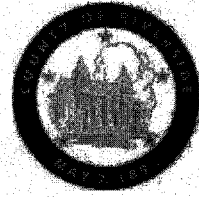


SUBMITTAL TO THE BOARD OF COMMISSIONERS  
HOUSING AUTHORITY  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM  
10.1  
(ID # 8185)

MEETING DATE:

Tuesday, December 4, 2018

FROM : HOUSING AUTHORITY:

SUBJECT: HOUSING AUTHORITY: Approve the Exclusive Negotiation Agreement between the Housing Authority of the County of Riverside, Riverside Community Housing Corporation, and Wakeland Housing and Development Corporation in Connection with a Proposed Affordable Rental Housing Project, located in the City of Jurupa Valley, District 2 [\$0]

RECOMMENDED MOTION: That the Board of Commissioners:

1. Approve the form of the attached Exclusive Negotiation Agreement (ENA) between the Housing Authority of the County of Riverside, Riverside Community Housing Corporation, and Wakeland Housing and Development Corporation in connection with the proposed affordable housing project, located in the City of Jurupa Valley; and
2. Authorize the Executive Director, or designee, to execute an ENA, substantially conforming in form and substance to the attached ENA, and to take all necessary steps to implement and administer the attached ENA, including but not limited to, signing subsequent necessary and relevant documents, exercising the option to extend the ENA for one year, and executing amendments, subject to County Counsel approval.

**ACTION: Policy**

A handwritten signature in black ink, appearing to read "Robert Field".

Robert Field, Assistant County Executive Officer/ECD 10/15/2018

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MINUTES OF THE BOARD OF COMMISSIONERS

On motion of Commissioner Ashley, seconded by Commissioner Perez 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: December 4, 2018  
xc: Housing Authority

Kecia Harper-Ihem  
Clerk of the Board  
By: Deputy

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

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS: N/A</b>			<b>Budget Adjustment:</b>	No
			<b>For Fiscal Year:</b>	2018/19

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

**BACKGROUND:**

**Summary**

The Housing Authority of the County of Riverside (HACR) is the current owner of approximately 15.5 acres of land, more specifically identified as Assessor Parcel Numbers 185-460-001, 185-470-001 and 185-470-002 (Property), currently being proposed for an affordable housing development to potentially be developed by a limited partnership between Wakeland Housing and Development Corporation (Wakeland) and Riverside Community Housing Corporation (RCHC). The Property was acquired by the former Redevelopment Agency for the County of Riverside in July of 2006, for approximately \$8,500,000 in Redevelopment Low- and Moderate-Income Housing Taxable Bond proceeds.

Wakeland is proposing to develop and build 88 permanent affordable housing units on the Property restricted for persons earning 80% or less of the area median income for the County of Riverside (Proposed Project). The Proposed Project set forth in the ENA is in line with the HACR's mission of providing affordable, decent, safe and sanitary housing for low income families and satisfies the covenants of the bond proceeds utilized to acquire the Property.

Wakeland and RCHC desire to enter into the attached proposed Exclusive Negotiation Agreement (ENA) with the HACR to explore and negotiate in good faith a possible disposition and development agreement, or such other type of agreement as the parties may deem appropriate, to specify their rights and obligations with respect to the sale of the Property and development of the Proposed Project. The ENA does not constitute a commitment to sell or develop the Property; any agreement arising out of the ENA will be subject to the prior approval of the Board of Commissioners. Wakeland will process entitlements and may seek other leveraging sources for the development of the proposed project. The term of the proposed ENA is approximately 36 months with a one (1) year extension, should the parties mutually agree. RCHC will concurrently present a companion item to this matter for approval by its Board of Directors.

County Counsel has reviewed and approved the form of the ENA. Staff recommends approval of the form of the attached ENA.

**Impact on Residents and Businesses**

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

The potential development of 88 affordable units will have a positive impact on the residents in the County of Riverside as it will create much needed affordable housing in the County as well as create construction, maintenance and property management jobs.

**Additional Fiscal Information**

No general funds will be used for the proposed ENA. Wakeland and RCHC will bear its own costs and expenses incurred in connection with negotiating and preparing in good faith a possible disposition and development agreement, or such other type of agreement as the parties may deem appropriate, for the Proposed Project.

**Attachments:**

- Exclusive Negotiation Agreement

  
Alex Gann 11/26/2018

  
Gregory V. Prietas, Director County Counsel 11/19/2018

**EXCLUSIVE NEGOTIATION AGREEMENT**

THIS EXCLUSIVE NEGOTIATION AGREEMENT ("Agreement") is entered into as of December 4, 2018 by and between the Housing Authority of the County of Riverside, a public entity, corporate and politic in its capacity as housing successor to the former Redevelopment Agency for the County of Riverside ("HACR"), Riverside Community Housing Corp., a California nonprofit public benefit corporation ("RCHC") and Wakeland Housing and Development Corporation, a California nonprofit public benefit corporation ("Wakeland"), collectively referred to as "Parties" and individually as a "Party," on the terms and provisions set forth below:

**RECITALS**

A. WHEREAS, the HACR is a Housing Authority duly created, established and authorized to transact business and exercise its powers, under and pursuant to the provisions of the Housing Authorities Law which is Part 2 of Division 24 of the California Health and Safety Code (commencing with Section 34200 et seq);

