

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



ITEM: 3.13
(ID # 13514)

MEETING DATE:

Tuesday, September 29, 2020

FROM: HOUSING, HOMELESSNESS PREVENTION AND WORKFORCE SOLUTIONS:

SUBJECT: HOUSING, HOMELESSNESS PREVENTION AND WORKFORCE SOLUTIONS (HHPWS): Authorize and Allocate funding and Approve the Form of Loan Agreements for the Use of CARES Act, Coronavirus Relief Funds, for Project Legacy in the City of Riverside, Project Ivy Palms in the City of Palm Springs, and for Mountain View Estates Phase III in the Community of Oasis; District 2 and District 4 [100% CARES Act, Coronavirus Relief Funds - \$8,150,000] (Companion Item to MT Item #13515)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the Projects are exempt from California Environmental Quality Act (CEQA) pursuant to California Health and Safety Code Sections 50675.1.1 and 50675.1.2 and State CEQA Guidelines Section 15061 (b)(3);
2. Authorize and allocate CARES Act funding to provide a loan to Young Scholars for Academic Empowerment, dba TruEvolution, Inc. (TruEvolution), in an amount not to exceed \$1,900,000 (TruEvolution CARES Loan); Approve the attached form of the CARES Loan Agreement for the Use of Coronavirus Aid, Relief, and Economic Security (CARES) Act Funds, including all attachments thereto, (CARES Loan Agreement), with TruEvolution, providing a loan derived from CARES Act funds in an amount not to exceed \$1,900,000 to pay a portion of the acquisition and rehabilitation of six contiguous properties in downtown Riverside under Project Legacy, as set forth in its application to the Department of Housing and Community Development (HCD) for Project Homekey funding, and Authorize the Director of the Housing, Homelessness Prevention and Workforce Solutions (HHPWS), or designee, to execute the CARES Loan Agreement with TruEvolution, subject to approval as to form by County Counsel;


ACTION: Policy


Heidi Marshall, Director 9/22/2020

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: September 29, 2020
xc: HHPWS

Kecia R. Harper
Clerk of the Board
By 
Deputy

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3. Authorize and allocate CARES Act funding to provide a loan to the Riverside Community Housing Corp., (RCHC), in an amount not to exceed \$4,250,000 (RCHC CARES Loan No. 1); Approve the attached form of the CARES Loan Agreement with RCHC, providing a loan derived from the CARES Act funds in an amount not to exceed \$4,250,000 to pay a portion of the acquisition and rehabilitation of Ivy Palms Hotel in the City of Palm Springs and convert it to permanent supportive housing under Project Ivy Palms, as set forth in its application to the HCD for Project Homekey funding, and Authorize the Director of the HHPWS, or designee, to execute the CARES Loan Agreement with RCHC, subject to approval as to form by County Counsel;

4. Authorize and allocate CARES Act funding to provide a loan to the RCHC, in an amount not to exceed \$2,000,000 (RCHC CARES Loan No. 2); Approve the attached form of the CARES Loan Agreement for the Use of CARES Act Funds, including all attachments thereto, (CARES Loan Agreement No. 2), with RCHC, providing a loan derived from the CARES Act funds in an amount not to exceed \$2,000,000 to purchase 40 new manufactured housing units to be rented to farmworkers living in substandard conditions in unpermitted parks that lack basic infrastructure such as potable water, safe electrical, paved streets, or proper sanitation systems, to be installed at Mountain View Estates in the community of Oasis under Project Mountain View Estates Phase III, as set forth in its application to the HCD for Project Homekey funding, and Authorize the Director of the HHPWS, or designee, to execute the CARES Loan Agreement No. 2 with RCHC, subject to approval as to form by County Counsel;

5. Authorize the Director of HHPWS, or designee, to take all necessary steps to implement the CARES Loan Agreements, including but not limited to, signing subsequent necessary and relevant documents, subject to approval as to form by County Counsel; and

6. Direct staff to file the Notice of Exemption within five days of approval by the Board.

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$8,150,000	\$ 0	\$8,150,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: 100% Coronavirus Aid, Relief, and Economic Security Act (CARES) Act Funding			Budget Adjustment: No	
			For Fiscal Year: 2020/21	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

On July 16, 2020, the Department of Housing and Community Development (HCD) published a Notice of Funding Availability (NOFA) for Homekey grant funds pursuant to Health and Safety Code section 50675.1.1 (Assembly Bill No. 83 (2019-2020 Reg. Sess.), § 21.). The Homekey

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Program is a statewide effort to rapidly sustain and expand housing for persons experiencing homelessness impacted by COVID-19. HCD has allocated \$600 million in Homekey funding, \$550 million is derived from the State's direct allocation of the federal Coronavirus Relief Fund (CRF) and \$50 million is derived from the State's General Fund. Projects receiving an award from the State's direct allocation of the federal CRF must expend the funds by December 30, 2020. The portion of a Project's award associated with State's General Fund must be expended by June 30, 2022. Depending on the funding award, the successful applicant must close escrow by the expenditure deadline.

On September 1, 2020, via (Item 10.2), the Board of Commissioners of the Housing Authority of the County of Riverside (HACR) authorized the submission of three separate applications to HCD as a co-applicant with one of two nonprofits for Homekey Program grant funds. HACR partnered with TruEvolution, Inc. for application 1, and with its affiliate, the Riverside Community Housing Corp. (RCHC), for applications 2 and 3. Concurrently, on September 1, 2020, via (Item 14.1), the Board of Directors of RCHC authorized the submission of its two applications to HCD, as co-applicant with HACR.

As part of the Homekey Program applications submitted to the State, the County committed to providing County CARES matching funds so that the applications were more competitive and eligible for additional funding. The County committed to providing \$1,900,000 for application 1; \$4,250,000 for application 2; and \$2,000,000 for application 3. As of today, all 3 applications have received reservations of Homekey funding. Below are brief descriptions of the proposed projects (collectively the "Projects"):

Application 1 Requesting \$1,900,000 (Project Legacy in Riverside)

The HACR partnered with Young Scholars for Academic Empowerment, dba TruEvolution, Inc. (TruEvolution), a nonprofit based out of Riverside dedicated to fighting for LGBTQ+ justice and advocating for the prevention and elimination of HIV/AIDS in America. The CARES funds sought will be used in conjunction with Homekey Program funds for TruEvolution to acquire 6 contiguous properties in downtown Riverside that would allow the County to provide 50 beds of transitional housing to persons experiencing homelessness or at risk of homelessness and impacted by COVID-19. The properties are located at the corner of University Avenue and Brockton Avenue, and are centrally located to transportation, medical centers, shopping, jobs, and grocery stores. TruEvolution would provide wrap-around supportive services to all tenants and help residents find permanent housing. One of the properties is a commercial building, approximately 5,000 square feet, and will be used as a community building where residents will receive services.

The long-term goal for this project will be to develop the project into a community campus providing comprehensive wrap-around services, including primary health services, mental health, workforce/job placement, nutrition, and disease education and prevention. TruEvolution will be able to provide protected spaces for at-risk LGBTQ+ youth, people living with HIV, and vulnerable senior populations with culturally responsive, bilingual programs and services.

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While TruEvolution is working through the permitting process and obtaining the necessary funding to build the campus, the facility will function as emergency housing under Project Roomkey (or similar effort).

Application 2 Requesting \$4,250,000 (Project Ivy Palms in Palm Springs)

The HACR and its nonprofit affiliate, Riverside Community Housing Corp. (RCHC), have partnered to negotiate the acquisition of the Ivy Palms Hotel (Hotel) located in the City of Palm Springs for a proposed purchase price of for \$8,500,000, and to convert the Hotel to Permanent Supportive Housing. The CARES funds sought will be used in conjunction with Homekey Program funds for this project, with RCHC as the owner of the property. The agreement for purchase and sale of the Hotel will be brought before RCHC's Board for approval at a future date.

The 100-unit Hotel is located on the edge of downtown Palm Springs, and is centrally located to transportation, medical centers, shopping, jobs, and grocery stores. Although the Hotel currently has 100 rooms, the Housing Authority and RCHC envision that the ultimate number of rooms will be less in order to convert units to one-bedroom units and to incorporate kitchenettes into the units. The development also will feature a 5,000 square foot community space.

In the fall of 2020, the HACR and RCHC will seek a development partner that will help secure the funding and entitlements for the property. Through this process, the HACR and RCHC will identify an architect, engineers, and other consultants that are necessary to bring the project to fruition. The HACR and RCHC envision that the property will be fully entitled and secure financing in 2021, so that construction may commence in the spring of 2022. The HACR commits to project base Housing Choice Vouchers on the property to assist with the development.

While the HACR and RCHC are working through the entitlement process and obtaining funding, the facility will continue to function as a hotel under Project Roomkey (or similar effort). The County of Riverside has housed more than 700 people through Project Roomkey, and currently has transitioned more than 100 to permanent housing with the goal of transitioning 550 families to permanent housing. Specifically, the County of Riverside has close to one hundred people occupying hotels under Project Roomkey in the City of Palm Springs and the County plans to relocate many of those clients to this Hotel after acquisition. If Project Roomkey were to go away, the County will use the Hotel as a central location for clients of the Department of Public Social Services and Behavioral Health. Annually, the County of Riverside spends more than \$500,000 in the Coachella Valley on hotels.

The property will serve as an anchor institution in the community and provide a central location for the delivery of services. The County of Riverside is committed to leveraging the work of Public Health, Whole Person Care Nurses, Office on Aging, Adult Protective Services, Behavioral Health, Workforce Development, and the strong nonprofit community to leverage the acquisition to serve as a model for the rest of the County. The County of Riverside through the creation of the Housing, Homelessness Prevention, and Workforce Solutions, is seeking to

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breakdown silos between departments and create a comprehensive service delivery model on the property.

Application 3 Requesting \$2,000,000 (40 Mobile homes in Oasis)

The HACR and its nonprofit affiliate, Riverside Community Housing Corp. (RCHC), have proposed to purchase 40 new manufactured housing units ("Rental Units") to be installed at Mountain View Estates, a mobile home park with mobile home park spaces for rent ("Park"). RCHC will be the owner of the Rental Units. RCHC and the Park owner agreed to enter into an agreement to rent 40 mobile home spaces ("Rental Spaces") at \$455.00 per month, per space ("Space Rent"). The Park owner will provide property management services for the Rental Units. The Space Rent shall not exceed 35% of the area median income as established by family size. The Rental Units will be owned by RCHC and will be leased to farmworkers living in substandard conditions in unpermitted parks that oftentimes lack basic infrastructure such as potable water, safe electrical, paved streets, or proper sanitation systems. The Eastern Coachella Valley is plagued with farmworker housing that is unsafe and unsanitary for farmworkers ("Essential Workers"). Historically, each summer there is an increase in unpermitted mobile home parks losing power due to faulty and illegal electrical systems providing powering to the mobile home parks and mobile homes. This summer alone, over 50 families living in unpermitted mobile home parks have been affected by power outages during times of the day when temperatures reached over 120 degrees.

Additionally, the Coronavirus has disproportionately affected rural communities and Essential Workers, and the Eastern Coachella Valley is no exception. The farmworker communities of Thermal, Mecca and Oasis have the highest per-capita rates of infection and death in the County of Riverside. The inability to socially distance, to stop working, and to qualify for benefits due to their resident status, continues to exacerbate the problem.

Staff recommends that the Board of Supervisors authorize the provision of three loans from CARES Act funding to pay a portion of the acquisition, development and construction costs for the Projects (CARES Loans) as follows:

- Project 1: \$1,900,000 to Young Scholars for Academic Empowerment, dba TruEvolution, Inc.
- Project 2: \$4,250,000 to Riverside Community Housing Corp.
- Project 3: \$2,000,000 to Riverside Community Housing Corp.

Staff further recommends that the Board of Supervisors approve the attached form the CARES Loan Agreement and all exhibits, including, but not limited to the forms of the CARES Loan Deed of Trust and Assignment of Rents, CARES Loan Promissory Note and CARES Loan Covenant Agreement. The CARES Loans will be evidenced by the aforementioned Promissory Note which will be secured by a Deed of Trust encumbering the Projects. The use and occupancy restrictions will be memorialized in separate covenant agreements recorded against the Projects with concurrent 55-year terms.

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The Projects have been evaluated and determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to California Health and Safety Code Sections 50675.1.1 and 50675.1.2 and State CEQA Guidelines Section 15061 (b)(3) (Common sense exemption). Notwithstanding any other law, the California Environmental Quality Act ([Division 13 \(commencing with Section 21000\) of the Public Resources Code](#)) shall not apply to any project, including a phased project, funded pursuant to [Section 50675.1.1](#) if certain requirements described in Section 50675.1.2, if applicable, are satisfied. The proposed Projects described above are made pursuant to Health and Safety Code Section 50675.1.1 and any resulting agreements will be subject to the requirements of the Homekey Program and the aforementioned Health & Safety Code sections. In addition, the Projects are exempt pursuant to State CEQA Guidelines Section 15061 (b)(3) (Common sense exemption) because it can be seen with certainty that that there is no possibility that the activity in question may have a significant effect on the environment. Projects include authorizing loan agreements to be used to pay a portion of the acquisition of mobile home units to be placed at an existing mobile home park, and the acquisition and rehabilitation of existing facilities. Therefore, the Projects are statutorily exempt from CEQA and exempt under State CEQA Guidelines Section 15061 (b)(3).

Impact on Residents and Businesses

The Projects will allow the County to address a growing problem with housing our homeless population and providing housing to people impacted by COVID-19.

