of the Consumer Price
17 Index (CPI), as more specifically discussed in
18 **Section 29**.

19 The calculation of operating expenses shall be subject to the
20 reasonable approval of the Assistant County's Executive Officer/EDA or designee ("Assistant
21 CEO/EDA").

- 22 e. Security. The HOME Note shall be secured by the HOME Deed of Trust.
23 The HOME Deed of Trust and the terms of this Agreement shall be in third
24 priority junior to the Covenant Agreement and a Deed of Trust securing
25 the Provident Savings Bank loan or another mutually acceptable senior
26 lender as agreed to by the Parties in writing ("PSB" or the "Senior Loan").
27 f. Prepayment. Prepayment of principal and/or interest under the HOME
28 Note may occur at any time without penalty; provided, however (i) the

1 requirements of **Section 17**, Compliance with Laws and Regulations,
2 shall remain in full force and effect for the term of the Agreement
3 specified in **Section 6** below; and (ii) the affordability requirements set
4 forth in the Covenant Agreement, attached hereto as **Exhibit G**, shall
5 remain in effect until the expiration of the Affordability Period.

6 4. PRIOR COUNTY APPROVAL.

7 a. Except as otherwise expressly provided in this Agreement,
8 approvals required of the COUNTY shall be deemed granted by the written approval of the
9 Assistant CEO/EDA. Notwithstanding the foregoing, the Assistant CEO/EDA may, in his or her
10 sole discretion, refer to the governing body of the COUNTY any item requiring COUNTY
11 approval; otherwise, "COUNTY approval" means and refers to approval by the Assistant
12 CEO/EDA or designee.

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

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

21 7. BORROWER'S REPRESENTATIONS. BORROWER represents and
22 warrants to COUNTY as follows:

23 a. Authority. BORROWER is a duly organized nonprofit public
24 benefit corporation in good standing under the laws of the State of
25 California. The copies of the documents evidencing the
26 organization of BORROWER, which have been delivered to
27 COUNTY, are true and complete copies of the originals, amended
28 to the date of this Agreement. BORROWER has full right, power

1 and lawful authority to enter into this Agreement and accept the
2 loan of HOME Loan funds and undertake all obligations as
3 provided herein. The execution, performance and delivery of this
4 Agreement by BORROWER has been fully authorized by all
5 requisite actions on the part of BORROWER.

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

11 c. No Bankruptcy. BORROWER is not the subject of a bankruptcy
12 proceeding.

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

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

26 9. FORCE MAJEURE DELAYS. "Force Majeure" means event(s) beyond
27 the reasonable control of BORROWER, and which could not have been reasonably anticipated,
28 which prevent(s) BORROWER from complying with any of its obligations under this

1 Agreement, including, but not limited to: acts of God, acts of war, acts or threats of terrorism,
2 civil disorders, strikes, labor disputes, flood, fire, explosion, earthquake or other similar acts.

3 “Force Majeure Delay” is delay due to Force Majeure event that, in each case, (i)
4 materially adversely affects the performance by BORROWER of its obligations hereunder, (ii)
5 is not reasonably foreseeable and is beyond BORROWER's reasonable control, (iii) despite the
6 exercise of reasonable diligence, cannot be prevented, avoided or removed by BORROWER and
7 is not attributable to the negligence, willful misconduct or bad faith of BORROWER, and (iv) is
8 not the result of the failure of BORROWER to perform any of its obligations under this
9 Agreement. Notwithstanding the foregoing, a Force Majeure Delay shall not be deemed to have
10 occurred unless BORROWER has notified COUNTY in writing of such occurrence of a Force
11 Majeure event within fifteen (15) days after such occurrence and has provided COUNTY with
12 the details of such event and the length of the anticipated delay within an additional fifteen (15)
13 days thereafter. BORROWER shall diligently attempt to remove, resolve, or otherwise eliminate
14 such event, keep COUNTY advised with respect thereto, and shall commence performance of
15 its obligations hereunder immediately upon such removal, resolution or elimination. During the
16 occurrence and continuance of a Force Majeure Delay, BORROWER shall be excused from
17 performance of its obligations under this Agreement to the extent the Force Majeure event
18 prevents BORROWER from performing such obligations.

19 10. EXTENSION OF TIME. COUNTY may grant an extension to the
20 Implementation Schedule set forth in **Exhibit A** for the purpose of completing BORROWER's
21 activities which cannot be completed as outlined in **Exhibit A**. BORROWER shall request said
22 extension in writing, stating the reasons therefore, which extension must be first approved in
23 writing by the COUNTY in its reasonable discretion. The Assistant CEO/EDA or designee, on
24 behalf of the COUNTY and without referring such matter to the County's Board of Supervisor's
25 may extend all pending deadlines in the Implementation Schedule on two (2) or fewer occasions,
26 so long as the aggregate duration of such administrative time extensions is no greater than ninety
27 (90) days. Every term, condition, covenant, and requirement of this Agreement shall continue
28 in full force and effect during the period of any such extension.

11. CONDITIONS PRECEDENT TO DISTRIBUTION OF HOME LOAN

FUNDS. COUNTY, through its Economic Development Agency (“EDA”), shall: (1) make payments of the HOME Loan funds to BORROWER as designated in **Exhibit A** subject to Borrower’s satisfaction of the conditions precedent set forth below, and (2) monitor the Project to ensure compliance with applicable federal regulations and the terms of this Agreement. County shall not disburse any HOME Loan funds to BORROWER pursuant to this Agreement until the following conditions precedent have been satisfied:

- a. BORROWER executes this Agreement and delivers to COUNTY for recordation in the Official Records;
- b. Borrower submits written evidence to COUNTY that Borrower has obtained sufficient financing commitments necessary to undertake the acquisition and rehabilitation of the project as required herein;
- c. BORROWER provides COUNTY with the Data Universal Number as assigned by the Date Universal Number System assigned to Borrower as required by the Federal Accountability and Transparency Act of 2006;
- d. BORROWER provides COUNTY with evidence of insurance as required herein;
- e. BORROWER executes the HOME Deed of Trust, substantially conforming in form and substance to the Deed of Trust and Assignment of Rents attached hereto as **Exhibit B**, in recordable form, and delivers such document to the County of Riverside for recordation in the Official Records;
- f. BORROWER executes the HOME Note, substantially conforming in form and substance to the Promissory Note attached hereto as **Exhibit C** and delivers to COUNTY;
- g. BORROWER executes the Covenant Agreement, substantially conforming in form and substance to the Covenant Agreement attached