B. WHEREAS, the HACR owns fee title to approximately 15.5 acres of land, more specifically identified as Assessor Parcel Numbers 185-460-001, 185-470-001 and 185-470-002 ("Property");

C. WHEREAS, Assembly Bill No. x1 26, as modified by Assembly Bill No. 1484 ("Dissolution Act"), added Parts 1.8 and 1.85 to Division 24 of the California Community Redevelopment Law (Health and Safety Code sections 33000 et seq., the "CRL"). Pursuant to the Dissolution Act, the Redevelopment Agency for the County of Riverside ("RDA") was dissolved on February 1, 2012 such that the RDA is now deemed a former redevelopment agency under Health and Safety Code section 34173;

D. WHEREAS, pursuant to Health and Safety Code Section 34176 (a), and HACR Resolution Nos. 2012-035, 2012-001 and 2012-005, all housing functions previously performed by the former RDA, including related rights, powers, duties, obligations, and housing assets (excluding amounts in the Low and Moderate Income Housing Fund and enforceable obligations retained by the successor agency) were transferred to the HACR, including the Property (defined below);

E. WHEREAS, Wakeland and RCHC propose to build an affordable housing development on the Property;

F. WHEREAS, Wakeland and RCHC are each engaged in the development, construction and operation of affordable housing, serving residents of the County of Riverside ("County");

G. WHEREAS, the HACR wishes to explore entering into an agreement with Wakeland and RCHC for the potential acquisition of the Property by a limited partnership to be formed by Wakeland and RCHC ("Partnership") in connection with the proposed development

and construction thereon of an affordable housing project as approximately eighty-eight (88) affordable rental housing units to be rented to and occupied by low income households ("Project");

H. WHEREAS, the HACR desires to encourage and effectuate the development of the Property which will serve to preserve, protect, improve and increase the affordable housing stock and help eliminate blight within the County;

I. WHEREAS, facilitating the development of the Property for affordable multi-family rental housing would also assist the County and the State of California in achieving its goals of assisting families of low-income; and

J. WHEREAS, the purpose of this Agreement is to establish the procedures and standards for the negotiation by the Parties of a Disposition and Development Agreement or such other type of agreement as the Parties may deem appropriate for the disposition of the Property and development of the Project ("DDA"). This Agreement in itself does not grant Wakeland, RCHC, the Partnership or any successor or affiliated entity the right to acquire the Property and/or develop the Project.

NOW, THEREFORE, HACR, RCHC and Wakeland hereby mutually agree as follows:

I. Recitals

The aforementioned recitals are incorporated herein by this reference and made a part of this Agreement.

II. Negotiation

A. Good Faith Negotiations

The Parties agree for the Negotiation Period (defined below) to negotiate diligently and in good faith, pursuant to this Agreement, to prepare a DDA to be entered into between the Parties with respect to HACR's disposition of and the development of the Property; provided, however, by entering into this Agreement, the Parties are not required to enter into a DDA. HACR agrees for the Negotiation Period, and the Extension Period (defined below), not to negotiate with any other person or entity to enter into any agreement regarding the acquisition, lease, disposition or development of the Property. "Good faith negotiations" as used herein shall mean that the Parties shall use their best efforts to communicate frequently and follow reasonable negotiation procedures to develop a DDA mutually acceptable to the Parties.

Each of the Parties will bear its own costs and expenses, including, but not limited to, attorneys' fees, incurred or to be incurred in connection with negotiating and preparing this Agreement and the DDA and in carrying out its obligations under this Agreement ("Direct Costs").

Nothing in this Agreement shall be deemed a covenant, promise, or commitment by the HACR with respect to the disposition of the Property.

B. Period of Negotiations

The negotiating period shall commence on the Effective Date (defined below) and end November 6, 2021 (“Negotiating Period”), subject to extension. The Negotiating Period may be extended for an additional one-year period (“Extension Period”) by the written mutual agreement of the Parties. The Executive Director of the HACR, or designee, has the authority, in his discretion, to consent to an extension of the Negotiation Period on behalf of the HACR. In determining whether or not to consent to an extension of the Negotiating Period, the Executive Director may consider the following factors: (i) whether sufficient progress in accomplishing the tasks set forth in the Schedule of Performance, attached hereto as Exhibit C and incorporated herein by this reference, has occurred, and (ii) whether the Parties are continuing to work toward a mutually acceptable DDA. Each Party agrees to endeavor in good faith to expeditiously complete the tasks set forth in the Schedule of Performance which are in such Party’s reasonable control.

If a DDA has not been executed by the Parties by the expiration of the Negotiating Period, including any Extension Period, then this Agreement shall terminate, and upon such termination, neither Party shall have any further rights or obligations under this Agreement except as set forth in Section IX of this Agreement, and the HACR shall be free to negotiate with any other persons or entities with regard to the Property after such termination. If a DDA is executed by the Parties, then, upon such execution, this Agreement shall terminate and all rights and obligations of the Parties shall be as set forth in the fully executed DDA.

The term “Effective Date” used herein shall mean that certain date this Agreement is executed by the Chairman of HACR’s Board of Commissioners.

Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Agreement. While it is understood that all Parties will work in good faith, care will also be taken to ensure consistent and regular progress toward timely completion of the obligations set forth herein.