Additional Fiscal Information

No impact upon the County's General Fund; the County's contribution to the Projects will be fully funded with the County's direct allocation of Coronavirus Aid, Relief, and Economic Security Act.

ATTACHMENTS:

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



Marcus Maltese

9/23/2020



Gregory V. Priamos, Director County Counsel

9/23/2020

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ATTACHMENTS:

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Marcus Maltese

9/23/2020



Gregory J. Priamos, Director County Counsel

9/23/2020

MINUTES OF THE BOARD OF SUPERVISORS
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3.33

(MT 13428)

(1)

On motion of Supervisor Jeffries, seconded by Supervisor Hewitt and duly carried by unanimous vote, IT WAS ORDERED that the Authorize and Allocate funding and Approve the Form of Loan Agreement for the Use of CARES Act, Coronavirus Relief Funds, for Project Legacy in the City of Riverside, Project Ivy Palms in the City of Palm Springs, and for Mountain View Estates Phase III in the Community of Oasis, is continued to Tuesday, September 22, 2020 at 9:30 a.m. or as soon as possible thereafter.

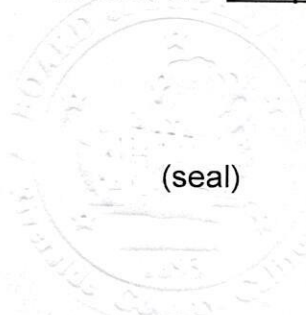
(2)

On motion of Supervisor Washington, seconded by Supervisor Spiegel and duly carried by unanimous vote, IT WAS ORDERED that the recommendation from Counsel regarding to Authorize and Allocate funding and Approve the Form of Loan Agreement for the Use of CARES Act, Coronavirus Relief Funds, for Project Legacy in the City of Riverside, Project Ivy Palms in the City of Palm Springs, and for Mountain View Estates Phase III in the Community of Oasis, is reconsidered and continued to Tuesday, September 29, 2020 at 9:30 a.m. or as soon as possible thereafter.

Roll Call:

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on September 15, 2020 of Supervisors Minutes.



WITNESS my hand and the seal of the Board of Supervisors
Dated: September 15, 2020
Kecia R. Harper, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

By: [Signature] Deputy

AGENDA NO.
3.33

xc: COB



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

9/30/20
Date

YJP
Initial

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: 5555 Arlington Avenue
Riverside, CA 92504
Juan Garcia, Principal Development Specialist
Contact: Specialist
Phone: 951-343-5473

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 California Health and Safety Code Sections 50675.1.1 and 50675.1.2 and State CEQA Guidelines Section 15061 (b)(3) (Common sense exemption).

Project Title: 1) 40 Manufactured Units at Mountain View Estates; 2) Ivy Palms Hotel; and 3) Project Legacy

Project Location: 1) 68990 Harrison Street, Thermal, CA 92274, Assessor Parcel Number: 751-280-018; 2) 2000 North Palm Canyon Drive, Palm Springs, CA, Assessor's Parcel Numbers 504-320-032; and 3) Assessor's Parcel Number 214-292-008, 009, 010, 022, 013, 005

Project Description:

1) The County of Riverside is providing financing for the acquisition and rehabilitation for the following projects: 1) purchase of 40 new manufactured housing units to be installed at Mountain View Estates, a mobile home park with mobile home park spaces for rent at \$455 per month per space. 2) Acquisition of the Ivy Palms Hotel (Hotel) in the City of Palm Springs and convert it to Permanent Supportive Housing to persons experiencing homelessness or at risk of homelessness and impacted by COVID-19. 3) Acquisition of the 6 contiguous properties in the City of Riverside (Project Legacy) for the purpose of providing Permanent Supportive Housing to persons experiencing homelessness or at risk of homelessness and impacted by COVID-19.

Project Sponsor: County of Riverside

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

Lead agency or Responsible Agency

September 15, 2020 and has made the following determinations regarding the above described project:
(tentative date)

Exempt Status: California Health and Safety Code Sections 50675.1.1 and 50675.1.2 and State CEQA Guidelines Section 15061 (b)(3) (Common sense exemption).

Reasons Why Project is Exempt: The Projects have been evaluated and determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to California Health and Safety Code Sections 50675.1.1 and 50675.1.2 and State CEQA Guidelines Section 15061 (b)(3) (Common sense exemption). Notwithstanding any other law, the California Environmental Quality Act (Division 13 commencing with Section 21000) of the Public Resources Code shall not apply to any project, including a phased project, funded pursuant to Section 50675.1.1 if certain requirements described in Section 50675.1.2, if applicable, are satisfied. The proposed projects as described above are made pursuant to Health and Safety Code Section 50675.1.1 and any resulting agreements will be subject to the requirements of the Homekey Program and the aforementioned Health & Safety Code sections. In addition, the projects are exempt pursuant to State CEQA Guidelines Section 15061 (b)(3) (Common sense exemption) because it can be seen with certainty that that there is no possibility that the activity in question may have a significant effect on the environment. Projects include the authorizing the negotiation of real property, acquisition of mobile home units to be placed and renting spaces at an existing mobilehome park, and rehabilitation of existing facilities. Therefore, the projects are statutorily exempt from CEQA and exempt under State CEQA Guidelines Section 15061 (b)(3).

Signature: [Signature]

Title: Michael Walsh, Deputy Director

Date: 9/1/2020

Date received for filing: _____

LOAN AGREEMENT FOR THE USE OF CARES ACT FUNDS

This LOAN AGREEMENT FOR THE USE OF CARES ACT FUNDS ("Agreement") is made and entered into this _____ day of _____, 2020 by and between the COUNTY OF RIVERSIDE, a political subdivision of the State of California ("COUNTY"), and RIVERSIDE COMMUNITY HOUSING CORP., a California nonprofit public benefit corporation ("BORROWER"). The COUNTY and BORROWER may be individually referred to herein as a "Party" and collectively as the "Parties." This Agreement, for the use of funding under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Section 5001, Public Law 116-136), hereinafter "CARES Act," related to the coronavirus disease 2019 (COVID-19) pandemic, is made and entered into as of the Effective Date (defined herein).

WITNESSETH:

WHEREAS, Coronavirus Relief Fund, Title V of the CARES Act, provides that CARES Act funds may be used to cover costs that are necessary expenditures incurred due to the public health emergency with respect to the COVID-19 pandemic; and

WHEREAS, on May 19, 2020, via Minute Order 3.3, the Board of Supervisors of the County of Riverside approved the acceptance of CARES Act funding from the federal government to address COVID-19 related expenses; and

WHEREAS, BORROWER has proposed to utilize CARES Act funds to purchase forty (40) mobile homes to install at Mountain View Estates located at 68990 Harrison Street, Thermal, CA 92274 and rent to qualified individuals and families who are homeless or at risk of homelessness; as more specifically depicted on the site map attached hereto and incorporated herein as Exhibit A; and

WHEREAS, no more than 49% of the total units will be reserved as CARES Assisted Units for qualified individuals and families who are homeless or at risk of homelessness whose incomes do not exceed 50% of the area median income for the County of Riverside, adjusted by family size at the time of occupancy ("CARES-Assisted Units"); and

SEP 29 2020 3.13

1 WHEREAS, the purpose of this Agreement is, among other things, for COUNTY to
2 provide financial assistance to BORROWER using CARES Act funds, to fund a portion of
3 BORROWER's acquisition costs related to the Project, as more fully described herein; and

4 WHEREAS, the CARES-assisted activities described herein comply with the objectives
5 required under the CARES Act in that they are necessary expenditures incurred due to the
6 COVID-19 public health emergency, not accounted for in the most recently approved budget
7 except for COVID-related supplemental appropriations or budget adjustments, and are for
8 expenses incurred by December 30, 2020.

9 NOW, THEREFORE, based upon the foregoing Recitals and for good and valuable
10 consideration, the receipt and sufficiency of which is acknowledged by all parties, the COUNTY
11 and BORROWER hereby agree as follows:

12 1. PURPOSE. The aforementioned Recitals are true and correct and
13 incorporated herein by this reference. COUNTY has agreed to lend no more than a maximum
14 total amount of TWO MILLION DOLLARS (\$2,000,000.00) in CARES Act funds ("CARES
15 Loan") to BORROWER upon the satisfaction of the terms and conditions set forth herein,
16 including but not limited to the conditions precedent to distribution of the CARES Loan set forth
17 in **Section 11** below. Subject also to **Sections 49** and **50** below, BORROWER shall undertake
18 and complete the CARES activities required herein and as set forth in **Exhibit A**, and shall utilize
19 the CARES Loan, as required herein and pursuant to the CARES Act. No more than 49% of the
20 total units shall be reserved as CARES-Assisted Units during the Affordability Period (as defined
21 in **Section 14** below). All CARES-Assisted Units shall be rented to homeless households whose
22 incomes do not exceed 50% of the area median income for the County of Riverside, adjusted by
23 family size at the time of occupancy, and such households shall occupy their respective unit
24 within the Project as their principal residence ("Qualified Households").

25 2. BORROWER'S OBLIGATIONS. Upon the commencement of the
26 Effective Date (defined in **Section 55** below), BORROWER hereby agrees to undertake and
27 complete the following activities within the time period(s) set forth herein and in **Exhibit A**:

28 a. Satisfy the conditions precedent to distribution of CARES Loan set forth

1 in **Section 11** below.

- 2 b. Develop the Project in accordance with the timeline set forth in **Exhibit A**.
- 3 c. Operate the Project in such a manner so that it will remain affordable to
- 4 Qualified Households for the Affordability Period as defined in **Section 14**
- 5 below without regard to (i) the term of the promissory note or (ii) transfer
- 6 of ownership.
- 7 d. Maintain the Project in compliance with applicable local, state, federal
- 8 laws, codes and regulations as further described in **Section 17** below until
- 9 the expiration of the Term of this Agreement set forth in **Section 6** below,
- 10 and the Affordability Period set forth in **Section 14** below.
- 11 e. Cooperate with the Riverside County Workforce Development Center
- 12 (WDC) and post all jobs created, if any, as a result of this Project with the
- 13 WDC. Evidence of posted jobs, if any, shall be submitted to the COUNTY
- 14 prior to start of work.

15 3. RESERVED.

16 4. CARES ACT LOAN. Subject to BORROWER's satisfaction of the

17 conditions precedent to disbursement of the CARES Loan set forth in **Section 11** below,

18 COUNTY shall provide financing to BORROWER in the form of a loan in the amount of

19 \$2,000,000.00 ("CARES Loan"), pursuant to the following terms and conditions:

- 20 a. Term of CARES Loan. The maturity date of the CARES Loan shall
- 21 be the later to occur of (i) July 1, 2077 or (ii) fifty-five (55) years from
- 22 the date a Certificate of Occupancy has been issued for all forty (40)
- 23 mobile homes acquired for the Project (the "CARES Loan Term").
- 24 b. Principal. The total amount of the CARES Loan shall not exceed
- 25 \$2,000,000.00, and shall be evidenced by a Promissory Note,
- 26 substantially conforming in form and substance to the Promissory Note
- 27 attached hereto and incorporated herein as **Exhibit C** ("CARES
- 28 Note"), which note shall be secured by a Deed of Trust and Assignment

1 of Rents, substantially conforming in form and substance to the Deed
2 of Trust and Assignment of Rents attached hereto and incorporated
3 herein as **Exhibit B** ("CARES Deed of Trust").

4 c. Interest. The interest rate shall be zero percent (0%) simple interest per
5 annum.

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

7 1. That the CARES Loan will accrue simple interest at a rate of zero
8 percent (0%) per annum, except in the case of an event of default
9 as hereinafter provided wherein a higher default interest rate shall
10 apply, as more specifically set forth in the CARES Note, and shall
11 be repaid on an annual basis from the Project's Residual Receipts
12 (defined in **Section 4 (d)(3)** below). Interest will begin to accrue
13 thirty (30) days from the date a Notice of Completion is recorded
14 in the Official Records.

15 2. The CARES Note shall be repaid by BORROWER to
16 COUNTY as follows:

17 i) Fifty percent (50%) of the Project's Residual Receipts shall
18 be used towards the payment of the CARES Loan, allocated
19 on a pro rata basis (i.e., in proportion to its share of the total
20 amount of CARES Loan), until the CARES Note is repaid
21 in full; and

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

24 3. The Project's Residual Receipts shall be determined based on
25 an annual review of certified financial statements for the
26 Project. Financial statements shall be submitted by
27 BORROWER to COUNTY within one hundred twenty (120)
28 days following the close of the Project fiscal year commencing

1 on April 1st of the first full calendar year following the
2 recordation of the Notice of Completion. All outstanding
3 principal along with accrued interest shall be due upon the
4 maturity date of the CARES Note and the expiration of the
5 CARES Loan Term as set forth in **Section 4(a)**. The first
6 payment from BORROWER to COUNTY shall be due on July
7 1st in the first full calendar year following the date of the
8 recordation of the Notice of Completion, to the extent of
9 available Residual Receipts, as set forth herein. Subsequent
10 payments shall be made on July 1st thereafter to the extent of
11 available Residual Receipts until the earlier of full repayment
12 of the CARES Loan or the CARES Loan maturity date as set
13 forth above. The term "Project Residual Receipts" used herein
14 shall mean the gross rental income from all residential and non-
15 residential components of the Project, proceeds from loss of
16 rent insurance, and any other income to the BORROWER
17 derived from the ownership, operation and management of the
18 Property, not including interest on required reserve accounts,
19 less the sums below, including but not limited to the following
20 operating expenses:

- 21 a) auditing and accounting fees;
- 22 b) a reasonable property management fee not to exceed \$55.00
23 per unit per month, increased annually by an amount equal
24 to the increase in the Consumer Price Index for Los
25 Angeles-Riverside-Orange County, CA area ("CPI");
26 provided, however, that in the event of a decrease in the
27 CPI, the property management fee shall remain the same as
28 the immediate preceding year;

- 1 c) operating expenses (any expense reasonably and normally
2 incurred in carrying out the Project's day-to-day activities,
3 which shall include administration, on-site management,
4 utilities, on-site staff payroll, payroll taxes, and
5 maintenance);
- 6 d) replacement reserves, established in a separate account
7 from operating reserves, limited to \$400.00 per unit per year
8 for all units in the Project, as defined in **Exhibit A**;
- 9 e) operating reserves replenishment;
- 10 f) payments of principal and interest on amortized loans and
11 indebtedness senior to the CARES Loan, which have been
12 approved by COUNTY (collectively, the "Senior Debt");
13 and
- 14 g) COUNTY's Annual Monitoring Fee in the total annual
15 amount of \$4,000 for the CARES Loan as more specifically
16 discussed in **Section 28**;

17 The calculation of operating expenses shall be subject to the reasonable approval
18 of the Director of the Department of Housing, Homelessness and Workforce Solutions ("Director
19 of HHPWS"), or designee.