1 hereto as **Exhibit G** and incorporated herein by this reference, in
2 recordable form, and delivers to the County of Riverside for
3 recordation in the Official Records;

4 h. COUNTY executes and records the Request for Notice of Default
5 conforming in form and substance to **Exhibit H** attached hereto;

6 i. BORROWER provides, at its expense, an ALTA lender's policy in
7 favor of COUNTY, insuring the HOME Deed of Trust as a second
8 priority lien against the Property junior only to the Senior Loans
9 identified in **Section 4(e)**;

10 j. BORROWER provides satisfactory evidence that it has all the
11 financing documents required to cause the proceeds of the Senior Loan,
12 when combined with the HOME Loan, to pay for acquisition and
13 rehabilitation costs for the Project;

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

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

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

1 necessary for the construction of the Project and all such permits are
2 available for issuance, other than payment of fees;

3 n. BORROWER provides duly executed documents and instruments
4 evidencing that BORROWER owns fee title to the Property;

5 o. BORROWER provides satisfactory evidence that it has satisfied all
6 conditions precedent to the issuance of all permits necessary for the
7 rehabilitation of the development and all such permits are available for
8 issuance, other than payment of fees;

9 p. If Davis Bacon and/or prevailing wages are required to be paid,
10 BORROWER hires a qualified professional firm to review and monitor
11 Davis Bacon and/or prevailing wage compliance for all submissions of
12 contractors certified payrolls to COUNTY. In the event that the Project
13 requires prevailing wages, BORROWER shall comply with any
14 applicable labor regulations and all other State laws in connection with
15 the construction of the improvements which compromise the Project,
16 including if applicable, requirements relating to prevailing wages.
17 BORROWER agrees and acknowledges that it is the responsibility of
18 BORROWER to obtain legal determination, at BORROWER's sole
19 cost and expense, as to whether prevailing wages must be paid during
20 the construction of the Project. If the Project is subject to prevailing
21 wage, then BORROWER shall be solely responsible to pay its
22 contractors and subcontractors the required prevailing wage rates.
23 BORROWER agrees to indemnify, defend, and hold COUNTY
24 harmless from and against any and all liability arising out of and related
25 to BORROWER's failure to comply with any and all applicable Davis
26 Bacon and/or prevailing wage requirements;

27 q. Pursuant to 24 CFR Part 5, BORROWER agrees to verify that
28 BORROWER, and its principals, or any/all persons, contractors,

1 consultants, businesses, etc. (“Developer Associates”), that
2 BORROWER is conducting business with, are not presently debarred,
3 proposed for debarment, suspended, declared ineligible, or voluntarily
4 excluded from participation or from receiving federal contracts or
5 federally approved subcontracts or from certain types of federal
6 financial and nonfinancial assistance and benefits with the Excluded
7 Parties Listing System (“EPLS”). EPLS records are located at
8 www.sam.gov; and

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

15 COUNTY shall retain ten percent (10%) of the total HOME Loan amount and not
16 release final draw down of HOME funds until COUNTY receives all of the following:

- 17 1) Conditional lien release from general contractor;
- 18 2) recorded Notice of Completion;
- 19 3) Permanent Certificate of Occupancy;
- 20 4) architect certification identifying units that are accessible to
21 individuals with mobility impairments and units that are
22 accessible to individuals with sensory impairments in
23 compliance with Section 504 of the Rehabilitation Act of
24 1973, as described in **Section 17(i)**;
- 25 5) final Contract and Subcontract Activity report, Minority
26 Business Enterprise/Women Business Enterprise
27 (“MBE/WBE”) report, HUD form 2516;
- 28 6) submission of documentation that shows compliance with

1 the Uniform Relocation Assistance and Real Property
2 Acquisition Policies Act of 1970 and 24 CFR Part 42;

3 7) submission of a Project completion report including Tenant
4 Checklist as shown in **Exhibit F** which is attached hereto
5 and by this reference incorporated herein;

6 8) Affirmative Fair Housing Marketing Plan – Multifamily
7 Housing, HUD form 935.2A, as described in **Section 17(c)**;

8 9) Tenant Selection Policy;

9 10) Management Plan;

10 11) Certified statement of final development costs; and

11 12) Certified statement of final sources and uses of funds for the
12 project.

13 Provided Borrower has executed this Agreement and this Agreement has been recorded
14 in the Official Records, BORROWER shall be permitted to draw down no more than Five
15 Thousand (\$5,000) Dollars in HOME Loan funds for eligible soft costs incurred for the Project
16 prior to satisfaction of the remaining conditions precedent to distribution of the HOME Loan
17 funds set forth in this **Section 11** above. Should the Project be cancelled, all funds drawn down
18 shall be paid back by BORROWER to COUNTY within thirty (30) calendar days after receiving
19 a request for repayment from the COUNTY.

20 12. REALLOCATION OF FUNDS. If Borrower fails to meet (1) the acquisition
21 deadline set forth in the Implementation Schedule in **Exhibit A**, (2) the Construction Start
22 Deadline as set forth in **Section 49(b)**; (3) the Completion Deadline as set forth in **Section 49(c)**;
23 (4) the Lease Deadline as set forth in **Section 19(a)**, or (5) the Project Financing Contingency in
24 **Section 50**, (collectively, the “Performance Deadlines”), subject to the notice and cure periods
25 as set forth in **Section 32** herein, then the HOME Loan funds allocated, reserved, or placed in a
26 HOME Investment Trust Fund account pursuant to this Agreement may be reallocated by
27 COUNTY after at least thirty (30) days’ prior written notice is given to BORROWER. Upon
28 such reallocation and repayment of funds, this Agreement shall be terminated and be of no

1 further force and effect and Borrower shall be released and discharged from any obligations
2 under this Agreement, except as to those obligations which by their terms survive termination of
3 this Agreement.

