

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



ITEM: 10.1  
(ID # 13784)

**MEETING DATE:**

Tuesday, December 08, 2020

**FROM:** HOUSING AUTHORITY:

**SUBJECT:** Housing Authority: Approve the Form of Loan Agreement for the Use of Low and Moderate Income Housing Asset Funds for Villa Hermosa III, in the City of Indio; District 4. [100% Low and Moderate Income Housing Asset Funds - \$1,500,000] (Companion Item 13783)

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

1. Approve the Termination Agreement for the Nuestro Orgullo Homes in Mecca, CA, dated June 5<sup>th</sup>, 2007, by and between the former Redevelopment Agency for the County of Riverside and Coachella Valley Housing Coalition, a California nonprofit public benefit corporation;
2. Approve the loan of Low and Moderate Income Housing Asset Funds in the amount of \$1,500,000 ("LMIHAF Loan") to Fred Young Phase III Associates, LP, a California Limited Partnership, to be used to pay a portion of the development and construction costs for Villa Hermosa III, a multi-family farmworker affordable rental housing project in the City of Indio;
3. Approve the attached LMIHAF Loan Agreement between the Housing Authority of the County of Riverside ("HACR") and Fred Young Phase III Associates, LP, a California Limited Partnership ("Developer") and all attachments thereto, including Deed of Trust and Assignment of Rents, Promissory Note, Covenant Agreement and Notice of Affordability Restrictions, ("LMIHAF Loan Agreement") in substantially the form attached and in such final form as approved as to form by County Counsel;

**ACTION: Policy**

  
Heidi Marshall, Director, Housing, Homelessness Prevention 11/30/2020

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**MINUTES OF THE BOARD OF COMMISSIONERS**

On motion of Supervisor Spiegel, 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: December 8, 2020  
xc: Housing Authority

Kecia R. Harper  
Clerk of the Board

By:   
Deputy

(Companion Item 3.11)

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4. Authorize the Deputy Executive Director of the HACR, or designee, to execute the LMIHAF Loan Agreement, Covenant Agreement and Notice of Affordability Restrictions in substantially the form attached and in such final form as approved as to form by County Counsel;
5. Authorize the Deputy Executive Director of the HACR, or designee, to negotiate and execute a Subordination Agreement subordinating the LMIHAF Loan Deed of Trust and Assignment of Rents to a Deed of Trust for the benefit of a construction lender securing a construction loan for the Project in an amount up to \$30,000,000, subject to approval as to form by County Counsel;
6. Authorize the Deputy Executive Director of the HACR, or designee, to negotiate and execute separate Subordination Agreements subordinating the LMIHAF Loan Deed of Trust and Assignment of Rents to a Deed of Trust for the benefit of the CA Housing and Community Development Joe Serna Jr. Farmworker Housing Grant Program ("JSFWHG") loan in an amount up to \$5,000,000, subject to approval as to form by County Counsel;
7. Authorize the Deputy Executive Director of the HACR, or designee, to negotiate and execute separate Subordination Agreements subordinating the LMIHAF Loan Deed of Trust and Assignment of Rents to a Deed of Trust(s) for the benefit of United States of America, acting through Rural Housing Service, United States Department of Agriculture, or its successor agency ("USDA") 514 Loan in an aggregate amount up to \$3,845,000, subject to approval as to form by County Counsel; and
8. Authorize the Deputy Executive Director of the HACR, or designee, to take all necessary steps to implement the LMIHAF Loan Agreement, and the Subordination Agreements, including but not limited to, signing subsequent necessary and relevant documents, subject to approval as to form by County Counsel.

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$1,500,000	\$ 0	\$1,500,000	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS: 100% Low and Moderate Income Housing Asset Funds</b>			<b>Budget Adjustment:</b>	No
			<b>For Fiscal Year:</b>	20/21

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

**BACKGROUND:**

**Summary**

On June 25, 2019, in connection with Villa Hermosa III, a 100 unit multi-family affordable rental housing project for very low income farmworker households, located in the City of Indio (VH III Project), the Board of Supervisors approved Resolution No. 2019-004, which achieved the following (i) allocated up to \$1,500,000 in Low and Moderate Income Housing Asset ("LMIHA") program funds ("LMIHAF Loan"), subject to the satisfaction of certain conditions contained therein, and (ii) supported the submission of a low income housing tax credit application by the

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Coachella Valley Housing Coalition, a California nonprofit public benefit corporation (“CVHC”), to the California Tax Credit Allocation Committee (“CTCAC”) for the Project.