20 Except as set forth above, operating expenses shall not include repayment of
21 advances to the BORROWER from its affiliate(s) and/or third parties (including without
22 limitation, any advances or reimbursements for any portion of the Deferred Developer's Fee to
23 pay any construction cost overruns) (collectively a "Borrower Loan"); provided, however, such
24 Borrower Loan may be authorized by the Director of HHPWS, or designee, in his/her sole
25 discretion, upon written request received by the COUNTY. In considering such Borrower request
26 for approval of a Borrower Loan, the Director of HHPWS, or designee, will consider the
27 following: (i) whether such request was made pursuant to the terms of the Borrower's Loan
28 Agreement; (ii) if a Project deficit exists and written evidence of such deficit is provided to the

1 Director of HHPWS, or designee; (iii) BORROWER has demonstrated to COUNTY, in writing,
2 that the requested loan is the only available means of relieving such deficit; and (iv) the Director
3 of HHPWS, or designee, approves the loan terms, including, but not limited to the loan amount,
4 interest rate, and maturity date. The Director of HHPWS, or designee, shall retain the right, in its
5 discretion, to defer such approval to the County's Board of Supervisors. Failure by the Director
6 of HHPWS, or designee, to respond to such request within thirty (30) days of the COUNTY's
7 receipt of such written notice shall be deemed a denial of such request.

8 5. PRIOR COUNTY APPROVAL.

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

15 b. The Director of HHPWS, or designee, shall have the right to make
16 changes to the attachments to this Agreement in order to ensure that all such attachments are
17 consistent with the terms and provisions of this Agreement.

18 6. TERM OF AGREEMENT. This Agreement shall become effective upon
19 the Effective Date, as defined in **Section 55** below, and unless terminated earlier pursuant to the
20 terms hereof, shall continue in full force and effect until the later to occur of (i) July 1, 2077 or
21 (ii) fifty-five (55) years from the date a Certificate of Occupancy has been issued for the last of
22 all forty (40) mobile homes acquired for the Project ("Term of Agreement").

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

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

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

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

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

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

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

27 9. FORCE MAJEURE DELAYS. "Force Majeure" means event(s) beyond
28 the reasonable control of BORROWER, and which could not have been reasonably anticipated,

1 which prevent(s) BORROWER from complying with any of its obligations under this
2 Agreement, including, but not limited to: acts of God, acts of war, acts or threats of terrorism,
3 civil disorders, strikes, labor disputes, pandemics such as COVID-19, flood, fire, explosion,
4 earthquake or other similar acts.

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

21 10. EXTENSION OF TIME. COUNTY may grant an extension to the
22 Implementation Schedule set forth in **Exhibit A** for the purpose of completing BORROWER's
23 activities which cannot be completed as outlined in **Exhibit A**. BORROWER shall request said
24 extension in writing, stating the reasons therefore, which extension must be first approved in
25 writing by the COUNTY in its reasonable discretion. The Director of HHPWS, or designee,
26 may extend all pending deadlines in the Implementation Schedule on two (2) or fewer occasions,
27 so long as the aggregate duration of such administrative time extensions is no greater than ninety
28 (90) days. Every term, condition, covenant, and requirement of this Agreement shall continue

1 in full force and effect during the period of any such extension.

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

- 9 a. BORROWER executes this Agreement and delivers to COUNTY
10 for recordation in the Official Records;
- 11 b. Borrower submits written evidence to COUNTY that Borrower has
12 obtained sufficient financing commitments necessary to undertake
13 the acquisition of the Project, including but not limited to an
14 executed Purchase and Sale Agreement, and opens escrow;
- 15 c. BORROWER provides COUNTY with its Data Universal Number
16 assigned by the Data Universal Number System, as required by the
17 Federal Accountability and Transparency Act of 2006;
- 18 d. BORROWER provides COUNTY with evidence of insurance as
19 required herein;
- 20 e. BORROWER executes the CARES Deed of Trust, substantially
21 conforming in form and substance to the Deed of Trust and
22 Assignment of Rents attached hereto as **Exhibit B**;
- 23 f. BORROWER executes the CARES Note, substantially conforming
24 in form and substance to the Promissory Note attached hereto as
25 **Exhibit C** and delivers to COUNTY;
- 26 g. BORROWER executes the Covenant Agreement, substantially
27 conforming in form and substance to the Covenant Agreement
28 attached hereto and incorporated herein as **Exhibit G**;

- 1 h. COUNTY executes and records the Requests for Notice of Default,
2 conforming in form and substance to **Exhibit I** attached hereto;
- 3 i. BORROWER provides satisfactory evidence that it has all the
4 financing, when combined with the CARES Loan, to pay for all the
5 acquisition costs for the Project;
- 6 j. BORROWER is not in default under the terms of this Agreement
7 or any other agreement related to the financing of the Project;
- 8 k. BORROWER submits evidence that all jobs created, if any, as a
9 result of this project shall be posted with the Riverside County
10 Workforce Development Center (WDC);
- 11 l. BORROWER provides satisfactory evidence that it has secured
12 any and all land use entitlements, permits, approvals which may be
13 required for construction of the Project pursuant to the applicable
14 rules and regulations of COUNTY, or any other governmental
15 agency affected by such construction work. BORROWER shall,
16 without limitation, secure all entitlement, change of zone, lot line
17 adjustment, any and all necessary studies required including but not
18 limited to archaeological, cultural, environmental, traffic studies
19 and lead-based paint surveys, as applicable, and required, and pay
20 all costs, charges and fees associated therewith, all conditions
21 precedent to the issuance of all permits necessary for the
22 construction of the Project and all such permits are available for
23 issuance, other than payment of fees;
- 24 m. BORROWER provides duly executed documents and instruments
25 evidencing that BORROWER owns fee title to the Property;
- 26 n. BORROWER provides satisfactory evidence that it has satisfied all
27 conditions precedent to the issuance of all permits necessary for the
28 construction of the development and all such permits are available

1 for issuance, other than payment of fees;

2 o. BORROWER consults and complies with concerned Native
3 American tribes;

4 p. If Davis Bacon and/or prevailing wages are required to be paid,
5 BORROWER hires a qualified professional firm to review and
6 monitor Davis Bacon and/or prevailing wage compliance for all
7 submissions of contractors certified payrolls to COUNTY. In the
8 event that the Project requires prevailing wages, BORROWER
9 shall comply with, and shall require its contractors and
10 subcontractors performing work on the Project, to pay prevailing
11 wages, used a skilled and trained workforce, and adhere to any
12 applicable labor regulations and all State laws in connection with
13 the construction of the Project, including but not limited to Chapter
14 1 (commencing with Section 1720) of Part 7 of Division 2 of the
15 Labor Code, and Chapter 2.9 (commencing with Section 2600) of
16 Part 1 of Division 2 of the Public Contract Code. BORROWER
17 agrees and acknowledges that it is the responsibility of
18 BORROWER to obtain a legal determination, at BORROWER's
19 sole cost and expense, as to whether prevailing wages must be paid
20 during the construction of the Project. If the Project is subject to
21 prevailing wages, then BORROWER shall be solely responsible to
22 pay its contractors and subcontractors the required prevailing wage
23 rates. BORROWER agrees to indemnify, defend, and hold
24 COUNTY harmless from and against any and all liability arising
25 out of and related to BORROWER's failure to comply with any
26 and all applicable Davis Bacon and/or prevailing wage
27 requirements;

28 q. BORROWER agrees to verify that BORROWER, and its

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

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

16 BORROWER agrees to submit the following documentation to COUNTY, 120
17 days from close or escrow:

- 18 1) Certificate of Occupancy for all 40 of the mobile homes;
19 2) Final Contract and Subcontract Activity report, Minority Business
20 Enterprise/Women Business Enterprise ("MBE/WBE") report;
21 3) Submission of a Project completion report including, "Tenant Checklist,"
22 as shown in **Exhibit F** which is attached hereto and incorporated herein
23 by this reference;
24 4) Tenant Selection Policy;
25 5) Management Plan;
26 6) Certified statement of final development costs; and
27 7) Certified statement of final sources and uses of funds for the Project.
28 12. REALLOCATION OF FUNDS. If Borrower fails to meet (1) the

1 Construction Start Deadline as set forth in **Exhibit A**), (2) the Completion Deadline as set forth
2 in **Section 48(c)**, (3) the Lease Deadline as set forth in **Section 19(b)**, or (4) the Project
3 Financing Contingency in **Section 49**, (collectively, the "Performance Deadlines"), all of which
4 are subject to the notice and cure periods set forth in **Section 31** herein, then the CARES Loan
5 funds allocated or reserved pursuant to this Agreement may be reallocated by COUNTY after at
6 least thirty (30) days' prior written notice to BORROWER. Upon such reallocation and
7 repayment of funds, this Agreement shall be terminated and be of no further force and effect and
8 Borrower shall be released and discharged from any obligations hereunder, except as to those
9 obligations which by their terms survive termination of this Agreement.

10 13. DISTRIBUTION OF FUNDS. COUNTY'S Board of Supervisors shall
11 determine the final disbursement and distribution of all funds received by COUNTY under the
12 CARES Act. Disbursement of CARES Act funds shall occur upon the satisfactory receipt of
13 copies of invoices and conditional (upon receipt of payment) lien releases for construction costs
14 to be paid with the proceeds of the CARES Loan. Any disbursement of funds is expressly
15 conditioned upon the satisfaction of conditions set forth in **Section 11**. COUNTY shall deposit
16 the sum specified in **Section 1** above upon receipt of escrow instructions and wire.

17 14. AFFORDABILITY PERIOD. The COUNTY CARES-Assisted Units
18 shall remain occupied and rented to Qualified Households for an affordable rent pursuant to
19 **Sections 18 and 19** below, **Exhibit A**, and the Covenant Agreement attached hereto as **Exhibit**
20 **G**, until the later of (i) fifty-five (55) years from the date a Certificate of Occupancy has been
21 issued for the last of all forty (40) mobile homes acquired for the Project, or (ii) July 1, 2077
22 ("Affordability Period").

23 15. INSURANCE. Without limiting or diminishing BORROWER'S
24 obligation to indemnify or hold COUNTY harmless, BORROWER shall procure and maintain
25 or cause to be maintained, at its sole cost and expense, the following insurance coverages during
26 the Term of this Agreement.

- 27 a. Builder's All Risk (Course of Construction) Insurance.
28 BORROWER shall provide a policy of Builder's All Risk (Course

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

27 b. Workers' Compensation Insurance.

28 If BORROWER has employees as defined by the State of

1 California, BORROWER shall maintain statutory Workers'
2 Compensation Insurance (Coverage A) as prescribed by the laws
3 of the State of California. Policy shall include Employers' Liability
4 (Coverage B) including Occupational Disease with limits not less
5 than \$1,500,000 per person per accident. The policy shall be
6 endorsed to waive subrogation in favor of The County of Riverside.

7 c. Commercial General Liability Insurance.

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

21 d. Vehicle Liability Insurance.

22 If vehicles or mobile equipment are used in the performance of the
23 obligations under this Agreement, then BORROWER shall
24 maintain liability insurance for all owned, non-owned or hired
25 vehicles so used in an amount not less than \$1,000,000 per
26 occurrence combined single limit. If such insurance contains a
27 general aggregate limit, it shall apply separately to this agreement
28 or be no less than two (2) times the occurrence limit. Policy shall

1 name the County of Riverside, its Agencies, Boards, Districts,
2 Special Districts, and Departments, their respective directors,
3 officers, Board of Supervisors, employees, elected or appointed
4 officials, agents or representatives as Additional Insured or provide
5 similar evidence of coverage approved by COUNTY's Risk
6 Manager.

7 e. General Insurance Provisions – All Lines.

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

15 2) BORROWER's insurance carrier(s) must declare its
16 insurance self-insured retentions. If such self-insured retentions
17 exceed \$500,000 per occurrence such retentions shall have the prior
18 written consent of COUNTY Risk Manager before the
19 commencement of operations under this Agreement. Upon
20 notification of self-insured retention unacceptable to COUNTY,
21 and at the election of COUNTY's Risk Manager, BORROWER's
22 carriers shall either: (a) reduce or eliminate such self-insured
23 retention as respects this Agreement with COUNTY, or (b) procure
24 a bond which guarantees payment of losses and related
25 investigations, claims administration, and defense costs and
26 expenses.