4 12a.) CHDO DESIGNATION. Pursuant to 24 CFR Section 92.300 (a),
5 County as a participating jurisdiction has reserved not less than 15 percent
6 of its HOME allocation for investment only in housing to be owned,
7 developed or sponsored by community housing development organizations
8 (“Set Aside”). The HOME Loan is derived from the Set-Aside. The Set-
9 Aside shall be used by BORROWER in accordance with this Agreement
10 and the HOME Program, including, but not limited to 24 CFR Sections
11 92.300 through 92.303. BORROWER acknowledges and agrees that the
12 HOME CHDO Set Aside funds provided by County for this Project
13 pursuant to this Agreement must be allocated only for housing developed,
14 sponsored or owned by a CHDO, its subsidiary or partnership of which it
15 or its subsidiary is the managing general partner. Borrower represents that
16 since BORROWER is the sole owner and manager of the Project, it is
17 eligible to receive HOME funds and conduct activities pursuant to this
18 Agreement. Any proposed sale, assignment or other transfer of the Project
19 shall be subject to the provisions set forth in **Section 23**, Sale or Transfer
20 of the Project, herein and 24 CFR Part 92.

21 13. DISTRIBUTION OF FUNDS. The HOME Investment Trust Fund account
22 established in the United States Treasury is managed through HUD, Integrated Disbursement
23 and Information System (IDIS) for the HOME Investment Partnerships Program. The IDIS
24 System is a computerized system which manages, disburses, collects, and reports information on
25 the use of HOME funds in the United States Treasury Account. Disbursement of HOME funds
26 shall occur upon the satisfactory receipt of copies of invoices and conditional (upon receipt of
27 payment) lien releases for construction costs to be paid with the proceeds of the HOME Loan.
28 Any disbursement of funds is expressly conditioned upon the satisfaction of conditions set forth

1 in **Section 11**. COUNTY shall pay to BORROWER the sum specified in **Section 1** above on a
2 "cost-as-incurred" basis for all eligible approved costs under itemized schedule shown in
3 **Exhibit A** as follows:

- 4 a. Up to \$20,000 will be reimbursed for acquisition of the Property
5 upon close of escrow as described in **Exhibit A**.
- 6 b. Up to fifty percent (50%) of the HOME Loan upon fifty percent
7 (50%) completion of Project, as certified and documented by the
8 project architect/engineer.
- 9 c. Up to ninety percent (90%) of the HOME Loan upon fifty-one
10 percent (51%) completion of Project, as certified and documented
11 by the project architect/engineer.
- 12 d. COUNTY shall release final draw down of ten percent (10%) of
13 the HOME Loan, including deferred developer fee (should the
14 Project have unexpended HOME funds) following receipt of all of
15 the items listed in **Section 11**.

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

22 15. INSURANCE. Without limiting or diminishing BORROWER'S
23 obligation to indemnify or hold COUNTY harmless, BORROWER shall procure and maintain
24 or cause to be maintained, at its sole cost and expense, the following insurance coverages during
25 the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers
26 to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their
27 respective directors, officers, Board of Supervisors, employees, elected or appointed officials,
28 agents or representatives as Additional Insureds.

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

1 b. Worker's Compensation Insurance.

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

11 c. Commercial General Liability Insurance.

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

26 d. Vehicle Liability Insurance.

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

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

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18 [INSURANCE REQUIREMENTS CONTINUED ON FOLLOWING PAGE]
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e. General Insurance Provisions – All Lines.

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

2) BORROWER must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retentions shall have the prior written consent of the COUNTY Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the COUNTY's Risk Manager, BORROWER's carriers shall either: (1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or (2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) BORROWER shall cause BORROWER's insurance carrier(s) to furnish the County of Riverside with either 1) copies of the Certificate(s) of Insurance and Endorsements effecting coverage as required herein, or 2) if requested to do so orally or in writing by COUNTY Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments

1 thereto, showing such insurance is in full force and effect. Further,
2 said Certificate(s) and policies of insurance shall contain the
3 covenant of the insurance carrier(s) that a minimum of thirty (30)
4 days written notice shall be given to the County of Riverside prior
5 to any material modification, cancellation, expiration or reduction
6 in coverage of such insurance. If BORROWER insurance carrier(s)
7 policies does not meet the minimum notice requirement found
8 herein, BORROWER shall cause BORROWER'S insurance
9 carrier(s) to furnish a 30 day Notice of Cancellation Endorsement.

10 4) In the event of a material modification, cancellation,
11 expiration, or reduction in coverage, this Agreement shall terminate
12 forthwith, unless the County of Riverside receives, prior to such
13 effective date, another Certificate of Insurance and copies of
14 endorsements, including all endorsements and attachments thereto
15 evidencing coverage's set forth herein and the insurance required
16 herein is in full force and effect. BORROWER shall not commence
17 operations until COUNTY has been furnished Certificate(s) of
18 Insurance and copies of endorsements and if requested, copies of
19 policies of insurance including all endorsements and any and all
20 other attachments as required in this Section. An individual
21 authorized by the insurance carrier to do so on its behalf shall sign
22 the original endorsements for each policy and the Certificate of
23 Insurance.

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

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

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

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

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

21 16. FINANCIAL AND PROJECT RECORDS. BORROWER shall maintain
22 financial, programmatic, statistical, and other supporting records of its operations and financial
23 activities in accordance with the requirements of the 2013 HOME Investment Partnerships
24 Program Final Rule, and the regulations as amended and promulgated thereunder, which records
25 shall be open to inspection and audit by authorized representatives of COUNTY, HUD, and the
26 Comptroller General of the United States during regular working hours. COUNTY, HUD, and
27 the Comptroller General, or any of their representatives, have the right of access with at least
28 forty-eight (48) hours prior notice, to any pertinent books, documents, papers, or other records

1 of BORROWER, in order to make audits, examinations, excerpts, and transcripts. Said records
2 shall be retained for such time as may be required by the regulations of the HOME Program, but
3 in no event no less than five (5) years after the Project completion date as evidenced by
4 recordation of the Notice of Completion; except that records of individual tenant income
5 verifications, project rents, and project inspections must be retained for the most recent five (5)
6 year period, until five (5) years after the Affordability Period terminates. If any litigation, claim,
7 negotiation, audit, or other action has been started before the expiration of the regular period
8 specified, the records must be retained until completion of the action and resolution of all issues
9 which arise from it, or until the end of the regular period, whichever is later.