C. Wakeland and RCHC’s Obligations During the Negotiation Period

Wakeland and RCHC shall, within the Negotiating Period (including any mutually agreed upon Extension Period) satisfy the following obligations (unless otherwise waived in writing by the HACR’s Executive Director or designee):

1. Investigate the projected costs of developing the Project, including the construction of all related on-site and off-site improvements for the Project;
2. Identify and develop a plan to obtain the necessary land use entitlements required for the Project and secure those land use entitlements required herein no later than the dates set forth in the Schedule of Performance attached hereto as Exhibit “C”;
3. Agree to participate and/or conduct community meetings as requested by the HACR in relation to the Project;

4. Identify sources of funding and submit funding applications after consultation with HACR staff within the time frames set forth in the attached Schedule of Performance (Exhibit "C"). Evaluate and provide a comprehensive written description of the estimated competitive score and feasibility of all funding applications to be submitted in connection with financing the Project within three (3) months after the Effective Date and every three (3) months thereafter during the term of this Agreement;
5. Conduct necessary geotechnical, cultural, traffic and environmental studies and investigations for the development of the residential, service facility and/or commercial uses at the Property;
6. Determine and process any California Environmental Quality Act ("CEQA") documentation, at Wakeland's expense, including the fees and expenses of any Wakeland hired consultants in connection with the preparation of said CEQA documentation required in connection with the proposed sale of the Property to Wakeland and RCHC and HACR's approval of a DDA;
7. Contract and pay for the HACR consultant services relating to the 33433 Report set forth in Sections II. D. 4 below; provided, however, no such consultant services shall be engaged without Wakeland's prior written approval, including without limitation a written fee agreement approved and signed by Wakeland, which shall not be unreasonably withheld, conditioned or delayed;
8. During the Negotiation Period, initiate and submit to the appropriate Governmental Authorities (as defined in Section III. A. 4.) all applications for necessary entitlements (e.g., General Plan amendments, zone changes, parcel maps etc.) required for the development and construction of the Project as contemplated herein. The requirements set forth in this Section II. C. 8. include performing any necessary studies and or plans required for the entitlement process; and
9. Prepare and submit to HACR for its review the following pursuant to the Schedule of Performance attached hereto as Exhibit "C":
  - a. A preliminary and final site plan and architectural/design concept for the proposed development of the Project, showing building layout and dimensions, parking, amenities, landscaping and access.
  - b. A schedule of the development of all structures and improvements proposed for the Project and an estimate of development costs including hard and soft costs.
  - c. A detailed financial plan for the Project containing matters typically contained in such analysis, including, without limitation, a detailed pro forma, development cost budget and sources of equity and debt capital securing construction and long term financing. The aforementioned estimates and project date shall be in sufficient detail to permit adequate financial analysis by the HACR.

- d. Copies of all completed reports, studies, analyses, and similar documents prepared or commissioned by Wakeland with respect to this Agreement and the Project, promptly upon their completion.

D. HACR's Obligations

HACR shall, within the Negotiation Period (and mutually agreed upon Extension Period) satisfy the following obligations:

1. Negotiate exclusively through its staff with Wakeland and RCHC for the preparation of the DDA for the Property and Project;
2. Review site plans and, without cost to HACR, use best efforts to assist Wakeland and RCHC with securing Project Entitlements (as defined Section III. A. 4.), which may be required by the County of Riverside or any other Governmental Authorities (as defined in Section III.A. 4. below);
3. Review Wakeland and RCHC's proposal;
4. Prepare a summary report, at Wakeland's expense, in accordance with Section 33433 of the Health and Safety Code ("33433 Report"). All fees and expenses of any consultants hired by HACR in connection with the preparation of said summary report shall be paid by Wakeland as set forth in Section II. C. 7.; and
5. Arrange for and obtain, at HACR's expense, publication of notices of the public hearing for the 33433 Report pursuant to Health and Safety Code Section 33433.

III. Proposed Development

A. Development Concept and Essential Terms and Conditions

The proposed development to be negotiated hereunder shall include the development and construction of the Project on the Property of an approximate eighty-eight (88) unit affordable housing development.

The essential terms and conditions of any such DDA entered into with Wakeland and RCHC or the Partnership shall be in conformance with the following requirements:

1. Wakeland and RCHC or the Partnership shall collectively enter into a DDA with HACR in accordance with the Schedule of Performance;
2. Wakeland shall design and construct the Project on the Property, at its own cost and expense, in accordance with a Schedule of Performance to be negotiated as part of the DDA and in accordance with the scope of development and plans and specifications prepared by Wakeland and approved in writing by HACR, and any CEQA and/or National Environmental Policy Act ("NEPA") requirements;