27 3) BORROWER shall cause BORROWER's insurance
28 carrier(s) to furnish the County of Riverside with copies of the

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

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

28 5) If, during the term of this Agreement or any extension

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

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

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

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

20 16. FINANCIAL AND PROJECT RECORDS. BORROWER shall maintain
21 financial, programmatic, statistical, and other supporting records of its operations and financial
22 activities sufficient to establish compliance with subsection 601(d) of the Social Security Act, as
23 amended, (42 U.S.C. 801(d)), in accordance with the requirements of the CARES Act, and the
24 regulations as amended and promulgated thereunder, which records shall be open to inspection
25 and audit by authorized representatives of COUNTY, the California Department of Finance, and
26 the United States Department of the Treasury Office of Inspector General, during regular
27 working hours. COUNTY, state, and federal representatives have the right of access, with at
28 least forty-eight (48) hours prior notice, to any pertinent books, documents, papers, or other

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

12 17. COMPLIANCE WITH LAWS AND REGULATIONS. By executing this
13 Agreement, BORROWER hereby certifies that it will adhere to and comply with all federal, state
14 and local laws, regulations and ordinances. In particular, BORROWER shall comply with the
15 following as they may be applicable to BORROWER in connection with the CARES Loan:

- 16 a) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal
17 Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967,
18 and as supplemented in Department of Labor Regulations (41 CFR Part 60). The
19 BORROWER will not discriminate against any employee or applicant for employment
20 because of race, color, religion, sex, or national origin. BORROWER shall ensure that all
21 qualified applicants will receive consideration for employment without regard to race,
22 color, religion, sex or national origin. The BORROWER will take affirmative action to
23 ensure that applicants are employed and the employees are treated during employment,
24 without regard to their race color, religion, sex, or national origin. Such actions shall
25 include, but are not limited to, the following: employment, up-grading, demotion, or
26 transfer; recruitment or recruitment advertising; rates of pay or other forms of
27 compensation; and selection for training, including apprenticeship. The BORROWER
28 agrees to post in a conspicuous place, available to employees and applicants for

- 1 employment, notices to be provided by the County setting forth the provisions of this non-
2 discrimination clause;
- 3 b) Executive Order 11063, as amended by Executive Order 12259, and implementing
4 regulations at 24 CFR Part 107;
- 5 c) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and
6 implementing regulations;
- 7 d) The Age Discrimination Act of 1975 (Pub. L. 94-135), as amended, and implementing
8 regulations;
- 9 e) The regulations, policies, guidelines and requirements of the Uniform Administrative
10 Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part
11 200) as they relate to the acceptance and use of federal funds under the federally-assigned
12 program;
- 13 f) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) and implementing regulations
14 issued at 24 CFR Part 1;
- 15 g) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284) as amended; and
- 16 h) *Rights to Data and Copyrights*: Contractors and consultants agree to comply with all
17 applicable provisions pertaining to the use of data and copyrights pursuant to 48 CFR Part
18 27.404-3, Federal Acquisition Regulations (FAR).
- 19 i) *Air Pollution Prevention and Control* (formally known as the *Clean Air Act*) (42 U.S.C.A.
20 7401 *et seq.*) and the *Federal Water Pollution Control Act* (33 U.S.C.A. Section 1251 *et*
21 *seq.*), as amended: Contracts and subgrants of amounts in excess of \$100,000 shall contain
22 a provision that requires the recipient to agree to comply with all applicable standards,
23 orders or regulations issued pursuant to the *Clean Air Act* (42 U.S.C.A. 7401 *et seq.*) and
24 the *Federal Water Pollution Control Act* as amended (33 U.S.C.A. Section 1251 *et seq.*).
25 Violations shall be reported to the Federal awarding agency and the Regional Office of the
26 Environmental Protection Agency (EPA).
- 27 j) *Anti-Lobbying Certification* (31 U.S.C.A. 1352): The language of the certification set forth
28 below shall be required in all contracts or subcontracts entered into in connection with this

1 grant activity and all BORROWERS shall certify and disclose accordingly. This
2 certification is a material representation of fact upon which reliance was placed when this
3 transaction was made or entered into. Submission of this certification is a prerequisite for
4 making or entering into this transaction imposed by. Section 1352, Title 31, U.S. code. Any
5 person who fails to file the required certification shall be subject to a civil penalty of not
6 less than \$10,000 and no more than \$100,000 for such failure.

7 “The undersigned certifies, to the best of his or her knowledge or belief, that:

8 No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any
9 person for influencing or attempting to influence an officer or employee of any agency, a
10 Member of Congress, an officer or employee of Congress, or an employee of a Member of
11 Congress in connection with the awarding of any Federal contract, the making of any
12 Federal grant, the making of any Federal loan, the entering into of any cooperative
13 agreement, and the extension, continuation, renewal, amendment, or modification of any
14 Federal contract, grant, loan, or cooperative agreement;

15 If any funds other than Federal appropriated funds have been paid or will be paid to any
16 person for influencing or attempting to influence an officer or employee of any agency, a
17 Member of Congress, an officer or employee of Congress, or an employee of a Member of
18 Congress in connection with this Federal contract, grant loan or cooperative agreement,
19 he/she will complete and submit Standard Form – LLL, “Disclosure Form to Report
20 Lobbying,” in accordance with its instructions.”

21 k) *Debarment and Suspension (Executive Orders (E.O.) 12549 and 12689)*: No contract
22 award shall be made to parties listed on the governmentwide exclusions in the System for
23 Award Management (SAM), in accordance with OMB guidelines at 2 CFR 180 that
24 implement Executive Orders (E.O.s) 12549 and 12689, “Debarment and Suspension.”
25 SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded
26 by agencies, as well as parties declared ineligible under statutory or regulatory authority
27 other than E.O. 12549. Contractors with awards that exceed the small purchase threshold
28 shall provide the required certification regarding its exclusion status and that of its principal

1 employees.

- 2 l) *Drug-Free Workplace Requirements*: The Anti-Drug Abuse Act of 1988 (41 U.S.C.A.
3 Section 8101-8103) requires grantees (including individuals) of federal agencies, as a prior
4 condition of being awarded a grant, to certify that they will provide drug-free workplaces.
5 Each potential recipient must certify that it will comply with drug-free workplace
6 requirements in accordance with the Act and with HUD's rules at 2 CFR Part 2424.
- 7 m) *Access to Records and Records Retention*: The BORROWER or Contractor, and any sub-
8 consultants or sub-contractors, shall allow all duly authorized Federal, State, and/or County
9 officials or authorized representatives access to the work area, as well as all books,
10 documents, materials, papers, and records of the BORROWER or Contractor, and any sub-
11 consultants or sub-contractors, that are directly pertinent to a specific program for the
12 purpose of making audits, examinations, excerpts, and transcriptions. The BORROWER
13 or Contractor, and any sub-consultants or sub-contractors, further agree to maintain and
14 keep such books, documents, materials, papers, and records, on a current basis, recording
15 all transactions pertaining to this agreement in a form in accordance with generally
16 acceptable accounting principles. All such books and records shall be retained for such
17 periods of time as required by law, provided, however, notwithstanding any shorter periods
18 of retention, all books, records, and supporting detail shall be retained for a period of at
19 least five (5) years after the expiration of the term of this Agreement, or final payment is
20 made, whichever is later.
- 21 n) *Federal Employee Benefit Clause*: No member of or delegate to the Congress of the United
22 States, and no Resident Commissioner shall be admitted to any share or part of this
23 agreement or to any benefit to arise from the same.
- 24 o) *Energy Efficiency*: Mandatory standards and policies relating to energy efficiency which
25 are contained in the State energy conservation plan issued in compliance with the Energy
26 Policy and Conservation Act (Pub. L. 94 - 163, Dec. 22, 1975; 42 U.S.C.A. Section 6201,
27 et. seq., 89 Stat.871).
- 28 p) *Procurement of Recovered Materials (2 CFR 200.322.)*: A non-Federal entity that is a

1 state agency or agency of a political subdivision of a state and its contractors must comply
2 with 42 U.S.C. Section 6002 of the Solid Waste Disposal Act, as amended by the Resource
3 Conservation and Recovery Act. The requirements of Section 6002 include procuring only
4 items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR
5 Part 247 that contain the highest percentage of recovered materials practicable, consistent
6 with maintaining a satisfactory level of competition, where the purchase price of the item
7 exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded
8 \$10,000; procuring solid waste management services in a manner that maximizes energy
9 and resource recovery; and establishing an affirmative procurement program for
10 procurement of recovered materials identified in the EPA guidelines. The requirements of
11 2 CFR 200.322, as amended effective November 12, 2020, are hereby included in this
12 Agreement as appropriate and to the extent consistent with law.

13 a. The regulations created by the Office of the Assistant Secretary of
14 Community Planning and Development that pertain to Community
15 Development programs are contained within 24 CFR part 570 -
16 Community Development Block Grants. Section 92.350 Other
17 Federal requirements and nondiscrimination. As set forth in 24
18 CFR part 5, sub part A, BORROWER is required to include the
19 following requirements: nondiscrimination and equal opportunity
20 under Section 282 of the Act; disclosure; debarred, suspended, or
21 ineligible contractors; and drug-free workplace.

22 b. Section 92.351 Affirmative marketing and minority outreach
23 program. BORROWER must adopt affirmative marketing
24 procedures and requirements. These must include:

25 (1) Methods for informing the public, owners, and potential
26 tenants about Federal fair housing laws and the affirmative
27 marketing policy (e.g., the use of the Equal Housing
28 Opportunity logotype or slogan in press releases and

1 solicitations for owners, and written communication to fair
2 housing and other groups).

3 (2) Requirements and practices that BORROWER must adhere
4 to in order to carry out the affirmative marketing procedures
5 and requirements (e.g., use of commercial media, use of
6 community contacts, use of the Equal Housing Opportunity
7 logotype or slogan, and display of fair housing poster).

8 (3) Procedures to be used by BORROWER to inform and
9 solicit applications from persons in the housing market area
10 who are not likely to apply without special outreach (e.g.,
11 use of community organizations, employment centers, fair
12 housing groups, or housing counseling agencies).

13 (4) Records that will be kept describing actions taken by
14 BORROWER to affirmatively market units and records to
15 assess the results of these actions.

16 (5) A description of how BORROWER will annually assess the
17 success of affirmative marketing actions and what
18 corrective actions will be taken where affirmative
19 marketing requirements are not met.

20 (6) BORROWER must prescribe procedures to establish and
21 oversee a minority outreach program to ensure the
22 inclusion, to the maximum extent possible, of minorities
23 and women, and entities owned by minorities and women,
24 including, without limitation, real estate firms, construction
25 firms, appraisal firms, management firms, financial
26 institutions, investment banking firms, underwriters,
27 accountants, and providers of legal services, in all contracts
28 entered into by BORROWER with such persons or entities,

1 public and private, in order to facilitate the activities of
2 COUNTY to provide affordable housing authorized under
3 this Act or any other Federal housing law. Section 24 CFR
4 85.36(e) provided affirmative steps to assure that minority
5 business enterprises and women business enterprises are
6 used when possible in the procurement of property and
7 services. The steps include:

- 8 (i) Placing qualified small and minority businesses and
9 women's business enterprises on solicitation lists.
- 10 (ii) Assuring that small and minority businesses, and
11 women's business enterprises are solicited
12 whenever they are potential sources.
- 13 (iii) Dividing total requirements, when economically
14 feasible, into smaller tasks or quantities to permit
15 maximum participation by small and minority
16 business, and women's business enterprises.
- 17 (iv) Establishing delivery schedules, where the
18 requirement permits, which encourage participation
19 by small and minority business, and women's
20 business enterprises.
- 21 (v) Using the services and assistance of the Small
22 Business Administration, and the Minority Business
23 Development Agency of the Department of
24 Commerce.
- 25 (vi) Requiring the prime contractor, if subcontracts are
26 to be let, to take the affirmative steps listed in (i)
27 through (v) above of this section.

28 d. Section 92.352 Environmental review. The environmental effects

1 of each activity carried out with HOME funds must be assessed in
2 accordance with the provisions of the National Environmental
3 Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and the related
4 authorities listed in HUD's implementing regulations at 24 CFR
5 Parts 50 and 58.

6 e. Section 92.353 Displacement, relocation, and acquisition. The
7 relocation requirements of Title II and the acquisition requirements
8 of Title III of the Uniform Relocation Assistance and Real Property
9 Acquisition Policies Act of 1970, and the implementing regulations
10 at 24 CFR Part 42. BORROWER must ensure that it has taken all
11 reasonable steps to minimize the displacement of persons as a result
12 of this project assisted with HOME Funds.

13 f. Section 92.354 Lead-based paint. Housing assisted with HOME
14 funds is subject to the lead-based paint requirements of 24 CFR
15 Part 35 issued pursuant to the Lead-Based Paint Poisoning
16 Prevention Act (42 U.S.C. 4821, et seq.). The lead-based paint
17 provisions of 24 CFR 982.401 (j), except 24 CFR 982.401 (j)(1)(i),
18 also apply, irrespective of the applicable property standard under
19 §92.251.

20 g. Section 92.354 Labor. Every contract for the construction of
21 housing that includes twelve (12) or more units assisted with
22 HOME funds must contain a provision requiring the payment of
23 not less than the wages prevailing in the locality, as predetermined
24 by the Secretary of Labor pursuant to the Davis-Bacon Act (40
25 U.S.C. 276a-276a-5), to all laborers and mechanics employed in
26 the development of any part of the housing. Such contracts must
27 also be subject to the overtime provisions, as applicable, of the
28 Contract Work Hours and Safety Standards Act (40 U.S.C. 327-

1 332). BORROWER must apply most current wage rate
2 determination at the date of execution of this Agreement.