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

15 a. HOME Program and its implementing regulations set forth in
16 pursuant to Title III of Division B of the Housing and Economic
17 Recovery Act of 2008, as amended, Public Law 110-289 (“Act”)
18 and Federal Register Notice, Vol. 73, No. 194, Docket No. FR-
19 5255-N-01, dated October 6, 2008, as amended. Since HOME is
20 a component of the Community Development Block Grant
21 (CDBG) Program, the CDBG regulatory structure is the platform
22 used to implement HOME. The regulations created by the Office
23 of the Assistant Secretary of Community Planning and
24 Development that pertain to Community Development programs
25 are contained within 24 CFR part 570 - Community Development
26 Block Grants. HOME is governed by CDBG regulations except
27 where specifically waived.

28 b. 24 CFR Section 92.350 Other Federal requirements and

1 nondiscrimination. As set forth in 24 CFR Part 5, Subpart A,
2 BORROWER is required to include the following requirements:
3 nondiscrimination and equal opportunity under Section 282 of the
4 Act; disclosure; debarred, suspended, or ineligible contractors; and
5 drug-free workplace.

6 c. 24 CFR Section 92.351 Affirmative marketing and minority
7 outreach program. BORROWER must adopt affirmative
8 marketing procedures and requirements which shall include the
9 following:

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

1 (5) A description of how BORROWER will annually assess the
2 success of affirmative marketing actions and what
3 corrective actions will be taken where affirmative
4 marketing requirements are not met.

5 (6) BORROWER must prescribe procedures to establish and
6 oversee a minority outreach program to ensure the
7 inclusion, to the maximum extent possible, of minorities
8 and women, and entities owned by minorities and women,
9 including, without limitation, real estate firms, construction
10 firms, appraisal firms, management firms, financial
11 institutions, investment banking firms, underwriters,
12 accountants, and providers of legal services, in all contracts
13 entered into by BORROWER with such persons or entities,
14 public and private, in order to facilitate the activities of
15 COUNTY to provide affordable housing authorized under
16 this Act or any other Federal housing law. 2 CFR Section
17 200.321 provides affirmative steps to assure that minority
18 business enterprises and women business enterprises are
19 used when possible in the procurement of property and
20 services. The steps include:

- 21 (i) Placing qualified small and minority businesses and
22 women's business enterprises on solicitation lists;
23 (ii) Assuring that small and minority businesses, and
24 women's business enterprises are solicited
25 whenever they are potential sources;
26 (iii) Dividing total requirements, when economically
27 feasible, into smaller tasks or quantities to permit
28 maximum participation by small and minority

1 business, and women's business enterprises;

2 (iv) Establishing delivery schedules, where the
3 requirement permits, which encourage participation
4 by small and minority business, and women's
5 business enterprises;

6 (v) Using the services and assistance of the Small
7 Business Administration, and the Minority Business
8 Development Agency of the Department of
9 Commerce; and

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

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

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

27 f. 24 CFR Section 92.354 Lead-based paint. Housing assisted with
28 HOME funds is subject to the lead-based paint requirements of 24

1 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning
2 Prevention Act (42 U.S.C. 4821, et seq.). The lead-based paint
3 provisions of 24 CFR 982.401 (j), except 24 CFR 982.401 (j)(1)(i),
4 also apply, irrespective of the applicable property standard under
5 §92.251.

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

17 h. 24 CFR Section 92.356 Conflict of Interest. In the procurement of
18 property and services by BORROWER, the conflict of interest
19 provisions in 2 CFR Section 200.317 and 2 CFR Section 200.318,
20 respectively shall apply. Section 92.356 shall cover all cases not
21 governed by 2 CFR Section 200.317 and 2 CFR Section 200.318.

22 i. Section 504 of the Rehabilitation Act of 1973. Housing
23 accessibility requirement at 24 CFR Part 8, implementing Section
24 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). The design
25 and construction of multi-family dwellings as defined at 24 CFR
26 100.201 must comply with the requirements set forth in 24 CFR
27 100.205 implementing the Fair Housing Act. Dwelling units must
28 be designed and constructed in accordance with the Uniform

1 Federal Accessibility Standards (UFAS) will be deemed to comply
2 with the Section 504 regulation.

3 (1) 24 CFR Section 8.22 New construction—housing
4 facilities. For new construction of multi-family
5 projects, 5 percent (5%) of the units (but not less
6 than one unit) must be accessible to individuals with
7 mobility impairments, and an additional 2 percent
8 (2%) of the units (but not less than one unit) must
9 be accessible to individuals with sensory
10 impairments.

11 (2) 24 CFR Section 8.23 Alterations of existing housing
12 facilities. If alterations are undertaken to a project
13 that has 15 or more units and the cost of the
14 alterations is 75 percent or more of the replacement
15 cost of the completed facility, then the provisions of
16 24 CFR Section 8.22 shall apply. Alterations to
17 dwelling units in a multifamily housing project
18 shall, to the maximum extent feasible, be made to
19 be readily accessible to and usable by individuals
20 with handicaps. If alterations of single elements or
21 spaces of a dwelling unit, when considered together,
22 amount to an alteration of a dwelling unit, the entire
23 dwelling unit shall be made accessible. Once 5
24 percent (5%) of the dwelling units in a project are
25 readily accessible to and usable by individuals with
26 mobility impairments, then no additional elements
27 of dwelling units, or entire dwelling units, are
28 required to be accessible under this paragraph.

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

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

14 k. Section 3 of the Housing and Urban Development Act of 1968. To
15 the greatest extent feasible, opportunities for training and
16 employment arising from HOME funds will be provided to low-
17 income persons residing in the program service area. To the
18 greatest extent feasible, contracts for work to be performed in
19 connection with HOME funds will be awarded to business
20 concerns that are located in or owned by persons residing in the
21 program service area as outlined in the Riverside County EDA
22 Section 3 Contract Requirements attached hereto as **Exhibit D.**
23 Contracts funded from Section 3 covered funding sources must
24 abide by the Section 3 Clause prescribed at 24 CFR 135.38. All
25 contracts subject to the requirements of Section 3 must include the
26 Section 3 Clause verbatim that is contained at 24 CFR 135.38
27 attached hereto as **Exhibit D-2** and incorporated herein by this
28 reference.