3. Wakeland shall design and construct, if applicable, all on-site infrastructure improvements in connection with the Project on the Property and develop a plan for financing the cost of infrastructure improvements;
4. Wakeland shall secure at its own cost and expense, as required, in accordance with the Schedule of Performance to be negotiated as part of the DDA, an amendment to the General Plan for the City of Jurupa Valley ("City"), as the case may be, a change of zone for the Property, the request of a density bonus and any and all entitlements (other than grading or building permits or approvals which are simply ministerial and nondiscretionary in nature) ("Entitlements"), which may be required by the City, County or any other governmental agency with jurisdiction over the construction and development of the Project (the "Governmental Authorities") to allow development of the Project;
5. Wakeland shall be responsible for marketing the Project;
6. Other terms and conditions applicable to the DDA are as follows:
  - a. It is understood by Wakeland that design and architectural approval by HACR will be required for the Project and that sketches, plans, working drawings, specifications and similar documents will be required to be submitted for written approval pursuant to the terms and provisions in the DDA.
  - b. It is understood that in developing the Property, Wakeland will coordinate with the HACR in ensuring the design and architectural theme of the Project to be compatible with other developments in the area.
7. Forty-nine percent (49%) of the housing units developed and operated as part of the Project shall be rented to and occupied by low income households earning 80 percent or less of the area median income for the County of Riverside, as determined by the California Department of Housing and Community Development, adjusted for household size appropriate for the unit. The final affordability, maximum income and lease rate requirements will be established in the DDA and shall conform to Housing Authorities Law and the CRL.

B. Wakeland's Findings, Determinations, Studies, and Reports

From time-to-time, as reasonably requested by HACR, Wakeland shall provide oral Project status and bi-monthly written progress reports, unless otherwise requested by HACR, advising HACR on all matters related to the Project development, including, but not limited to, financial feasibility analyses, construction cost estimates, marketing studies, and similar due diligence matters. Should negotiations not result in a DDA between HACR, Wakeland and RCHC or the Partnership, HACR may use the information provided by Wakeland and/or RCHC (excluding any confidential or proprietary information prepared or commissioned by Wakeland or RCHC, or keep subject to the proprietary rights of the authors or preparers, any confidentiality agreements and any privileges recognized by applicable law, subject to the requirements set forth in the California Public Records Act) in any way deemed by HACR to be of benefit to HACR. All costs incurred

by Wakeland in the preparation and presentation of such findings, determinations, studies, reports or other requests by the HACR under this Agreement shall be at the sole expense of Wakeland.

IV. Purchase Price and/or Other Consideration

The purchase price for the Property to be paid to the HACR by RCHC and Wakeland or the Partnership will be established in the DDA

V. Environmental Requirements

Certain State and local environmental requirements under CEQA may be applicable to the proposed Project. HACR's Board of Commissioners will consider the DDA upon submission of HACR's successful negotiations with Wakeland and RCHC on the terms and conditions agreed to by Wakeland and RCHC. Prior to the disposition of the Property, Wakeland agrees to determine and process any CEQA documentation, at Wakeland's sole expense.

Wakeland shall indemnify and hold harmless the HACR, RCHC and the County of Riverside, their respective Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, Board of Commissioners, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as "Indemnitees") from any liability whatsoever, based or asserted upon any CEQA challenge related to the Project, except to the extent such liability is caused by the gross negligence or willful misconduct of any Indemnitees. Wakeland shall pay, at its sole expense, all costs and fees including, but not limited, to attorneys' fees, cost of investigation, defense and settlements or awards, of the Indemnitees in any claim or action based upon such alleged acts or omissions.

VI. Assignment

Neither Wakeland nor RCHC shall assign all or any part of this Agreement without the prior written approval of HACR, except to a limited partnership, limited liability company or other entity formed for financing the Project, in which Wakeland is a co-general partner (if a limited partnership) or a managing member (if a limited liability company) and RCHC is a managing general partner (if a limited partnership) or a co-managing member (if a limited liability company); provided, however, any of the aforementioned transfers shall be subject to the approval of documentation by the HACR Executive Director or designee, which approval shall not be unreasonably withheld or delayed. HACR, in its reasonable discretion, may approve an assignment to any other entity if, in the reasonable determination of HACR, the proposed assignee is comparable in all material respects (including experience, character and financial capability) to Wakeland and RCHC. Any such change (or assignment of this Agreement in connection therewith) shall be by instruments approved in writing as to form and content by the HACR's Executive Director, or designee, and County Counsel, and if HACR approval is required pursuant to this Section VI, subject to the approval by HACR's Board of Commissioners. Wakeland shall promptly notify HACR in writing of any and all changes whatsoever in the identity of the Parties in control of Wakeland or the degree thereof, of which it or any of its officers have been notified or otherwise have knowledge or information.

VII. Condition of Site

Wakeland will assume the full and complete responsibility to make all investigations of surface and subsurface conditions as may be necessary or appropriate and to evaluate the suitability of the Property for the proposed Project. Neither HACR nor the County shall make any representations or warranties concerning the Property, its suitability for the use intended by Wakeland, or the surface or subsurface conditions of the Property.

Upon successful negotiation and approval of the DDA, the Property shall be conveyed to the Partnership "AS IS", meaning that the Partnership will own the Property in its present condition, including, but not limited to, the physical condition of the Property and all laws, rules and regulations, whether federal, state or local, having or potentially having any impact on use, subdivision, improvement or other aspects of the Property. If a DDA is executed and approved by HACR, Wakeland and RCHC or the Partnership shall be responsible, at their own sole cost and expense, for improvements on the Property in connection with the construction of the Project, and will do all things necessary to prepare the Property for the construction and development of the Project in accordance with the Entitlements thereon.