3 h. Section 92.356 Conflict of Interest. In the procurement of property
4 and services by BORROWER, the conflict of interest provisions in
5 24 CFR 85.36 and 24 CFR 85.42, respectively shall apply. Section
6 92.356 shall cover all cases not governed by 24 CFR 85.36 and 24
7 CFR 84.42.

8 i. Section 504 of the Rehabilitation Act of 1973; Housing
9 accessibility requirement at 24 CFR Part 8, implementing Section
10 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). The design
11 and construction of multi-family dwellings as defined at 24 CFR
12 100.201 must comply with the requirements set forth in 24 CFR
13 100.205 implementing the Fair Housing Act. Dwelling units must
14 be designed and constructed in accordance with the Uniform
15 Federal Accessibility Standards (UFAS) will be deemed to comply
16 with the Section 504 regulation.

17 (1) 24 CFR Part 8.22 New construction—housing
18 facilities. For new construction of multi-family
19 projects, 5 percent (5%) of the units (but not less
20 than one unit) must be accessible to individuals with
21 mobility impairments, and an additional 2 percent
22 (2%) of the units (but not less than one unit) must
23 be accessible to individuals with sensory
24 impairments.

25 (2) 24 CFR Part 8.23 Alterations of existing housing
26 facilities. If alterations are undertaken to a project
27 that has 15 or more units and the cost of the
28 alterations is 75 percent or more of the replacement

1 cost of the completed facility, then the provisions of
2 §8.22 shall apply. Alterations to dwelling units in a
3 multifamily housing project shall, to the maximum
4 extent feasible, be made to be readily accessible to
5 and usable by individuals with handicaps. If
6 alterations of single elements or spaces of a
7 dwelling unit, when considered together, amount to
8 an alteration of a dwelling unit, the entire dwelling
9 unit shall be made accessible. Once 5 percent (5%)
10 of the dwelling units in a project are readily
11 accessible to and usable by individuals with
12 mobility impairments, then no additional elements
13 of dwelling units, or entire dwelling units, are
14 required to be accessible under this paragraph.
15 Alterations to common areas or parts of facilities
16 that affect accessibility of existing housing facilities
17 shall, to the maximum extent feasible, be made to
18 be accessible to and usable by individuals with
19 handicaps. For purposes of this paragraph, the
20 phrase to the maximum extent feasible shall not be
21 interpreted as requiring that a recipient make a
22 dwelling unit, common area, facility or element
23 thereof accessible if doing so would impose undue
24 financial and administrative burdens on the
25 operation of the multifamily housing project.

- 26 j. Model Energy Code published by the Council of American
27 Building Officials.
28 k. Section 3 of the Housing and Urban Development Act of 1968. To

1 the greatest extent feasible, opportunities for training and
2 employment arising from HOME funds will be provided to low-
3 income persons residing in the program service area. To the
4 greatest extent feasible, contracts for work to be performed in
5 connection with HOME funds will be awarded to business
6 concerns that are located in or owned by persons residing in the
7 program service area as outlined in the County of Riverside Section
8 3 Contract Requirements attached hereto as **Exhibit D**. Contracts
9 funded from Section 3 covered funding sources must abide by the
10 Section 3 Clause prescribed at 24 CFR 135.38. All contracts
11 subject to the requirements of Section 3 must include the Section 3
12 Clause verbatim that is contained at 24 CFR 135.38 attached hereto
13 as **Exhibit D-2**, which is attached hereto and by this reference
14 incorporated herein.

- 15 1. Section 106 of the National Historic Preservation Act of 1966
16 (NHPA). Consultation with concerned Native American tribes
17 must continue under HUD regulation 24 CFR Part 50 and 58, and
18 Section 106 of the National Historic Preservation Act and its
19 implementing regulations 36 CFR Part 800 for possible impacts on
20 historic properties. Historic properties include archeological sites,
21 burial grounds, sacred landscapes or features, ceremonial areas,
22 traditional cultural places and landscapes, plant and animal
23 communities, and buildings and structures with significant tribal
24 association.
- 25 m. Section 92.358 Consultant Activities. No person providing
26 consultant services in an employer-employee type relationship
27 shall receive more than a reasonable rate of compensation for
28 personal services paid with HOME funds.

- 1 n. BORROWER shall carry out its activity pursuant to this
2 Agreement in compliance with all federal laws and regulations
3 described in Subpart E of Part 92 of the Code of Federal
4 Regulations, except that:
- 5 1. BORROWER does not assume COUNTY'S environmental
6 responsibilities described at 24 CFR Part 92.352; and
 - 7 2. BORROWER does not assume COUNTY's responsibility
8 for initiating the review process under the provisions of 24
9 CFR Part 92.352
- 10 o. Uniform Administrative Requirements of 24 CFR 92.505 and 24
11 CFR Part 200 as now in effect and as may be amended from time
12 to time. Federal awards expended as a recipient or a subrecipient,
13 as defined by HUD, would be subject to single audit. The payments
14 received for goods or services provided as a vendor would not be
15 considered Federal awards.
- 16 p. BORROWER shall include written agreements that include all
17 provisions of **Section 17** if BORROWER provides HOME funds
18 to for-profit owners or developers, non-profit owners or
19 developers, sub-recipients, homeowners, homebuyers, tenants
20 receiving tenant-based rental assistance, or contractors.
- 21 q. Immigration requirements of Federal Register, Vol. 62, No. 221,
22 Department of Justice Interim Guidance on Verification of
23 Citizenship, Qualified Alien Status and Eligibility Under Title IV
24 of the Personal Responsibility and Work Opportunity
25 Reconciliation Act of 1996 ("PRWORA"). Final Attorney
26 General's Order issued pursuant to PRWORA is specified under
27 Federal Register Vol. 66, No. 10, Department of Justice Final
28 Specification of Community Programs Necessary for Protection of

1 Life or Safety Under Welfare Reform Legislation.

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

4 18. INCOME TARGETING REQUIREMENTS. BORROWER shall set aside
5 49% of the units for restricted use for homeless households whose incomes do not exceed 50%
6 of the area median income for the County of Riverside, adjusted by family size at the time of
7 occupancy. Income limits are published by the United States Department of Housing and Urban
8 Development (HUD).

9 19. RENT LIMITATIONS. BORROWER shall comply with the rent
10 limitations set forth under 24 CFR 92.252 of the HOME Investment Partnerships program.
11 Effective 2020, HUD published Rent Limits for the County of Riverside. The low rent limit for
12 a one-bedroom unit is \$706, two-bedroom unit is \$847, and three-bedroom unit is \$979. The
13 high rent limit for a one-bedroom unit is \$899, two-bedroom unit is \$1081, and three-bedroom
14 unit is \$1239. Rent limits are more specifically set forth herein and incorporated herein by this
15 reference. In order to calculate net rent to be charged, an applicable utility allowance must be
16 subtracted from the gross rents listed.

17 a. Utility Allowance: Owners are required to complete initial Utility Allowance
18 (UA) calculations and submit their calculations for review and approval to the County prior to
19 implementation, annually by June 1st. The following methods below are acceptable
20 methodologies for calculating UA's:

- 21 i. HUD Utility Schedule Model (HUSM), UA based on HUD's model.
22 ii. Utility Company Estimate, UA based on estimated obtained from a local
23 utility company for each of the utilities used in the project.
24 iii. LIHTC Agency Estimate, UA approved by the LIHTC agency based on its
25 actual usage methodology.
26 iv. Energy Consumption Model (Engineer Model), UA based upon on an
27 energy and water and sewage consumption and analysis model prepared
28 by a third party licensed engineer or t qualified professional.

1 b. Initial Occupancy of Vacant Units: All CARES-Assisted Units shall be occupied
2 by and rented to Qualified Households for an affordable rent within three (3) month from the
3 issuance of the Certificate of Occupancy (“Lease Deadline”). If a COUNTY CARES-Assisted
4 Unit remains unoccupied or not leased to an eligible tenant, BORROWER must provide to
5 COUNTY information about current marketing efforts and an enhanced plan for marketing the
6 unit so that it is leased promptly.

7 Within three (3) months from the Lease Deadline from the issuance of Certificate
8 of Occupancy), if a CARES-Assisted Unit remains unoccupied or not leased to an eligible tenant,
9 then BORROWER agrees to repay CARES funds for any CARES-Assisted Unit that is not
10 rented to eligible tenants. BORROWER may request an extension of the Lease Deadline, as
11 stated in Implementation Schedule set forth in this Agreement from COUNTY if BORROWER
12 can provide to COUNTY evidence showing efforts of aggressive marketing efforts and proof
13 that the circumstances that led to the failure to lease the CARES-Assisted Unit(s) by the Lease
14 Deadline were beyond the BORROWER’s control. The extension and time of extension is
15 subject to COUNTY’s approval and not guaranteed. The Director HHPWS or designee, has the
16 authority, at his or her discretion, to consent to an extension of the Lease Deadline.

17 The amount of CARES funds to be repaid is based on the CARES Loan, defined
18 in **Section 1**, prorated by the number of COUNTY CARES-Assisted Units that are or are not
19 rented to eligible tenants. If all COUNTY CARES-Assisted Units are not rented to eligible
20 tenants upon the initial occupancy of those units, then COUNTY and BORROWER mutually
21 agree that this Agreement will self-terminate and any CARES Loan funds drawn shall be
22 returned within thirty (30) calendar days. Upon such termination, this Agreement shall become
23 null and void. COUNTY and BORROWER shall be released and discharged respectively from
24 their obligations under this Agreement. All cost incurred by each party on the Project will be
25 assumed respectively.

26 c. Approval: The BORROWER shall submit to the
27 COUNTY for review and written approval, all proposed rents for the CARES-
28 Assisted Units prior to lease-up. If during the recertification process a household



1 income falls above 80% of the Area Median Income then household shall pay the lesser of 30%
2 of the adjusted income or Market rent.

3 20. TENANT PROTECTIONS. During the Affordability Period,
4 BORROWER shall adhere to the tenant protections and selection standard set forth in 24 CFR
5 92.253, as may be amended from time to time, and the following requirements:

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

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

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

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

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

1 whether intentional or negligent.

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

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

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

12 (7) Waiver of right to appeal court decision. Agreement by the
13 tenant to waive the tenant's right to appeal, or to otherwise
14 challenge in court, a court decision in connection with the
15 lease.

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

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

24 c. Violence Against Women Reauthorization Act of 2013. (Pub. L. 113–
25 4, 127 Stat. 54) (“VAWA 2013”). VAWA 2013 reauthorizes and
26 amends the Violence Against Women Act of 1994, as previously
27 amended, (title IV, sec. 40001–40703 of Pub. L. 103–322, 42 U.S.C.
28 13925 et seq.) VAWA 2013, among other things, bars eviction and

1 termination due to a tenant's status as a victim of domestic violence,
2 dating violence, or stalking, and requires landlords to maintain
3 survivor-tenant confidentiality. VAWA 2013 prohibits a tenant who is
4 a survivor of domestic violence, dating violence, sexual assault, and
5 stalking from being denied assistance, tenancy, or occupancy rights
6 based solely on criminal activity related to an act of violence
7 committed against them. It extends housing protections to survivors of
8 sexual assault, and adds "intimate partner" to the list of eligible
9 relationships in the domestic violence definition. Protections also now
10 cover an "affiliated individual," which includes any lawful occupant
11 living in the survivor's household, or related to the survivor by blood
12 or marriage including the survivor's spouse, parent, brother, sister,
13 child, or any person to whom the survivor stands in loco parentis.
14 VAWA 2013 allows a lease bifurcation so a tenant or lawful occupant
15 who engages in criminal activity directly relating to domestic violence,
16 dating violence, sexual assault, or stalking against an affiliated
17 individual or other individual, or others may be evicted or removed
18 without evicting or removing or otherwise penalizing a victim who is
19 a tenant or lawful occupant. If victim cannot establish eligibility,
20 BORROWER must give a reasonable amount of time to find new
21 housing or establish eligibility under another covered housing
22 program. A Notice of Rights under VAWA 2013 for tenants must be
23 provided at the time a person applies for housing, when a person is
24 admitted as a tenant of a housing unit, and when a tenant is threatened
25 with eviction or termination of housing benefits. Tenants must request
26 an emergency transfer and reasonably believe that they are threatened
27 with imminent harm from further violence if the tenant remains in the
28 same unit. The provisions of VAWA 2013 that are applicable to HUD

1 programs are found in title VI of VAWA 2013, which is entitled "Safe
2 Homes for Victims of Domestic Violence, Dating Violence, Sexual
3 Assault, and Stalking." Section 601 of VAWA 2013 amends subtitle N
4 of VAWA (42 U.S.C. 14043e et seq.) to add a new chapter entitled
5 "Housing Rights."

6 21. FEDERAL REQUIREMENTS. BORROWER shall comply with the
7 provisions of the CARES Act and any amendments thereto and all applicable federal regulations
8 and guidelines now or hereafter enacted pursuant to the Act.

9 22. SALE, ASSIGNMENT OR OTHER TRANSFER OF THE PROJECT.
10 BORROWER hereby covenants and agrees not to sell, assign, transfer or otherwise dispose of
11 the Project or any portion thereof, without obtaining the prior written consent of the COUNTY,
12 which consent shall be conditioned upon receipt by the COUNTY of reasonable evidence
13 satisfactory to the COUNTY in its sole discretion, that transferee has assumed in writing and in
14 full, and is reasonably capable of performing and complying with the BORROWER's duties and
15 obligations under this Agreement, provided, however Borrower shall not be released of all
16 obligations hereunder which accrue from and after the date of such sale.