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

11 m. 24 CFR Section 92.358 Consultant Activities. No person providing
12 consultant services in an employer-employee type relationship
13 shall receive more than a reasonable rate of compensation for
14 personal services paid with HOME funds.

15 n. BORROWER shall carry out its activity pursuant to this
16 Agreement in compliance with all federal laws and regulations
17 described in 24 CFR Part 92 Subpart E (Program Requirements),
18 except that:

19 (1) BORROWER does not assume COUNTY'S environmental
20 responsibilities described at 24 CFR Section 92.352; and

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

24 o. Uniform Administrative Requirements of 24 CFR 92.505 and 24
25 CFR Part 200 as now in effect and as may be amended from time
26 to time. 24 CFR Part 84 and 2 CFR Part 200 "Common Rule",
27 OMB Circular Nos. A-87 (for government entities), A-122 (for
28 non-profit organizations), and 2 CFR Part 200 et seq. Federal

1 awards expended as a recipient or a subrecipient, as defined by
2 HUD, would be subject to single audit. The payments received for
3 goods or services provided as a vendor would not be considered
4 Federal awards.

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

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

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

21 18. INCOME TARGETING REQUIREMENTS. BORROWER shall set aside
22 three (3) units to be designated as HOME-Assisted Units consisting of one 2-bedroom and two
23 1-bedroom units. One 1-bedroom unit shall be occupied and rented to households whose incomes
24 do not exceed fifty percent (50%) of the area median income for the County of Riverside,
25 adjusted by family size at the time of occupancy, as periodically published by HUD, and the
26 remaining 1-bedroom unit and 2-bedroom unit shall be rented to households whose incomes do
27 not exceed sixty percent (60%) of the area median income for the County of Riverside, adjusted
28 for family size appropriate to the unit, as periodically published by HUD. HUD HOME income

1 limits as of April 11, 2017 are attached hereto as **Exhibit J** and incorporated herein by this
2 reference.

3 19. RENT LIMITATIONS. BORROWER shall comply with the rent
4 limitations set forth under 24 CFR Section 92.252 of the HOME Investment Partnerships Act
5 and HOME program, which was enacted under Title II of the Cranston-Gonzalez National
6 Affordable Housing Act (the "Act"), as amended (commencing at 42 U.S.C. 12701 et seq.), and
7 the implementing regulations thereto (24 CFR Part 92) (collectively, the "HOME Program").
8 One 1-bedroom unit will be designated as a Low HOME rent unit and the remaining 1-bedroom
9 unit and 2-bedroom unit will be designated as High HOME rent units as such term is defined by
10 the HOME Program. BORROWER shall ensure that the HOME-Assisted Units are rented to
11 Qualified Households at the HOME rent levels, adjusted for family size appropriate to the unit
12 at the time of occupancy as periodically published by HUD. HUD HOME rent limits as of April
13 11, 2017 are attached in **Exhibit J**. The maximum monthly allowances for utilities and services
14 (excluding telephone) shall not exceed the utility allowance as described in Subsection 19.c.
15 below.

16 a. Initial Occupancy of Vacant Units: All three (3) HOME-Assisted
17 Units consisting of one 2-bedroom unit and two 1-bedroom units shall be occupied by and rented
18 to Qualified Households for an affordable rent within four (4) months from the recordation of
19 the Notice of Completion in the Official Records ("Lease Deadline") for the rehabilitated
20 building of the Project. If a COUNTY HOME-Assisted Unit remains unoccupied or not leased
21 to an eligible tenant, BORROWER must provide to COUNTY information about current
22 marketing efforts and an enhanced plan for marketing the unit so that it is leased promptly.

23 Within twelve (12) months from the Lease Deadline, if a HOME-
24 Assisted Unit remains unoccupied or not leased to a Qualified Household, then
25 BORROWER shall repay HOME funds to COUNTY for any HOME-Assisted Unit
26 that is not rented to a Qualified Household. BORROWER may request from COUNTY an
27 extension of the Lease Deadline, as set forth in the Implementation Schedule attached to this
28 Agreement, if BORROWER can provide to COUNTY written evidence showing efforts of



1 aggressive marketing efforts and proof that the circumstances that led to the failure to lease the
2 HOME-Assisted Unit(s) by the Lease Deadline were beyond the BORROWER's control. The
3 extension and duration of such extension is subject to COUNTY's approval in its discretion and
4 not guaranteed. The Assistant County Executive Officer/EDA, or designee, has the authority, at
5 his or her discretion, to consent to an extension of the Lease Deadline.

6 The amount of HOME funds to be repaid is based on the HOME Loan, defined in
7 **Section 1**, prorated by the number of COUNTY HOME-Assisted Units that are or are not rented
8 to Qualified Households. If all COUNTY HOME-Assisted Units are not rented to Qualified
9 Households, then COUNTY and BORROWER mutually agree that this Agreement will self-
10 terminate and any HOME Loan funds drawn down by BORROWER shall be returned to
11 COUNTY within thirty (30) calendar days. Upon such termination, this Agreement shall become
12 null and void. COUNTY and BORROWER shall be released and discharged respectively from
13 their obligations under this Agreement and all costs incurred by each party on the Project will be
14 assumed respectively.

15 b. HOME Rent Limitations: Effective April 11, 2017, HUD
16 published HOME Rent Limits for the County of Riverside. The Low HOME rent limit for a 1-
17 bedroom unit is \$628 and the High HOME rent limit is \$859 for a 1-bedroom unit and \$1033 for
18 a 2-bedroom unit, as more specifically set forth in **Exhibit J** attached hereto and incorporated
19 herein by this reference. In order to calculate net rent to be charged, an applicable utility
20 allowance must be subtracted from the gross rents listed.