VIII. Right of Entry

HACR hereby grants to Wakeland and RCHC their respective Board of Directors, employees, agents and contractors (herein referred to collectively as "Wakeland Designees") the nonexclusive right to enter upon the Property at any time during the Negotiation Period to perform a survey and certain work, consisting of geotechnical investigation, soil testing, a Phase I Environmental Assessment prepared in compliance with the most recent published American Society for Testing and Materials Phase I Environmental Property Assessment Standard, a Phase II Environmental Investigation and Report, if required, and other due diligence related activities (collectively, "Work"), and for no other purposes without the prior written approval of HACR's Executive Director, or designee.

Prior to each entry onto the Property, Wakeland or RCHC shall provide twenty four (24) hours advance written notice to HACR to conduct any work. Email communications shall constitute valid written notice provided such notice is (i) submitted twenty four (24) hours in advance, (ii) sent to Mervyn Manalo at [mmanalo@rivco.org](mailto:mmanalo@rivco.org), and (iii) delivery of such email notice is confirmed with a documented reply and confirmation from Mervyn Manalo at [mmanalo@rivco.org](mailto:mmanalo@rivco.org).

Prior to any entry onto the Property for the taking of environmental samples or testing, Wakeland shall provide HACR with a work plan for on-site activity, including but not limited to a copy of its sampling and testing procedures. Such work plan shall be provided not less than three (3) working days in advance of any environmental testing or sampling activity contemplated under this Agreement.

Wakeland shall provide to HACR a copy of all results generated by the sampling and testing performed pursuant to this Agreement. Wakeland and RCHC acknowledges and agrees for itself and on the behalf of Wakeland Designees as follows:

- A. Wakeland and RCHC will not permit any dangerous condition to be created on the Property as a result of the activities of Wakeland or Wakeland Designees;
- B. That all acts and things done by Wakeland and RCHC on the Property will be done in a careful and reasonable manner, in accordance with all federal, state and local laws;
- C. Wakeland and RCHC will enter the Property entirely at its own cost, risk and expense;
- D. During the term of this Agreement, Wakeland and RCHC shall require each and all of Wakeland's contractors/consultants responsible for the Work under this Agreement with whom Wakeland and/or RCHC enters into a written contract for such Work to maintain, in full force and effect, statutory workers' compensation insurance coverage and a commercial general liability policy in the amount of at least One Million Dollars (\$1,000,000) combined single limit policy. Not less than three (3) working days prior to entry on the Property, Wakeland shall cause Wakeland's contractors/consultants with whom Wakeland enters into a written contract for such Work to provide certificates evidencing such coverage and naming HACR and RCHC as additionally insured, as their interests may appear;
- E. Wakeland shall not suffer or permit to be enforced against the Property, or any part thereof, any mechanics', material men's, contractors' or subcontractors' liens or any claim for damage arising from any Work performed by Wakeland or Wakeland's designee's use of and activities upon the Property pursuant to this Agreement. Wakeland shall pay, or cause to be paid, all said liens, claims or demands before any action is brought to enforce the same against the Property.
- F. Wakeland shall not have any interest in the Property or be entitled to any reimbursement or repayment for any Work performed upon the Property pursuant to this Agreement;
- G. Wakeland shall take all necessary precautions to prevent the import and/or release into the environment of any hazardous materials which are imported to, in, on or under the Property during the performance of the Work. If hazardous materials are imported onto the Property as a result of the performance of the Work, Wakeland shall be solely responsible for removing such imported hazardous materials in conformance with all governmental requirements. Wakeland shall report to HACR, as soon as possible after each incident, any incidents with respect to the environmental condition of the Property; and
- H. Wakeland shall obtain and maintain all governmental permits and approvals required for the Work conducted under this Agreement and shall comply with all statutes, ordinances, rules, regulations, orders and requirements now in effect or that become effective during the term of this Agreement applicable to its sampling and other activities pursuant to the access granted by this Agreement.

IX. Indemnity

Wakeland shall indemnify and hold harmless the HACR, RCHC and the County of Riverside, their respective Agencies, Districts, Special Districts and Departments, their respective directors, officer's, Board of Supervisors, Board of Commissioners, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as "Indemnitees") from any liability whatsoever, based or asserted upon any services of Wakeland, its officers, employees, subcontractors, consultants, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of Wakeland, its officers, agents, employees, subcontractors, agents or representatives under this Agreement, except to the extent such liability is caused by the gross negligence or willful misconduct of any Indemnitees, except in the event of the gross negligence or willful misconduct of the Indemnified parties; provided however, any gross negligence or willful misconduct of Indemnitees will only affect the duty to indemnify for the specific act found to be gross negligence or willful misconduct, and will not preclude a duty to indemnify for any act or omission of Wakeland. Wakeland shall pay, at its sole expense, all costs and fees including, but not limited, to attorneys' fees, cost of investigation, defense and settlements or awards, of the Indemnitees in any claim or action based upon such alleged acts or omissions.

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

Wakeland's obligation hereunder shall be satisfied when Wakeland has provided to HACR the appropriate form of dismissal relieving HACR and/or the Indemnitees from any liability for the action or claim involved.

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

In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve Wakeland from indemnifying the Indemnitees to the fullest extent allowed by law. Wakeland's indemnity obligations contained in this Section IX shall survive the expiration and termination of this Agreement.