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

21 24. NONDISCRIMINATION. Borrower shall abide by 24 CFR 570.602
22 which requires that no person in the United States shall on the grounds of race, color, national
23 origin, religion, or sex be excluded from participation in, be denied the benefits of, or be
24 subjected to discrimination under any program or activity receiving Federal financial assistance
25 made available pursuant to the Act. Under the Act, Section 109 directs that the prohibitions
26 against discrimination on the basis of age under the Age Discrimination Act and the prohibitions
27 against discrimination on the basis of disability under Section 504 shall apply to programs or
28 activities receiving Federal financial assistance under Title I programs. The policies and

1 procedures necessary to ensure enforcement of Section 109 are codified in 24 CFR Part 6. In
2 addition, BORROWER shall not discriminate on the basis of race, gender, religion, national
3 origin, ethnicity, sexual orientation, age or disability in the solicitation, selection, hiring or
4 treatment of any contractors or consultants, to participate in subcontracting/subconsulting
5 opportunities. BORROWER understands and agrees that violation of this clause shall be
6 considered a material breach of this Lease and may result in termination, debarment or other
7 sanctions. This language shall be incorporated into all contracts between BORROWER and any
8 contractor, consultant, subcontractor, subconsultants, vendors and suppliers. BORROWER shall
9 comply with the provisions of the California Fair Employment and Housing Act (Government
10 Code Sections 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended,
11 and all Administrative Rules and Regulations issued pursuant to said Acts and Orders with
12 respect to its use of the Property.

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

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

- 1 a) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs,
2 executors, administrators, and assigns, and all persons claiming under or through them, that
3 there shall be no discrimination against or segregation of, any person or group of persons
4 on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government
5 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
7 Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the
8 premises herein conveyed, nor shall the grantee or any person claiming under or through
9 him or her, establish or permit any practice or practices of discrimination or segregation
10 with reference to the selection, location, number, use or occupancy of tenants, lessees,
11 subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing
12 covenants shall run with the land."
- 13 b) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs,
14 executors, administrators, and assigns, and all persons claiming under or through him or
15 her, and this lease is made and accepted upon and subject to the following conditions: That
16 there shall be no discrimination against or segregation of any person or group of persons,
17 on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government
18 Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and
19 paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government
20 Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the
21 premises herein leased nor shall the lessee himself or herself, or any person claiming under
22 or through him or her, establish or permit any such practice or practices of discrimination
23 or segregation with reference to the selection, location, number, use, or occupancy, of
24 tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."
- 25 c) In contracts: "There shall be no discrimination against or segregation of any person or
26 group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955
27 of the Government Code, as those bases are defined in Sections 12926, 12926.1,
28 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2

1 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or
2 enjoyment of the land, nor shall the transferee itself or any person claiming under or
3 through him or her, establish or permit any such practice or practices of discrimination or
4 segregation with reference to the selection, location, number, use, or occupancy, of tenants,
5 lessees, sublessees, subtenants, or vendees of the land.”

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

11 25. PROHIBITION AGAINST CONFLICTS OF INTEREST:

- 12 a. BORROWER and its assigns, employees, agents, consultants, officers
13 and elected and appointed officials shall become familiar with and shall
14 comply with the conflict of interest provisions in OMB Circular A-110,
15 24 CFR 85.36, 24 CFR 84.42, 24 CFR 92.356 and Policy Manual #A-
16 11, attached hereto as **Exhibit E** and by this reference incorporated
17 herein.
- 18 b. BORROWER understands and agrees that no waiver or exception can
19 be granted to the prohibition against conflict of interest except upon
20 written approval of HUD pursuant to 24 CFR 92.356(d). Any request
21 by BORROWER for an exception shall first be reviewed by COUNTY
22 to determine whether such request is appropriate for submission to
23 HUD. In determining whether such request is appropriate for
24 submission to HUD, COUNTY will consider the factors listed in 24
25 CFR 92.356(e).
- 26 c. Prior to any funding under this Agreement, BORROWER shall provide
27 COUNTY with a list of all employees, agents, consultants, officers and
28 elected and appointed officials who are in a position to participate in a

1 decision-making process, exercise any functions or responsibilities, or
2 gain inside information with respect to the CARES activities funded
3 under this Agreement. BORROWER shall also promptly disclose to
4 COUNTY any potential conflict, including even the appearance of
5 conflict that may arise with respect to the CARES activities funded
6 under this Agreement.

7 d. Any violation of this section shall be deemed a material breach of this
8 Agreement, and the Agreement shall be immediately terminated by
9 COUNTY.

10 26. SECURITY INTEREST. BORROWER hereby grants to COUNTY a
11 security interest under the applicable certificate of title law or Uniform Commercial Code in the
12 MANUFACTURED HOME and any property added or attached to it, to secure BORROWER's
13 obligations under this Agreement. BORROWER also grants to COUNTY a security interest in
14 any interest BORROWER may have in premium refunds or proceeds under any insurance
15 covering the CARES-Assisted Units. BORROWER further agrees to execute any application
16 for certificate of title or ownership, financing statement, or other document necessary to perfect
17 COUNTY's security interest in the CARES-Assisted Units. The security interest under this
18 NOTE secures payment of all of the BORROWER's indebtedness, including debts, obligations
19 or liabilities which now exist or are hereafter created, and whether they are absolute or
20 contingent, and includes future advances.

21 27. PROJECT MONITORING AND EVALUATION.

22 a. Tenant Checklist. BORROWER shall submit a Tenant Checklist
23 Form to COUNTY, as shown in **Exhibit F** which is attached hereto and by this reference is
24 incorporated herein and may be revised by COUNTY, summarizing the racial/ethnic
25 composition, number and percentage of very low-income and low-income households who are
26 tenants of the COUNTY CARES-Assisted Units. The Tenant Checklist Form shall be submitted
27 upon completion of the construction and thereafter, on a semi-annual basis on or before March
28 31st and September 30th. BORROWER shall maintain financial, programmatic, statistical and

1 other supporting records of its operations and financial activities in accordance with the
2 requirements of the CARES Act, including the submission of Tenant Checklist Form. Except as
3 otherwise provided for in this Agreement, BORROWER shall maintain and submit records to
4 COUNTY within ten business days of COUNTY's request which clearly documents
5 BORROWER's performance under each requirement of the CARES Act. A list of document
6 submissions and timeline are shown in **Exhibit A** and such list may be amended from time to
7 time subject to COUNTY, state and/or federal reporting requirements.

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

1 Assisted Units, COUNTY must inspect 100 percent of the COUNTY CARES-Assisted Units
2 and the inspectable items (site, building exterior, building systems, and common areas) for each
3 building housing COUNTY CARES-Assisted units.

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

8 28. MONITORING FEE. BORROWER shall pay an annual compliance
9 monitoring fee to the COUNTY in the total annual amount of \$4,000 ("Monitoring Fee"). The
10 Monitoring Fee payment is due on July 1st of each year for the monitoring period of July 1st to
11 June 30th commencing July 1, 2022 and will continue until the expiration of the Affordability
12 Period. The Monitoring Fee is to be adjusted upwards annually, increased by an amount equal
13 to the increase in CPI for the Los Angeles-Riverside-Orange County, CA area. In the event of a
14 decrease in the applicable CPI, the Monitoring Fee currently in effect shall remain the same and
15 shall not decrease.

16 29. ACCESS TO PROJECT SITE. COUNTY, state and/or federal awarding
17 agencies shall have the right to access the Project site and the Property at all reasonable times,
18 and upon completion of the Project upon reasonable written notice to BORROWER, to review
19 the operation of the Project in accordance with this Agreement.

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

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

1 other instrument or document secured against the Property;

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

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

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

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

26 f. Damage to Project. In the event that the Project is materially
27 damaged or destroyed by fire or other casualty, and BORROWER receives an award or insurance
28 proceeds sufficient for the repair or reconstruction of the Project, and BORROWER does not use

1 such award or proceeds to repair or reconstruct the Project.

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

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

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

28 b. COUNTY shall give written notice of default to BORROWER, specifying

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

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

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

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

- a. Terminate this Agreement, in which event the entire CARES Loan amount as well as any other monies advanced to BORROWER by COUNTY under this Agreement including administrative costs, shall immediately become due and payable to COUNTY at the option of COUNTY.
- b. Bring an action in equitable relief (1) seeking the specific performance by BORROWER of the terms and conditions of this Agreement, and/or (2) enjoining, abating, or preventing any violation of said terms and conditions, and/or (3) seeking declaratory relief.
- c. Accelerate the CARES Loan and demand immediate full payment of the principal payment outstanding and all accrued interest under the CARES Note, as well as any other monies advanced to BORROWER by COUNTY under this Agreement.
- d. Enter the Project and take any remedial actions necessary in its judgment with respect to hazardous materials that COUNTY deems necessary to comply with hazardous materials laws or to render the Project suitable for occupancy, which costs shall be due and payable by BORROWER to COUNTY.
- e. Enter upon, take possession of, and manage the Project, either in person, by agent, or by a receiver appointed by a court, and collect rents and other amounts specified in the assignment of rents in the Deed of Trust and apply them to operate the Project or to pay off the CARES Loan or any advances made under this Agreement, as provided for by the CARES Deed of Trust.
- f. Pursue any other remedies allowed at law or in equity.

33. RESERVED.

34. BORROWER'S WARRANTIES. BORROWER represents and warrants

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

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

12 a. No federally appropriated funds have been paid or will be paid, by
13 or on behalf of the undersigned, to any person for influencing or attempting to influence an
14 officer or employee of any agency, a member of Congress, an officer or employee of Congress,
15 or an employee of a member of Congress in connection with the awarding of any federal contract,
16 the making of any federal grant, the making of any federal loan, the entering into of any
17 cooperative agreement, and the extension, continuation, review, amendment, or modification of
18 any federal contract, grant, loan, or cooperative agreement.

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

25 c. The undersigned shall require that the language of this certification
26 be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-
27 grants, and contracts under grants, loans, and cooperative agreements) and that BORROWER
28 shall certify and disclose accordingly. This certification is a material representation of fact upon

1 which reliance was placed when this transaction was made or entered into.

2 36. HOLD HARMLESS AND INDEMNIFICATION. BORROWER shall
3 indemnify and hold harmless the County of Riverside, its Agencies, Boards, Districts, Special
4 Districts and Departments, their respective directors, officers, Board of Supervisors, elected and
5 appointed officials, employees, agents and representatives (collectively the "Indemnified
6 Parties") from any liability whatsoever, based or asserted upon any services of BORROWER, its
7 officers, employees, subcontractors, agents or representatives arising out of their performance
8 under this Agreement, including but not limited to property damage, bodily injury, or death or
9 any other element of any kind or nature whatsoever arising from the performance of
10 BORROWER, its officers, agents, employees, subcontractors, agents or representatives under this
11 Agreement. BORROWER shall defend, at its sole expense, all costs and fees including, but not
12 limited, to attorney fees, cost of investigation, defense and settlements or awards, the County of
13 Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors,
14 officers, Board of Supervisors, elected and appointed officials, employees, agents and
15 representatives in any claim or action based upon such alleged acts or omissions.

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

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

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

28 In the event there is conflict between this clause and California Civil Code Section 2782,

1 this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not
2 relieve BORROWER from indemnifying COUNTY to the fullest extent allowed by law.

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

5 37. TERMINATION.

6 a. BORROWER. BORROWER may terminate this Agreement prior to
7 disbursement of any CARES Loan funds by COUNTY in accordance with the CARES Act.

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

11 1. For cause. This Agreement may be terminated or funding
12 suspended in whole or in part for cause, including, but not
13 limited to:

14 (i) In the event BORROWER fails to perform the covenants
15 herein contained at such times and in such manner as provided
16 in this Agreement after the applicable notice and cure provision
17 hereof; or

18 (ii) In the event there is a conflict with any federal, state or local
19 law, ordinance, regulation or rule rendering any material
20 provision, in the judgment of COUNTY of this Agreement
21 invalid or untenable; or

22 (iii) In the event the CARES Act funding is terminated or
23 otherwise becomes unavailable; or

24 (iv) In the event of a violation of conflict of interest
25 requirements (see Section 25 herein); or

26 (v) In accordance with the Uniform Administrative
27 Requirements, Cost Principles, and Audit Requirements for
28 Federal Awards (2 CFR Section 200.339).

1 assurance reasonably satisfactory to COUNTY that the lien or stop notice will be paid or
2 discharged.

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

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

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

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

22 44. MINISTERIAL ACTS. COUNTY's Director of HHPWS or designee is
23 authorized to take such ministerial actions as may be necessary or appropriate to implement the
24 terms, provisions, and conditions of this Agreement as it may be amended from time to time by
25 both parties.


26 45. MODIFICATION OF AGREEMENT. All changes, modifications or
27 extensions shall be mutually agreed upon by COUNTY and BORROWER and shall be
28 incorporated in written amendments to this Agreement. No amendment to this Agreement shall

1 be effective and binding upon the parties, unless it expressly makes reference to this Agreement,
2 is in writing, is signed and acknowledged by duly authorized representatives of all parties, and
3 approved by the COUNTY.

4 46. CONDITIONAL COMMITMENT.

5 a. Acquisition: BORROWER must demonstrate that the COUNTY
6 CARES-Assisted Units will be acquired by December 30, 2020.