21 c. Utility Allowances: The BORROWER shall use the HUD Utility
22 Schedule Model ("HUSM") to establish maximum monthly allowances for utilities and services
23 to be used by the BORROWER in calculating Rents. The HUSM and use instructions can be
24 found at:

25 <https://www.huduser.gov/portal/resources/utilallowance.html>.

26 d. Approval: The BORROWER shall submit to the COUNTY for
27 review and written approval, proposed rents for all of the HOME-Assisted Units prior to lease-
28 up. Low HOME rent limitations for COUNTY HOME-Assisted units shall be as set forth under

1 24 CFR 92.252 and such units shall be rented and occupied by income qualified applicants at the
2 HOME rent levels for the County of Riverside, which are published periodically by HUD. If
3 during the re-certification process a household income falls between 51% and 60% area median
4 income then the High HOME rent limit shall apply. If during the recertification process a
5 household income falls above 80% of the area median income then household shall pay the lesser
6 of 30% of the adjusted income or market rent.

7 20. TENANT PROTECTIONS. During the Affordability Period,
8 BORROWER shall adhere to the tenant protections and selection standard set forth in 24 CFR
9 92.253, as may be amended from time to time, and the following requirements:

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

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

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

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

1 accordance with State law.

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

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

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

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

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

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

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

28 c. Violence Against Women Reauthorization Act of 2013. (Pub. L. 113-

1 4, 127 Stat. 54) (“VAWA 2013”). VAWA 2013 reauthorizes and
2 amends the Violence Against Women Act of 1994, as previously
3 amended, (title IV, sec. 40001–40703 of Pub. L. 103–322, 42 U.S.C.
4 13925 et seq.) VAWA 2013, among other things, bars eviction and
5 termination due to a tenant’s status as a victim of domestic violence,
6 dating violence, or stalking, and requires landlords to maintain
7 survivor-tenant confidentiality. VAWA 2013 prohibits a tenant who
8 is a survivor of domestic violence, dating violence, sexual assault, and
9 stalking from being denied assistance, tenancy, or occupancy rights
10 based solely on criminal activity related to an act of violence
11 committed against them. It extends housing protections to survivors
12 of sexual assault, and adds “intimate partner” to the list of eligible
13 relationships in the domestic violence definition. Protections also now
14 cover an “affiliated individual,” which includes any lawful occupant
15 living in the survivor’s household, or related to the survivor by blood
16 or marriage including the survivor’s spouse, parent, brother, sister,
17 child, or any person to whom the survivor stands in loco parentis.
18 VAWA 2013 allows a lease bifurcation so a tenant or lawful occupant
19 who engages in criminal activity directly relating to domestic
20 violence, dating violence, sexual assault, or stalking against an
21 affiliated individual or other individual, or others may be evicted or
22 removed without evicting or removing or otherwise penalizing a
23 victim who is a tenant or lawful occupant. If victim cannot establish
24 eligibility, BORROWER must give a reasonable amount of time to
25 find new housing or establish eligibility under another covered
26 housing program. A Notice of Rights under VAWA 2013 for tenants
27 must be provided at the time a person applies for housing, when a
28 person is admitted as a tenant of a housing unit, and when a tenant is

1 threatened with eviction or termination of housing benefits. Tenants
2 must request an emergency transfer and reasonably believe that they
3 are threatened with imminent harm from further violence if the tenant
4 remains in the same unit. The provisions of VAWA 2013 that are
5 applicable to HUD programs are found in title VI of VAWA 2013,
6 which is entitled "Safe Homes for Victims of Domestic Violence,
7 Dating Violence, Sexual Assault, and Stalking." Section 601 of
8 VAWA 2013 amends subtitle N of VAWA (42 U.S.C. 14043e et seq.)
9 to add a new chapter entitled "Housing Rights."

10 21. FEDERAL REQUIREMENTS. BORROWER shall comply with the
11 provisions of the HOME Program and any amendments thereto and all applicable federal
12 regulations and guidelines now or hereafter enacted pursuant to the Act.

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

16 23. SALE, ASSIGNMENT OR OTHER TRANSFER OF THE PROJECT.
17 BORROWER hereby covenants and agrees not to sell, assign, transfer or otherwise dispose of
18 the Project or any portion thereof, without obtaining the prior written consent of the COUNTY,
19 which consent shall be conditioned upon (a) a County determination that transferee is a CHDO
20 or is otherwise eligible as a wholly-owned subsidiary or partnership of a CHDO and determined
21 by County to be HUD-eligible to receive an allocation of CHDO HOME Set Aside funds
22 pursuant to the requirements set forth in 24 CFR Section 92.300(a) and (b) solely upon receipt
23 by the COUNTY of reasonable evidence satisfactory to the COUNTY in its sole discretion, that
24 transferee has assumed in writing all of BORROWER'S duties and obligations under this
25 Agreement, and is reasonably capable of performing and complying with the BORROWER's
26 duties and obligations under this Agreement , provided, however Borrower shall not be released
27 of all obligations hereunder which accrue from and after the date of such sale. Notwithstanding
28 anything to the contrary contained herein, upon written notice to COUNTY, BORROWER may

1 (i) lease for occupancy of all or any of the HOME-Assisted Units; and (ii) the granting of
2 easements or permits to facilitate the development of the Property in accordance with this
3 Agreement (collectively a “Permitted Transfer”).

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

8 25. NONDISCRIMINATION. Borrower shall abide by 24 CFR Section
9 570.602 which requires that no person in the United States shall on the grounds of race, color,
10 national origin, religion, or sex be excluded from participation in, be denied the benefits of, or
11 be subjected to discrimination under any program or activity receiving Federal financial
12 assistance made available pursuant to the Act. Under the Act, Section 109 directs that the
13 prohibitions against discrimination on the basis of age under the Age Discrimination Act and the
14 prohibitions against discrimination on the basis of disability under Section 504 shall apply to
15 programs or activities receiving Federal financial assistance under Title I programs. The policies
16 and procedures necessary to ensure enforcement of Section 109 are codified in 24 CFR Part 6.
17 In addition, BORROWER shall not discriminate on the basis of race, gender, religion, national
18 origin, ethnicity, sexual orientation, age or disability in the solicitation, selection, hiring or
19 treatment of any contractors or consultants, to participate in subcontracting/subconsulting
20 opportunities. BORROWER understands and agrees that violation of this clause shall be
21 considered a material breach of this Lease and may result in termination, debarment or other
22 sanctions. This language shall be incorporated into all contracts between BORROWER and any
23 contractor, consultant, subcontractor, subconsultants, vendors and suppliers. BORROWER shall
24 comply with the provisions of the California Fair Employment and Housing Act (Government
25 Code Sections 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended,
26 and all Administrative Rules and Regulations issued pursuant to said Acts and Orders with
27 respect to its use of the Property.