X. Default and Remedies

(a) Failure by either Party to negotiate in good faith as provided in this Agreement shall constitute an event of default under this Agreement. The non-defaulting Party shall give written notice of a default to the defaulting Party, specifying the nature of the default and the required action to cure the default. If a default remains uncured forty five (45) days after receipt by the

defaulting Party of such notice, the non-defaulting Party may exercise the remedies set forth in subsection (b) below.

(b) Remedies.

(1) HACR Default. In the event of an uncured default by HACR under this Agreement, Wakeland and RCHC shall be entitled to terminate this Agreement upon written notice of termination delivered to the other Parties. Following such termination, no Party shall have any further right, remedy or obligation under this Agreement, except as to those provisions which by their terms expressly survive. The Parties hereby waive the right to specific performance as a remedy under this Agreement.

(2) Wakeland Default. In the event of an uncured default by Wakeland under this Agreement, HACR and RCHC shall be entitled to terminate this Agreement upon written notice of termination delivered to the other Parties. Following such termination, no Party shall have any right, remedy or obligation under this Agreement; provided, however, that the indemnification obligations pursuant to Section IX shall survive such termination. The Parties hereby waive the right to specific performance as a remedy under this Agreement.

(3) RCHC Default. In the event of an uncured default by RCHC under this Agreement, Wakeland and HACR shall be entitled to terminate this Agreement upon written notice of termination delivered to the other Parties. Following such termination, no Party shall have any right, remedy or obligation under this Agreement, except as to those provisions which by their terms expressly survive. The Parties hereby waive the right to specific performance as a remedy under this Agreement.

(c) Waiver of Default.

Except as otherwise expressly provided in this Agreement, any failure or delay by a Party asserting any of its rights or remedies as to any default shall not operate as a waiver of said default or of any rights or remedies in connection therewith or of any subsequent default or any rights or remedies in connection therewith, or deprive such Party 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.

XI. Wakeland Employees and Liabilities

It is understood that persons engaged or employed by Wakeland as employees, agents, or independent contractors shall be engaged or employed by Wakeland and not by HACR or RCHC. Wakeland alone is responsible for their work, direction, compensation and personal conduct. Nothing included in any provision of this Agreement shall impose any liability or duty upon HACR or RCHC to persons, firms, or corporations employed or engaged by Wakeland in any capacity whatsoever, or make HACR or RCHC liable to any such persons, firms, or corporations, or to any government, for the acts, omissions, liabilities, obligations, and taxes, of whatsoever nature, of Wakeland or of its employees, agents, or independent contractors.

XII. Wakeland's Obligation to Refrain from Discrimination; Wakeland's Obligation Toward Equal Opportunity

Wakeland covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that there shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, sex, sexual orientation, gender identity, age, disability, medical condition, or marital status, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property nor shall Wakeland itself or any person claiming under or through it, establish or permit such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, subleases, or vendors of the Property.

Wakeland will not discriminate against any employees or applicants for employment because of race, color, religion, creed, national origin, ancestry, sex, sexual orientation, gender identity, age, disability, medical condition, or marital status.

XIII. Nonliability of Officials, Officers, Members, and Employees

No member, official, officer, or employee of the HACR or the County shall be personally liable to Wakeland or RCHC, or any successor in interest, in the event of any default or breach by the HACR or for any amount which may become due to Wakeland, RCHC or to any successor, or on any obligations under the term of this Agreement.

XIV. Waivers; Amendments

All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Party to be charged, and all amendments and modifications hereto must be in writing and signed by the appropriate authorities of the HACR, RCHC and Wakeland.

XV. Actions By HACR

The Executive Director of HACR or designee(s) are authorized to take such ministerial actions as may be necessary or appropriate to implement the terms, provisions, and conditions of this Agreement as it may be amended from time to time by HACR.

XVI. Real Estate Commissions

HACR shall not be liable for any real estate commissions or brokerage fees which may arise herefrom. HACR, RCHC and Wakeland each represents that it has engaged no broker, agent or finder in connection with this transaction, and Wakeland and RCHC agrees to hold the HACR harmless from any claim by any broker, agent or finder which it has retained.

XVII. Acknowledgments and Reservations

If the negotiations hereunder culminate into a DDA, such DDA will become effective only after and if it has been considered and approved by HACR's Board of Commissioners, RCHC's Board of Directors, and the County Board of Supervisors, as required by law.

a. Not Binding

The Parties acknowledge and agree that this Agreement is for the sole purpose of stating the intention of the Parties to negotiate a DDA. The Parties have not reached agreement on the matters to be set forth in the DDA and do not intend to be bound to the disposition and development of the Property until such time as a final written DDA is executed by all Parties.

The HACR's acknowledgment of this Agreement is merely an agreement to enter into a period of negotiations according to the concepts presented herein, reserving final discretion and approval by the HACR's Board of Commissioners, or any other agencies of the County as to any actions required of them, if any.

b. No Further Obligations

The HACR, RCHC and Wakeland agree that neither the HACR nor RCHC nor Wakeland shall be under any further obligation to each other regarding disposition of the Property or the development of the proposed Project on the Property if this Agreement expires, is terminated for any reason, or a DDA is not executed by the HACR, RCHC and Wakeland or the Partnership.

c. No Agreement

Wakeland and RCHC each acknowledges and agrees that no provision of this Agreement shall be deemed to be an offer by the HACR, nor an acceptance by the HACR of any offer or proposal from Parties, for the HACR to convey to Wakeland and RCHC or the Partnership any interest in all or a portion of the Property or in or to the Property, or for the HACR to provide any financial or other assistance to Wakeland and RCHC or the Partnership for development of the Property.

d. No Acquisition

Parties acknowledges and agrees that it has not acquired, nor will acquire, by virtue of the terms of this Agreement, any legal or equitable interest in the Property or any other real or personal property of the HACR.

e. Limitations of this Agreement

Nothing contained in this Agreement shall constitute a waiver, amendment, promise or agreement by the HACR or County (or any of its departments or boards) as to the granting of any approval, permit, consent or other entitlement in the exercise of the HACR or County's regulatory capacity or function. The final form of any proposed DDA to be negotiated may contain matters not contemplated by this Agreement, including, but not limited to, matters necessary to accommodate compliance with law, including without limitation CEQA.

XVIII. Insurance

Without limiting or diminishing the Wakeland's obligation to indemnify or hold the Indemnitees (as defined in Section IX.) harmless, Wakeland shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Agreement. As respects to the insurance section only, the HACR herein refers to the Housing Authority of the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Commissioners, employees, elected or appointed officials, agents or representatives. HACR and RCHC shall be named as Additional Insureds.



A. Workers' Compensation:

If Wakeland has employees as defined by the State of California, Wakeland shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of HACR and RCHC.

B. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of Parties' performance of its obligations hereunder. Policy shall name the HACR and RCHC as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

C. Vehicle Liability:

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then Wakeland shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the HACR and RCHC as Additional Insureds.

If Wakeland maintains broader coverage and/or higher limits than the minimums shown above, HACR requires and shall be entitled to the broader coverage and/or higher limits maintained by Wakeland. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to HACR and RCHC.

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

3) Wakeland shall cause Wakeland's insurance carrier(s) to furnish the HACR with either 1) a properly executed original Certificate(s) of Insurance and certified copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the HACR's Risk Manager, provide Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. *Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that a minimum of thirty (30) days written notice shall be given to the Wakeland prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. If Wakeland insurance carrier(s) policies does not meet the minimum notice requirement found herein, Wakeland shall cause Wakeland's insurance carrier(s) to furnish a 30 day Notice of Cancellation Endorsement.*

4) In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the HACR receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. Wakeland shall not commence operations until the HACR has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.

5) It is understood and agreed to by the Parties hereto that Wakeland's insurance shall be construed as primary insurance, and the HACR and RCHC's insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

6) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the HACR reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the HACR's Risk Management's reasonable judgment, the amount or type of insurance carried by Wakeland has become inadequate.

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

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

9) Wakeland agrees to notify HACR in writing of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

#### XIX. Authority to Execute

The persons executing this Agreement or exhibits attached hereto on behalf of the Parties to this Agreement hereby warrant and represent that they have the authority to execute this

Agreement and warrant and represent that they have the authority to bind the respective Parties to this Agreement to the performance of its obligations hereunder.

XX. Notices

Formal notices, demands and communications between the Parties shall be sufficiently given if, and shall not be deemed given unless, dispatched by certified mail, postage prepaid, return receipt requested, or sent by express delivery or overnight courier service, to the office of the Parties shown as follows, or such other addresses as the Parties may designate in writing from time to time:

HACR:  
Housing Authority of the  
County of Riverside  
Attention: Assistant Director  
5555 Arlington Avenue  
Riverside, CA 92504

Wakeland:  
Wakeland Housing and Development Corporation  
Attention: President and Chief Executive Officer  
1230 Columbia Street, Suite 950  
San Diego, CA 92101

RCHC:  
Riverside Community Housing Corp.  
5555 Arlington Avenue  
Riverside, CA 92504  
Attention: Chief Executive Officer

Such written notices, demands and communications shall be effective on the date shown on the delivery receipt as the date delivered or the date on which delivery was refused.

XXI. Entire Agreement

This Agreement constitutes the entire agreement of the Parties regarding the subject matter of this Agreement and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the Property.

XXII. Conflict of Interest

No member, official, or employee of the HACR or RCHC shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his or her personal interests or the interests of any corporation, Partnership, or association in which he or she is, directly or indirectly, interested.

XXIII. No Third Party Beneficiaries.

The Parties to this Agreement acknowledge and agree that the provisions of this Agreement are for the sole benefit of the HACR, RCHC and Wakeland, and not for the benefit, directly or indirectly, of any other person or entity, except as otherwise expressly provided herein. The Parties

acknowledge and agree that the County of Riverside is an intended third party beneficiary of this Agreement.

XXIV. Further Assurances.

Each of the Parties hereto shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all necessary acts and things in connection with the performance of their obligations hereunder and to carry out the intent and agreements of the parties.

XXV. Severability

In the event that any of the provisions, or portions thereof, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

XXVI. Jurisdiction and Venue

Any action at law or in equity arising under this Agreement 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 consolidated Courts of Riverside County, in the City of Riverside, 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.

XXVII. Interpretation and Governing Law

This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the internal laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all Parties having been represented by counsel in the negotiation and preparation hereof.

XXVIII. Counterparts

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


[Remainder of Page Intentionally Blank]

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

**HACR:**

HOUSING AUTHORITY OF THE COUNTY OF RIVERSIDE, a public entity, corporate and politic

By:   
Carrie Harmon,  
Deputy Executive Director

Date: 12/18/18

**WAKELAND:**

WAKELAND HOUSING AND DEVELOPMENT CORPORATION, a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Kenneth L. Sauder,  
President and Chief Executive Officer

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

**APPROVED AS TO FORM:**

GREGORY PRIAMOS  
COUNTY COUNSEL

By:   
Amrit Dhillon,  
Deputy County Counsel

**RCHC:**

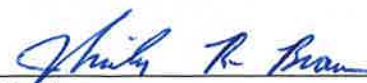
RIVERSIDE COMMUNITY HOUSING CORP., a California nonprofit public benefit corporation

By:   
Robert Field,  
Chief Executive Officer

Date: 2/21/19

**APPROVED AS TO FORM:**

GREGORY PRIAMOS  
GENERAL COUNSEL

By:   
Jhaila R. Brown,  
Deputy General Counsel

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

**HACR:**


HOUSING AUTHORITY OF THE COUNTY OF RIVERSIDE, a public entity, corporate and politic

By: \_\_\_\_\_  
Carrie Harmon,  
Deputy Executive Director

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

**WAKELAND:**

Wakeland Housing and Development Corporation, a California nonprofit public benefit corporation

By:  \_\_\_\_\_  
Kenneth L. Sauder,  
President and Chief Executive Officer

Date: 2/4/19

APPROVED AS TO FORM:

GREGORY PRIAMOS  
COUNTY COUNSEL

By: \_\_\_\_\_  
Amrit Dhillon,  
Deputy County Counsel

ATTEST:

KECIA HARPER-IHEM  
Clerk of the Board

By: \_\_\_\_\_  
Deputy

**RCHC:**

RIVERSIDE COMMUNITY HOUSING CORPORATION, a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Robert Field,  
Chief Executive Officer

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

APPROVED AS TO FORM:

GREGORY PRIAMOS  
GENERAL COUNSEL

By: \_\_\_\_\_  
Jhaila R. Brown, Deputy General Counsel

## **Exhibit A**

### **Legal Description**

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

LOTS 1,2 AND 3 OF TRACT NO. 20626, AS SHOWN BY MAP ON FILE IN BOOK 219 PAGE(S) 14 THROUGH 17, INCLUSIVE OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA

Assessor Parcel Numbers: 185-460-001, 185-470-001 and 185-470-002

## Exhibit B

### Site Map

Assessor Parcel Numbers  
185-460-001, 185-470-001 and 185-470-002





## Exhibit C

### SCHEDULE OF PERFORMANCE

- |     |   |   |
|-----|---|---|
| 1.  | Investigate the projected costs of developing the Project, including the construction of all related on-site and off-site improvements for the Project.   | Upon approval of ENA and prior to completion of a DDA   |
| 2.  | Identify and develop a plan to obtain the necessary land use entitlements required for the Project.   | Within six (6) months of ENA approval   |
| 3.  | Agree to participate and/or conduct community meetings as requested by the HACR in relation to the Project.   | Ongoing, as needed  |
| 4.  | Identify sources of funding for Project and commence financing process for Phase I after consultation with HACR staff. Evaluate and provide a comprehensive written description of the estimated competitive score and feasibility of all funding applications to be submitted in connection with financing the Project on a quarterly basis commencing upon the effective date.  | Quarterly report commencing upon ENA approval   |
| 5.  | Conduct necessary studies and investigations for the development of the residential, service facility and/or commercial uses at the Property such as geotechnical, cultural, traffic, and environmental.  | Concurrently with Item 6 below  |
| 6.  | Parties shall initiate and submit application for the necessary entitlements (e.g., General Plan Amendment / Change of Zone / Parcel Map) required for the Project within the negotiation period. The requirements set forth in Section II, subsection C.8. include performing any necessary studies and or plans required for the entitlement process.   | Within eighteen (18) months of ENA approval.  |
| 7.  | A preliminary and final site plan and architectural/design concept for the proposed development of the Project, showing building layout and dimensions, parking, landscaping and access.  | Preliminary site plan within twelve (12) months of ENA approval; Final site plan within 18 months of ENA approval |
| 8.  | Prepare and submit to HACR for its review a schedule of the development of all structures and improvements proposed for the Project and an estimate of development costs including hard and soft costs.   | Within six (6) months of ENA approval   |
| 9.  | Prepare and submit to HACR for its review a detailed financial plan for the Project containing matters typically contained in such analysis, including, without limitation, a detailed pro forma, development cost budget and sources of equity and debt capital securing construction and long term financing. The estimates and project date shall be in sufficient detail to permit adequate financial analysis by the HACR. | Within nine (9) months of ENA approval  |
| 10. | Prepare and submit to HACR for its review copies of all completed reports, studies, analyses, and similar documents, but excluding confidential or proprietary information, prepared or commissioned by Parties with respect to this Agreement and the Project, promptly upon their completion.   | Ongoing, as completed   |