7 b. Construction. BORROWER must demonstrate that they are
8 working towards obtaining financing to complete the Project in accordance with the
9 Implementation Schedule in Exhibit A.

10 c. Completion. The Project must be completed, and Certificates of
11 Occupancy shall be obtained for all the COUNTY CARES-Assisted Units no later than December
12 30, 2020 (the "Completion Deadline"). BORROWER may request a three (3) month extension of
13 the Completion Deadline from COUNTY ("Extension"), which may be granted in COUNTY's
14 sole and absolute discretion, if the BORROWER can provide proof that the circumstances that
15 led to the failure to complete the Project by the Completion Deadline were beyond the
16 BORROWER's control. Extension is subject to COUNTY's approval and not guaranteed. The
17 Director of HHPWS or designee, has the authority, at his or her discretion, to consent to such
18 Extension. If BORROWER is unable to meet the conditions required by this **Section 48**,
19 including Extension, then COUNTY and BORROWER mutually agree that this Agreement will
20 self-terminate and any CARES Loan funds disbursed to BORROWER to date shall be returned
21 to COUNTY within thirty (30) calendar days of such termination. Upon such termination, this
22 Agreement shall become null and void. COUNTY and BORROWER shall be
23 released and discharged respectively from their obligations under this Agreement, 
24 except for those provisions which by their terms survive termination. All costs
25 incurred by each party on the Project will be assumed respectively.

26 d. Tenant Leases. BORROWER shall comply with the initial
27 occupancy requirements set forth in **Section 19(b)** of this Agreement.

28 47. PROJECT FINANCING CONTINGENCY. This Agreement is expressly

1 conditioned upon BORROWER's delivery to COUNTY, on or prior to **October 30, 2020** of (i)
2 written documentation of such binding loan commitments required to acquire the Project (less the
3 CARES Loan), on terms and conditions acceptable to BORROWER and COUNTY. Either
4 COUNTY or BORROWER may elect to terminate this Agreement with ten (10) days prior written
5 notice to the other party if BORROWER fails to acquire the Project financing required by this
6 **Section 49**. Upon such termination, this Agreement shall be null and void, and:

- 7 a. If BORROWER elects to terminate this Agreement,
8 BORROWER shall be released and discharged by COUNTY
9 from its obligations under this Agreement; or
10 b. If COUNTY elects to terminate this Agreement, COUNTY shall
11 be released and discharged by BORROWER from its obligations
12 under this Agreement.

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

16 48. RESERVED.

17 49. EXHIBITS AND ATTACHMENTS. Each of the attachments and exhibits
18 attached hereto is incorporated herein by this reference.

19 50. MEDIA RELEASES. BORROWER agrees to allow COUNTY to provide
20 input regarding all media releases regarding the Project. Any publicity generated by
21 BORROWER for the Project must make reference to the contribution of COUNTY in making the
22 Project possible. COUNTY's name shall be prominently displayed in all pieces of publicity
23 generated by BORROWER, including flyers, press releases, posters, signs, brochures, and public
24 service announcements. BORROWER agrees to cooperate with COUNTY in any COUNTY-
25 generated publicity or promotional activities with respect to the Project.

26 51. NOTICES. All notices, requests, demands and other communication
27 required or desired to be served by either party upon the other shall be addressed to the respective
28 parties as set forth below or the such other addresses as from time to time shall be designated by

1 the respective parties and shall be sufficient if sent by United States first class, certified mail,
2 postage prepaid, or express delivery service with a receipt showing the date of delivery.

3 COUNTY
4 Director HHPWS
5 County of Riverside
6 5555 Arlington Avenue
7 Riverside, CA 92504

BORROWER
Executive Director
RCHC
5555 Arlington Ave
Riverside, CA 92504

7 52. COUNTERPARTS. This Agreement may be signed by the different parties
8 hereto in counterparts, each of which shall be an original but all of which together shall constitute
9 one and the same agreement.

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

13 54. FURTHER ASSURANCES. BORROWER shall execute any further
14 documents consistent with the terms of this Agreement, including documents in recordable form,
15 as the COUNTY may from time to time find necessary or appropriate to effectuate its purposes
16 in entering into this Agreement.

17 55. NONLIABILITY OF COUNTY OFFICIALS AND EMPLOYEES. No
18 member, official, employee or consultant of the COUNTY shall be personally liable to the
19 BORROWER, or any successor in interest, in the event of any default or breach by the COUNTY
20 or for any amount which may become due to the BORROWER or to its successor, or on any
21 obligations under the terms of this Agreement.

22 56. CONSTRUCTION AND INTERPRETATION OF AGREEMENT.

23 a. The language in all parts of this Agreement shall in all cases be
24 construed simply, as a whole and in accordance with its fair meaning and not strictly for or against
25 any party. The parties hereto acknowledge and agree that this Agreement has been prepared
26 jointly by the parties, and that each party has been given the opportunity to independently review
27 this Agreement with its respective legal counsel, and that each party has the requisite experience
28 and sophistication to understand, interpret, and agree to the particular language of the provisions

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

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

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

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

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

26 57. TIME OF ESSENCE. Time is of the essence with respect to the
27 performance of each of the covenants contained in this Agreement.

28 58. BINDING EFFECT. This Agreement, and the terms, provisions, promises,

1 covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the parties
2 hereto and their respective heirs, legal representatives, successors and assigns.

3 59. NO THIRD PARTY BENEFICIARIES. The parties to this Agreement
4 acknowledge and agree that the provisions of this Agreement are for the sole benefit of COUNTY
5 and BORROWER, and not for the benefit, directly or indirectly, of any other person or entity,
6 except as otherwise expressly provided herein.

7 60. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS.

8 a. This Agreement shall be executed in three (3) duplicate originals, each of
9 which is deemed to be an original. This Agreement, including all attachments hereto and exhibits
10 appended to such attachments, shall constitute the entire understanding and agreement of the
11 parties.

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

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

20 ///
21 ///

22 (SIGNATURES ON THE NEXT PAGE)

23
24
25 IN WITNESS WHEREOF, COUNTY and BORROWER have executed this Agreement
26 as of the dates written below.

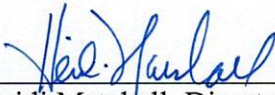
27 COUNTY:

BORROWER:

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

3
4 COUNTY:

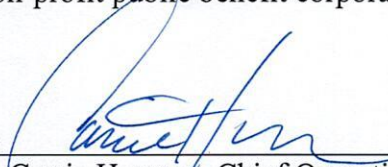
5 COUNTY OF RIVERSIDE, a political
6 subdivision of the State of California

7
8 By: 
9 Heidi Marshall, Director HHPWS

10 Date: 9/30/2020

BORROWER:

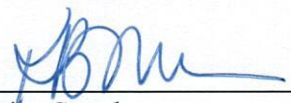
RIVERSIDE COMMUNITY HOUSING CORP.,
a non-profit public benefit corporation

By: 
Carrie Harmon, Chief Operating Officer

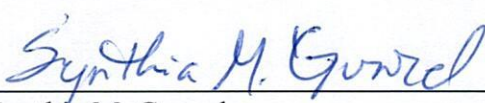
Date: 9/30/2020

11
12 (Above signatures need to be notarized)

13
14 APPROVED AS TO FORM:
15 GREGORY P. PRIAMOS
16 County Counsel

17 By: 
18 ^{jar} Lisa Sanchez
19 Deputy County Counsel

APPROVED AS TO FORM:
GREGORY P. PRIAMOS
County Counsel

By: 
Synthia M. Gunzel,
Chief Deputy County Counsel

<INSERT CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT>

EXHIBIT "A"

Borrower: Riverside Community Housing Corp.
Address: 68990 Harrison Street, Thermal, CA 92274
Project Title: Mountain View Estates Mobile Home Park

Project Description:

BORROWER proposes to utilize \$2,000,000 in CARES Act funds to acquire 40 mobile homes located at 68990 Harrison Street, Thermal, CA 92274.

BORROWER shall set aside 49% of the units to homeless households whose incomes do not exceed 50% of the area median income for the County of Riverside, adjusted by family size at the time of occupancy.

The CARES-Assisted Units shall be a "floating" designation on the Property such that the requirements of this Agreement will be satisfied so long as the total number of CARES-Assisted Units and bedroom size remains the same throughout the Affordability Period. COUNTY shall review and approve proposed rents to the extent required under this section. BORROWER shall ensure the CARES-Assisted Units are rented to Qualified Households at the rent levels required herein. The maximum monthly allowances for utilities and services (excluding telephone) shall not exceed the utility allowance as described below. The CARES-Assisted Units may overlap Project Based Vouchers units with the Housing Authority of the County of Riverside.

Utility Allowance: Owners are required to complete initial UA calculations and submit their calculations for review and approval to the County prior to implementation, annually by June 1st. The following methods below are acceptable methodologies for calculating UA's:

- i. HUD Utility Schedule Model (HUSM), UA based on HUD's model.
- ii. Utility Company Estimate, UA based on estimated obtained from a local utility company for each of the utilities used in the project.
- iii. LIHTC Agency Estimate, UA approved by the LIHTC agency based on its actual usage methodology.
- iv. Energy Consumption Model (Engineer Model), UA based upon on an energy and water and sewage consumption and analysis model prepared by a third party licensed engineer or t qualified professional.

IMPLEMENTATION SCHEDULE

Milestone	Completion Date
1. Acquisition of Mobile Homes	October 30, 2020
2. Construction Start Deadline	September 30, 2022
3. Completion Deadline	December 30, 2020
4. Lease Deadline	December 30, 2020
5. Submission of Final project costs and Sources and Uses of Funds	March 30, 2021
6. Submission of income & ethnic characteristics report	March 30, 2021

Acquisition:

Sources:

HCD Homekey	\$2,000,000
County CARES Act	<u>\$2,000,000</u>
Total Sources	\$4,000,000

DOCUMENT SUBMISSION SCHEDULE

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

EXHIBIT “B”

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

This DEED OF TRUST AND ASSIGNMENT OF RENTS is made this ____ day of _____, 2020 by Riverside Community Housing, Corp., a California nonprofit public benefit corporation, (hereinafter referred to as "Trustor"), whose address, 5555 Arlington Ave, Riverside, CA 92504. The trustee is Housing, Homelessness Prevention and Workforce Solutions ("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 _____, 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"); [A1]

(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 Trustor's 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:

- i. due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained herein or contained in the following:
 - (a) that certain Promissory Note in favor of the Beneficiary ("County" therein) executed by Trustor ("Borrower" therein) of even date herewith (the "Note") in the principal amount of \$2,000,000.
 - (b) that certain Loan Agreement for the Use of CARES Act Funds dated _____, 2020, between Trustor ("Borrower" therein) and Beneficiary ("County" therein) (the "CARES Loan Agreement"); and

- (c) that certain Covenant Agreement dated _____, 2020 between Trustor ("Borrower" therein) and Beneficiary ("County" therein) ("Covenant Agreement").
- ii. payment of indebtedness of the Trustor to the Beneficiary not to exceed TWO MILLION DOLLARS (the "CARES Loan") according to the terms of the Note.

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

The CARES Loan evidenced by the Note and by this Deed of Trust is being made pursuant to the Coronavirus Aid, Relief, and Economic Security Act (Section 5001, Public Law 116-136) (the "CARES Act"). Pursuant to the CARES Loan Agreement, the maturity date of the CARES Loan shall be the later to occur of (i) July 1, 2077 or (ii) fifty five (55) years from the date a Certificate of Occupancy has been issued for the last of all forty (40) mobile homes acquired for the Project (as defined in the CARES Loan Agreement) ("CARES Loan Term")

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

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

1. That Trustor shall pay the Note at the time and in the manner provided therein, and perform the obligations of the Trustor as set forth in the CARES 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 CARES 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 CARES 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, directly to the person owed payment. Trustor shall promptly furnish to Beneficiary receipts evidencing the payments.

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 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**.

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

9. **Priority of CARES Deed of Trust.** During the construction phase lien priority during construction shall be as follows: (1) first priority deed of trust for the benefit of a lender to be named at a later date securing a construction loan for the Project in an amount up to \$ _____ ("Construction Senior Loan"); (2) second priority deed of trust for the benefit of the California Department of Housing and Community Development ("HCD"), securing a loan in the amount of \$ _____ ("HCD Loan"), and (3) third priority deed of trust for benefit of the City of _____ ("City Loan") securing a loan in the amount of \$ _____ (the "City Loan"). Lien priority upon Conversion shall be as follows: (1) first priority deed of trust for the benefit of a lender to be named at a later date securing the project in an amount up to \$ _____ ("Permanent Senior Loan"), (2) second priority deed of trust for the benefit of the HCD, securing the HCD Loan, (3) third priority deed of trust for benefit of the City, securing the City Loan.

Beneficiary hereby agrees to execute any and all documents necessary to effectuate such priority, including, but not limited to subordination agreements first approved as to form and content by Beneficiary and Beneficiary's legal counsel. [A2]

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 CARES 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 CARES 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 CARES Act. 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. Any notice to Beneficiary shall be given by first class mail to Beneficiary's address stated herein or any other address Beneficiary designates by notice to Trustor. Any notice required to be given to a Senior Lien Holder shall be given by first class mail to such other address the Senior Lien Holder designates by notice to the Trustor. Any notice provided for in this Deed of Trust shall be deemed to have been given to Trustor or Beneficiary when given as provided in this Section.

20. **Governing Law; Severability.** This Deed of Trust shall be governed by federal law and the laws of the State of California. In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision. To this end the provisions of this Deed of Trust and the Note are declared to be severable. Any action at law or in equity arising under this Deed of Trust or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed in the Superior Courts of Riverside County, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.