28

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

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

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

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

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

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

27 26. PROHIBITION AGAINST CONFLICTS OF INTEREST:

28 a. BORROWER and its assigns, employees, agents, consultants, officers

1 and elected and appointed officials shall become familiar with and shall
2 comply with the conflict of interest provisions in OMB Circular A-110,
3 2 CFR Part 200, 24 CFR Section 92.356 and Policy Manual #A-11,
4 attached hereto as **Exhibit E** and by this reference incorporated herein.

5 b. BORROWER understands and agrees that no waiver or exception can
6 be granted to the prohibition against conflict of interest except upon
7 written approval of HUD pursuant to 24 CFR Section 92.356(d). Any
8 request by BORROWER for an exception shall first be reviewed by
9 COUNTY to determine whether such request is appropriate for
10 submission to HUD. In determining whether such request is
11 appropriate for submission to HUD, COUNTY will consider the
12 factors listed in 24 CFR Section 92.356(e).

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

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

25 27. RELIGIOUS ACTIVITIES. Under federal regulations, 24 CFR Section
26 92.257 HOME funds may not be provided to primarily religious organizations, such as churches,
27 for any activity including secular activities. In addition, HOME funds may not be used to
28 rehabilitate or construct housing owned by primarily religious organizations or to assist primarily

1 religious organizations in acquiring housing. However, HOME funds may be used by a secular
2 entity to acquire housing from a primarily religious organization, and a primarily religious entity
3 may transfer title to property to a wholly secular entity and the entity may participate in the
4 HOME program in accordance with the requirements set forth at 24 CFR Section 92.257. The
5 entity may be an existing or newly established entity, which may be an entity established by the
6 religious organization. The completed housing project must be used exclusively by the
7 BORROWER/participant entity for secular purposes, available to all persons regardless of
8 religion. In particular, there must be no religious or membership criteria for tenants of the
9 property.

10 28. PROJECT MONITORING AND EVALUATION.

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

25 b. Inspections. Pursuant to 24 CFR Section 92.504(d)(ii), during the
26 Affordability Period, COUNTY must perform on-site inspections of COUNTY HOME-assisted
27 rental housing to determine compliance with the property standards of 24 CFR Section 92.251
28 and to verify the information submitted by the owners in accordance with the requirements of 24

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

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

26 29. MONITORING FEE. BORROWER shall pay an annual compliance
27 monitoring fee to the COUNTY in the total annual amount of \$300 ("Monitoring Fee"). The
28 first Monitoring Fee payment is due on July 1st of each year for the monitoring period of July 1st

1 to June 30th commencing July 1, 2019. The Monitoring Fee will be due on July 1st thereafter
2 and will continue until the expiration of the Affordability Period. The Monitoring Fee is to be
3 adjusted upwards annually, increased by an amount equal to the increase in CPI for the Los
4 Angeles-Riverside-Orange County, CA area. In the event of a decrease in the applicable CPI,
5 the Monitoring Fee currently in effect shall remain the same and shall not decrease.

6 30. ACCESS TO PROJECT SITE. COUNTY and HUD shall have the right
7 to access the Project site and the Property at all reasonable times, and upon completion of the
8 Project upon reasonable written notice to BORROWER, to review the operation of the Project
9 in accordance with this Agreement.

10 31. EVENTS OF DEFAULT. The occurrence of any of the following events
11 shall constitute an "Event of Default" under this Agreement:

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

23 b. Non-Monetary Default. (1) Discrimination by BORROWER or
24 BORROWER's agent(s) on the basis of characteristics prohibited
25 by this Agreement or applicable law; (2) the imposition of any
26 encumbrances or liens on the Project without COUNTY's prior
27 written approval that are prohibited under this Agreement or that
28 have the effect of reducing the priority or invalidating the lien of

1 the HOME Deed of Trust; (3) BORROWER's failure to obtain and
2 maintain the insurance coverage required under this Agreement; (4)
3 any material default under this Agreement the HOME Loan Deed
4 of Trust, Covenant Agreement, HOME Note or any document
5 executed by the County in connection with this Agreement, and /or
6 (5) a default under the terms of any Senior Loan documents or any
7 other instrument or document secured against the Property or the
8 Project;

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

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

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

28 f. Damage to Project. In the event that the Project is materially

1 damaged or destroyed by fire or other casualty, and BORROWER
2 receives an award or insurance proceeds sufficient for the repair or
3 reconstruction of the Project, and BORROWER does not use such
4 award or proceeds to repair or reconstruct the Project.

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

17 32. NOTICE OF DEFAULT AND OPPORTUNITY TO CURE. Formal
18 notices, demands and communications between the COUNTY and the BORROWER shall be
19 sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt
20 requested, to the principal offices of the COUNTY and the BORROWER, as designated below.
21 Such written notices, demands and communications may be sent in the same manner to such
22 other addresses as either party may from time to time designate by mail as provided in this
23 **Section 32.** Any notice that is transmitted by electronic facsimile transmission followed by
24 delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice that is
25 personally delivered (including by means of professional messenger service, courier service
26 such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed
27 received on the documented date of receipt by the recipient; and any notice that is sent by
28 registered or certified mail, postage prepaid, return receipt required shall be deemed received

1 on the date of delivery thereof.

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

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

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

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

1 become materially jeopardized by any failure to cure a default or the default is not cured within
2 sixty (60) days after the first notice of default is given.

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

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

1 rents and other amounts specified in the assignment of rents in the
2 Deed of Trust and apply them to operate the Project or to pay off the
3 HOME Loan or any advances made under this Agreement, as
4 provided for by the HOME Deed of Trust.

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

6 34. RESERVED.

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

17 36. BORROWER'S CERTIFICATION. BORROWER certifies, to the best of
18 its knowledge and belief, that:

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

28 b. If any funds other than federally appropriated funds have been paid or

1 will be paid to any person for influencing or attempting to influence an
2 officer or employee of any agency, a member of Congress, an officer or
3 employee of Congress, or an employee of a member of Congress in
4 connection with this federal contract, grant, loan, or cooperative
5 agreement, the undersigned shall complete and submit Standard Form-
6 LLL, "Disclosure Form to Report Lobbying," in accordance with its
7 instructions.

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

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

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

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

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

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

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

18 38. TERMINATION.

19 a. BORROWER. BORROWER may terminate this Agreement prior to
20 disbursement of any HOME Loan funds by COUNTY in accordance with the applicable HOME
21 Program regulations, and 2 CFR Section 200.339.

22 b. COUNTY. Notwithstanding the provisions of **Section 38(a)**, COUNTY
23 may suspend or terminate this Agreement upon written notice to BORROWER of the action being
24 taken and the reason for such action in the event one of the following events occur:

- 25 (1) In the event BORROWER fails to perform the covenants
26 herein contained at such times and in such manner as
27 provided in this Agreement after the applicable notice and
28 cure provision hereof; or

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

5 (3) In the event the HOME funding from HUD identified in
6 **Section 1** above is terminated or otherwise becomes
7 unavailable.

8 c. This Agreement may be terminated or funding suspended in whole or in
9 part for cause in accordance with 2 CFR Section 200.338. Cause shall be based on the failure of
10 BORROWER to materially comply with either the terms or conditions of this Agreement after the
11 expiration of all applicable notice and cure provisions hereof. Upon suspension of funding,
12 BORROWER agrees not to incur any costs related thereto, or connected with, any area of conflict
13 from which COUNTY has determined that suspension of funds is necessary. The award may be
14 terminated for convenience in accordance with 2 CFR Section 200.339.

15 d. Upon expiration or earlier termination of this Agreement, BORROWER
16 shall transfer to COUNTY any unexpended HOME funds in its possession at the time of expiration
17 of the Agreement as well as any accounts receivable held by BORROWER which are attributable
18 to the use of HOME funds awarded pursuant to this Agreement.

19 39. AFFORDABILITY RESTRICTIONS. COUNTY and BORROWER, on
20 behalf of its successors and assigns, hereby declare their express intent that the restrictions set
21 forth in this Agreement shall continue in full force and effect for the duration of the Affordability
22 Period (as defined in **Section 14** above). Each and every contract, deed or other instrument
23 hereafter executed covering and conveying the Property or any portion thereof shall be held
24 conclusively to have been executed, delivered and accepted subject to such restrictions,
25 regardless of whether such restrictions are set forth in such contract, deed or other instrument.
26 Borrower shall execute and record as a lien against the Property, a Covenant Agreement,
27 substantially conforming in form and substance to the Covenant Agreement attached hereto as
28 **Exhibit G** and incorporated herein by this reference, setting forth the affordability use and

1 income restriction required in this Agreement. The Covenant Agreement shall be in a first
2 priority lien position Senior to the Senior Loan and the HOME Loan.

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

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

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

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

24 44. INTERPRETATION AND GOVERNING LAW. This Agreement and any
25 dispute arising hereunder shall be governed by and interpreted in accordance with the laws of
26 the State of California. This Agreement shall be construed as a whole according to its fair
27 language and common meaning to achieve the objectives and purposes of the parties hereto, and
28 the rule of construction to the effect that ambiguities are to be resolved against the drafting party

1 shall not be employed in interpreting this Agreement, all parties having been represented by
2 counsel in the negotiation and preparation hereof.

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

8 46. SEVERABILITY. Each paragraph and provision of this Agreement is
9 severable from each other provision, and if any provision or part thereof is declared invalid by a
10 competent court of law, the remaining provisions shall nevertheless remain in full force and effect.

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

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

25 49. CONDITIONAL HOME COMMITMENT.
26 a. Acquisition. If Borrower cannot acquire the Property
27 by the Acquisition Deadline as set forth in the Implementation Schedule set forth
28 in **Exhibit A** of this Agreement, then COUNTY and Borrower mutually agree that



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

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



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



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

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

10 50. PROJECT FINANCING CONTINGENCY. This Agreement is expressly
11 conditioned upon BORROWER's delivery to COUNTY, on or prior to **February 28, 2018** of (i)
12 written documentation of such binding loan commitments required to fully finance the
13 development and construction of the Project (less the HOME Loan), on terms and conditions
14 acceptable to BORROWER and COUNTY, including, but not limited any conventional
15 construction and/or permanent financing, including without limitation, a construction and
16 permanent loan from an institutional construction lender. Either COUNTY or BORROWER may
17 elect to terminate this Agreement with ten (10) days prior written notice to the other party if
18 BORROWER fails to acquire the project financing as required by this **Section 50**. Upon such
19 termination, this Agreement shall be null and void, and:

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

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

1 51. Reserved.

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

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

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

16
17 COUNTY
18 Assistant Director, Housing
19 Riverside County
20 Economic Development Agency
21 5555 Arlington Avenue
22 Riverside, CA 92504

BORROWER
 c/o Riverside Housing Development Corp.
 Attn: Bruce Kulpa
 4250 Brockton Avenue
 Riverside, CA 92501

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

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

 57. FURTHER ASSURANCES. BORROWER shall execute any further
documents consistent with the terms of this Agreement, including documents in recordable form,

1 as the COUNTY may from time to time find necessary or appropriate to effectuate its purposes
2 in entering into this Agreement.

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

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

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

27 c. The captions of the articles, sections, and subsections herein are
28 inserted solely for convenience and under no circumstances are they or any of them to be treated

1 or construed as part of this instrument.

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

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

13 59. TIME OF ESSENCE. Time is of the essence with respect to the
14 performance of each of the covenants and agreements contained in this Agreement.

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

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

22 62. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS.

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

27 b. This Agreement integrates all of the terms and conditions
28 mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements