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

22. **Transfer of the Property or a Beneficial Interest in Trustor.** Except as otherwise allowed under the CARES 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 CARES Act) 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.

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

b. Notwithstanding anything to the contrary contained herein, upon written notice to Beneficiary, Trustor may (i) the lease for occupancy of all or any of the CARES-Assisted Units (as defined in the CARES Loan Agreement); and (ii) the granting of easements or permits to facilitate the development of the Property in accordance with the CARES Loan Agreement (collectively a "Permitted Transfer"). All Permitted Transfers shall be subject to reasonable review of documentation by the Beneficiary.

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

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

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

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

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

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

27. **Acceleration; Remedies.** Beneficiary shall give notice to Trustor prior to acceleration following Trustor's breach of any covenant or agreement in this Deed of Trust. The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, which shall not be more than ten (10) calendar days from the date of the mailing of the notice for a monetary default, or a date, which shall not be more than thirty (30) calendar days from the mailing of the notice for a non-monetary default, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice shall further inform Trustor of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Trustor to acceleration and sale. If the default is not cured by the Trustor on or before the date specified in the notice, and the Senior Lien Holder have not cured the default within that same period, subject to any non-recourse provisions set forth in Section 8 of the Note, then Beneficiary at its option may require immediate payment in full of all sums secured by this Deed of Trust without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Beneficiary shall be entitled to collect all expenses incurred in pursuing the remedies provided in this **Section 27**, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

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

b. Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable

Trustee's and attorneys' fees; (b) to all sums secured by this Deed of Trust; and (c) any excess to the person or persons legally entitled to it.

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

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

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

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

32. **Reserved**

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


[Remainder of Page Blank]

[Signatures on Following Page]

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

TRUSTOR:

RIVERSIDE COMMUNITY HOUSING CORP.,
A California non-profit public benefit corporation

By: 
Carrie Harmon, Chief Operating Officer

Date: 9/30/2020

(Signature needs to be notarized)

< CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT >

EXHIBIT "C"

PROMISSORY NOTE (CARES Loan)

\$2,000,000

**[DATE], 2020
Riverside, CA**

In installments as hereafter stated, for value received, RIVERSIDE COMMUNITY HOUSING CORP., a California nonprofit public benefit corporation ("**Borrower**"), having its principal office at 5555 Arlington Avenue, Riverside, CA 92504, hereby unconditionally promises to pay to the order of the COUNTY OF RIVERSIDE, a political subdivision of the State of California ("**COUNTY**"), having an office at 5555 Arlington Avenue, Riverside, CA 92504, the principal sum of Two Million Dollars (U.S. \$2,000,000) (the "**CARES Loan**" or "**Note Amount**"), in lawful money of the United States, together with all accrued interest thereon as provided for herein, which at the time of payment is lawful for the payment of public and private debts.

This Promissory Note ("**Note**") is given in accordance with that certain Loan Agreement for the Use of CARES Act funds executed by COUNTY and Borrower, dated as of _____, 2020 (the "**CARES 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 CARES Loan Agreement. The Note is secured by a Deed of Trust and Assignment of Rents executed by Borrower for the benefit of the COUNTY dated _____, 2020 (the "**CARES Deed of Trust**" of "**Deed of Trust**"). The rights and obligations of the Borrower and COUNTY under this Note shall be governed by the CARES Loan Agreement and the following terms:

- (1) Funding Source. The CARES Loan evidenced by this Note and secured by the Deed of Trust are being made pursuant to the Coronavirus Aid, Relief, and Economic Security Act (Section 5001, Public Law 116-136), hereinafter (the "**CARES Act**"). 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 CARES Loan Agreement and that certain Covenant Agreement dated on or about the date hereof and recorded concurrently herewith in the Official Records, between Borrower and County.
- (2) Interest. Except as otherwise provided in this Note, the outstanding CARES Loan shall accrue simple interest at a rate of zero percent (0%) *per annum*, and shall be repaid on an annual basis from the Project's Residual Receipts as defined herein. Interest shall accrue thirty (30) days from the date of the recording of the Notice of Completion in the Official Records until the entire CARES Loan, all accrued and unpaid interest thereon, and all other amounts and indebtedness payable under this Note, the Deed of Trust, and the CARES Loan Agreement are paid in full, whether at maturity, upon acceleration, by prepayment, or otherwise.
- (3) Payments. The Note Amount shall be repaid according to the following: Fifty percent (50%) of the Project's Residual Receipts (as defined below), shall be used towards the payment on the loans secured by the Project, which includes the CARES Loan ("**Residual Receipts Loans**"). The payments shall be made until the Note Amount is paid in full; and fifty percent (50%) of the Project's Residual Receipts will be paid to Borrower.
- (4) The Project's Residual Receipts shall be determined based on an annual review of certified financial statements for the Project. Annual audited financial statements shall be submitted by BORROWER within one hundred twenty (120) days following the close of the Project fiscal year commencing on April 1 of the first full calendar year following the recordation

of the Notice of Completion. All outstanding principal along with accrued interest shall be due upon maturity of the CARES Loan, which shall be the later to occur of (i) July 1, 2077 or (ii) fifty-five (55) years from the date a Certificate of Occupancy has been issued for the last of all forty (40) mobile homes acquired for the Project (the "**CARES Loan Term**"). 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 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 CARES Loan or the CARES Loan maturity date as set forth above.

- (5) Project Residual Receipts. 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, including but not limited to the following operating expenses:
- a) auditing and accounting fees;
 - b) a reasonable property management fee not to exceed \$55.00 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;
 - c) 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);
 - d) replacement reserves, established in a separate account from operating reserves, limited to \$500.00 per unit per year for all units in the Project, as defined in Exhibit A;
 - e) Operating Reserves replenishment;
 - f) deferred developer's fee or equity;
 - g) payments of principal and interest on amortized loans and indebtedness senior to the CARES Loan, which have been approved by COUNTY (collectively, the "**Senior Debt**"); and
 - h) COUNTY's Annual Monitoring Fee in the total annual amount of \$4,000.00 for the County CARES Loan.

The calculation of operating expenses shall be subject to the reasonable approval of the County's Director of HHPWS or designee.

- (6) The CARES Loan evidenced by this Note is secured by that certain CARES Deed of Trust and Assignment of Rents executed by Borrower for the benefit of the County, dated on or about the date hereof ("Deed of Trust").
- (7) Prepayment. The Note Amount 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 Covenant Agreement 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. 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 CARES 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, shareholder, officer, director or employee of Borrower; (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 CARES 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 CARES Loan Agreement and/or Deed of Trust or the indemnification regarding Hazardous Substances pursuant to the CARES Loan Agreement and/or Deed of Trust, and (f) all court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions.

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

a. Monetary Default. (1) Borrower's failure to pay when due, any sums payable under this Note or any advances made by COUNTY under this Agreement; and (2) Borrower's or any agent of Borrower's use of CARES Act funds for costs other than those permitted under the CARES Loan Agreement, or for uses inconsistent with terms and restrictions set forth in this Agreement;

b. Non-Monetary Default - Operation. (1) Discrimination by

Borrower or Borrower's agent on the basis of characteristics prohibited by the CARES Loan 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 CARES Deed of Trust; (3) Borrower's failure to obtain and maintain the insurance coverage required under the CARES Loan Agreement; (4) any material default under the CARES Loan Agreement, CARES Deed of Trust, Covenant Agreement, this Note, or any document executed by the COUNTY in connection with this Agreement; and/or (4) default past any applicable notice and cure period under the terms of the CARES Deed of Trust or 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 CARES Loan Agreement; and

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

- (10) Notice of Default. COUNTY shall give written notice of default to Borrower, specifying the default complained of by the COUNTY. Borrower shall have ten (10) calendar days from the mailing of the notice for a monetary default, by which such action to cure must be taken. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.
- (11) No Waiver. No failure to exercise and no delay by COUNTY in asserting any of its rights, remedies, powers, or privileges hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. 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. No waiver by COUNTY of any of its rights or of any such breach, default, or failure of condition shall be effective, unless the waiver is expressly stated in a writing signed by COUNTY.
- (12) Severability. If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid. In the event that any provision or clause of this Note conflicts with applicable law, such conflict will not affect other provisions of this Note which can be given effect without the conflicting provision, and to this end the provisions of the Note are declared to be severable.
- (13) Waivers. Borrower hereby waives diligence, presentment, protest and demand, notice of protest, dishonor and nonpayment of this Note, and expressly agrees that, without in any way affecting the liability of Borrower hereunder, the COUNTY may extend any maturity date or the time for payment of any installment due hereunder, accept additional security, release any party liable hereunder and release any security now or hereafter securing this

Note. Borrower further waives, to the full extent permitted by law, the right to plead any and all statutes of limitations as a defense to any demand on this Note, or on any deed of trust, security agreement, guaranty or other agreement now or hereafter securing this Note.

- (14) Should default be made in payment of principal and interest when due and such default shall continue beyond the applicable notice and cure period provided in the CARES Loan Agreement, the whole sum of principal and interest shall become immediately due at the option of the holder of this Note. Principal and interest are payable in lawful money of the United States. If action be instituted on this Note, the undersigned promises to pay such sums as the Court may fix as attorney's fees.
- (15) Governing Law; Jurisdiction and Venue. 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 Court of Riverside County, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.
- (16) Modifications. No modification, rescission, waiver, release or amendment of any provision of this Note shall be made except by a written agreement executed by Borrower and the duly authorized representative of the COUNTY.
- (17) Successors and Assigns.
- 17.1 COUNTY. 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.
- 17.2 Borrower. 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 CARES 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.

(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: Director of HHPWS. 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 5555 Arlington Avenue, Riverside, CA 92504, Attention: Chief Operating Officer.

- (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.

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

BORROWER:

RIVERSIDE COMMUNITY HOUSING CORP.,
a California non-profit public benefit corporation

By: 
Carrie Harmon, Chief Operating Officer

Date: 9/30/2020

EXHIBIT "D"

RIVERSIDE COUNTY

SECTION 3

24 CFR PART 135

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

CONTRACT REQUIREMENTS

RIVERSIDE COUNTY

I. Section 135.1 Purpose

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

Section 135.30 Numerical Goals for Meeting the Greatest Extent Feasible Requirement

A. GENERAL

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

B. TRAINING AND EMPLOYMENT

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

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

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

- (iii) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997 and continuing thereafter (October 1, 1996 and thereafter).

C. CONTRACTS

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

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

D. SAFE HARBOR AND COMPLIANCE DETERMINATIONS

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

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

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

resident, as defined in Sec. 135.5 (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

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

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

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

SECTION 135.38 Section 3 Clause.

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

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

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

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

VI. SECTION 135.40 Providing Other Economic Opportunities

- A. General. In accordance with the findings of the Congress, as stated in Section 3, that other economic opportunities offer an effective means of empowering low-income persons, a recipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards, in connection with Section 3 covered assistance.
- B. Other training and employment related opportunities. Other economic opportunities to train and employ Section 3 residents include, but need not

be limited to, use of "upward mobility", "bridge" and trainee positions to fill vacancies; hiring Section 3 residents in management and maintenance positions within other housing developments; and hiring Section 3 residents in part-time positions.

C. Other business related economic opportunities:

- (1) A recipient or contractor may provide economic opportunities to establish stabilize or expand Section 3 Business Concerns, including micro-enterprises. Such opportunities include, but are not limited to the formation of Section 3 Joint Ventures, financial support for affiliating with franchise development, use of labor only contracts for building trades, purchase of supplies and materials from housing authority resident-owned businesses, purchase of materials and supplies from Public Housing Agency resident-owned businesses. A recipient or contractor may employ these methods directly or may provide incentives to non-Section 3 businesses to utilize such methods to provide other economics opportunities to low-income persons.
- (2) A Section 3 Joint Venture means an association of Business Concerns, one of which qualifies as a Section 3 Business Concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the Business Concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the Section 3 Business Concern:
 - (i) Is responsible for clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and
 - (ii) Performs at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.

VII. SECTION 135.5 Definitions.

As used in this part:

Applicant means any entity which makes an application for Section 3 covered assistance and includes, but is not limited to, any State, unit of local government, public housing agency, Indian housing authority, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, owner, developer, limited dividend sponsor, builder, property manager, community housing development organization (CHDO), resident management corporation, resident council, or cooperative association.

Assistant Secretary means the Assistant Secretary for Fair Housing and Equal Opportunity.

Business Concern means a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

Contract. See the definition of "Section 3 covered contract" in this section.

Contractor means any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

Department or HUD means the Department of Housing and Urban Development, including its Field Offices to which authority has been delegated to perform functions under this part.

Employment opportunities generated by Section 3 covered assistance means (with respect to Section 3 covered housing and community development assistance), this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Section 135.3(a) (2)), including management and administrative jobs connected with the Section 3 covered project. Management and administrative jobs, include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

Housing and community development assistance means any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under Section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance does not include financial assistance provided through a contract of insurance or guaranty.

Housing development means low-income housing owned, developed, or operated by public housing agencies or Indian housing authorities in accordance with HUD's public and Indian housing program regulations codified in 24 CFR Chapter IX.

HUD Youth build Programs means programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low and very low-income families.

Low income person. See the definition of "Section 3 Resident" in this section.

New hires mean full-time employees for permanent, temporary, or seasonal employment opportunities.

Public Housing resident has the meaning given this term in 24 CFR Part 963.

Recipient means any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit or local government, PHA, Indian Housing Authority, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, owner, PARTICIPANT, developer, limited dividend sponsor, builder, property manager, community development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee, or transferee