On June 5, 2007, the former Redevelopment Agency for the County of Riverside entered into an agreement to develop single family homes in the community of Mecca (“Nuestro Orgullo Project”) with CVHC providing for a loan of Low and Moderate Income Housing Funds in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00) to be used for development costs associated with the Nuestro Orgullo Project. For various reasons including the ability to obtain comparable sales reports for the area, the Nuestro Orgullo Project has been rendered economically infeasible. As such, CVHC, has 1) proposed to repay the Nuestro Orgullo Project loan, 2) requested to terminate the Nuestro Orgullo Project agreement, and 3) requested that the LMIHAF proceeds be allocated to the VH III Project. Staff concurs that the proposed use of LMIHAF to pay for a portion of the development costs associated with the development of the VH III Project is a permissible use of funds and supports the termination of the Nuestro Orgullo Project agreement and the allocation of \$1,500,000 in LMIHAF program proceeds to the VH III Project.

The VH III Project was awarded tax credits by CTCAC and, since all of the conditions to funding set forth in Resolution No. 2019-004 have been satisfied, staff recommends that the Board of Commissioners approve the Affordable Housing Loan Agreement (Villa Hermosa III), including exhibits (“LMIHAF Loan Agreement”) between the Housing Authority of the County of Riverside (“HACR”) and Fred Young Phase III Associates, LP, a California Limited Partnership (“Developer”) memorializing the LMIHAF Loan of \$1,500,000 to pay a portion of the development and construction costs for the VH III Project. CVHC is the sole member/manager of Fred Young Phase III, LLC who is the general partner of the Developer.

The VH III Project will be located on a 8.40-acre parcel of vacant land located on Van Buren Street and Dr. Carreon Boulevard, in the City of Indio, identified as Assessor’s Parcel Number 612-170-030 (“Project Site”). It is the third phase of a residential community with up to 950 residential units and community-oriented amenities approved by the City of Indio. As lead agency, the City of Indio approved a Mitigated Negative Declaration pursuant to the California Environmental Quality Act (CEQA) and implementing Guidelines in connection with the project approval. No additional CEQA review is required. The VH III Project includes 100 residential units, a 3,172 square foot community center with internet access, soccer fields, tot-lots and a swimming pool.

Of the 100 units in the VH III Project, forty nine percent (49%) of the units in the Proposed VH III Project will be subject to LMIHAF program occupancy and use restrictions and will be rented to and occupied by farmworkers whose income does not exceed 50% of the area median income for the County. The affordability, use and occupancy restrictions required by the LMIHAF program funds will be memorialized in a separate Covenant Agreement, the form of which is attached to the LMIHAF Loan Agreement, to be recorded against the VH III Project for a 55-year affordability term.

The LMIHAF Loan will be evidenced by a Promissory Note secured by a Deed of Trust encumbering the VH III Project, the forms of which are each attached to the LMIHAF Loan Agreement. In addition to the LMIHAF Loan, the Developer has applied to the County of Riverside for \$1,000,000 in HOME Investment Partnerships Act (“HOME”) program funds. Other funding sources proposed for use by the Developer include (without limitation) a Wells Fargo Bank construction loan of approximately \$22,923,084, a combination of USDA Farm Labor

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Housing section 514 loans of approximately \$3,845,000, HCD Joe Serna Jr. Farmworker Housing Grant Program loan in the amount of \$5,000,000 and General Partner Equity in the amount of \$1,000,100.

Wells Fargo, HCD and USDA as construction/permanent lenders ("Senior Lenders"), require as a condition precedent to their funding of loans that the LMIHAF Loan be subordinate to the Senior Lender liens. Subordination of the LMIHAF Loan is necessary since an economically feasible alternative method of financing the VH III Project on comparable terms is not available without subordination. As a result of the aforementioned subordination requirement, it is anticipated that lien priority at conversion to permanent financing shall be as follows: (i) first priority USDA Farm Labor Housing section 514 loan in an amount up to \$3,000,000, (ii) second priority deed(s) of trust for the benefit of USDA securing Farm Labor Housing section 514 loans in an aggregate amount of approximately \$845,000 (collectively referred to as the "USDA Assumed Loans"), (iii) third priority shall be a deed of trust for the benefit of the State of California Housing and Community Development securing a Joe Serna Jr. Farmworker Housing Grant Program loan in the amount of \$5,000,000, (iv) fourth priority shall be the HACR LMIHAF Loan (v) fifth priority shall be the County HOME Loan and (vi) sixth priority shall be a deed of trust for the benefit of the Sponsor/General Partner.

Staff recommends that the Board of Commissioners approve the attached form LMIHAF Loan Agreement, and each exhibit, including, but not limited to the forms of the LMIHAF Deed of Trust and Assignment of Rents, LMIHAF Promissory Note, LMIHAF Covenant Agreement and Notice of Affordability Restrictions. Staff further recommends that the Board of Commissioners authorize the HACR Deputy Executive Director, or designee, to negotiate and execute subordination agreements, as required conditions to the Senior Lenders' financing, subordinating the LMIHAF Loan Deed of Trust and Assignment of Rents to the Deeds of Trust securing each Senior Lender loan as discussed herein, subject to approval as to form by County Counsel.

**Impact on Residents and Businesses**

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

**SUPPLEMENTAL:**

**Additional Fiscal Information**

No impact upon the County's General Fund; the County's contribution will be funded with Low and Moderate Income Housing Asset program funds and HOME Investment Partnerships Act program funds.

**ATTACHMENTS:**

- Termination Agreement
- Form of Loan Agreement for the Use of LMIHAF funds, including all exhibits
  - Form of LMIHAF Promissory Note
  - Form of LMIHAF Deed of Trust
  - Form of LMIHAF Covenant Agreement and
  - Form of Notice of Affordability Restrictions



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*Marcus Maltese*  
\_\_\_\_\_  
Marcus Maltese

11/30/2020

*Gregory F. Priamos*  
\_\_\_\_\_  
Gregory F. Priamos, Director County Counsel

11/25/2020

1 NO FEE FOR RECORDING PURSUANT  
2 TO GOVERNMENT CODE SECTION 6103

3 Order No.  
4 Escrow No.  
5 Loan No.

6 RECORDING REQUESTED BY AND  
7 WHEN RECORDED MAIL TO:

8 County of Riverside Housing, Homelessness  
9 Prevention & Workforce Solutions Agency  
10 5555 Arlington Avenue  
11 Riverside, CA 92504  
12 Attn: Monica Telles

13 SPACE ABOVE THIS LINE FOR RECORDERS USE

14 LOAN AGREEMENT FOR THE USE OF  
15 HOME PROGRAM FUNDS  
16 (Villa Hermosa Apartments III)

17 This LOAN AGREEMENT FOR THE USE OF HOME PROGRAM FUNDS (Villa Hermosa  
18 Apartments III) ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_,  
19 2020 by and between the COUNTY OF RIVERSIDE, a political subdivision of the State of  
20 California ("COUNTY"), and FRED YOUNG PHASE III ASSOCIATES, L.P., a California  
21 limited partnership ("BORROWER"). The COUNTY and BORROWER may be individually  
22 referred to herein as a "Party" and collectively as the "Parties."

23 WITNESSETH:

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

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

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

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

10 WHEREAS, BORROWER’s general partner is Fred Young Phase III LLC, a  
11 California limited liability company, whose sole member/manager is The Coachella Valley  
12 Housing Coalition, a California nonprofit public benefit corporation and qualified CHDO;

13 WHEREAS, BORROWER has proposed to utilize HOME funds to pay a portion  
14 of the costs to develop and construct a multi-family affordable rental housing project consisting  
15 of one hundred (100) rental housing units, including one (1) residential manager’s unit, to be  
16 rented and occupied by farmworker households (“Project”), on an approximately 8.40 acres of  
17 vacant land situated on the southwest corner Van Buren Street and Dr. Carreon Boulevard in the  
18 City of Indio, also identified as APN 612-170-030 as more specifically described in the legal  
19 description attached hereto as **Exhibit A** and incorporated herein by this reference (“Property”);

20 WHEREAS, Project is part of a master site plan to construct new units to relocate  
21 residents residing in Fred Young Farm Labor Center (“Fred Young”), which consists of 253  
22 residential units;

23 WHEREAS, a total of 49 of the units will be reserved as HOME assisted units to  
24 be rented to and occupied by qualified very low income tenants, with priority given to  
25 farmworker households whose incomes do not exceed 50% of the area median income for the  
26 County of Riverside as determined (“HOME-Assisted Units”);

27 WHEREAS, the purpose of this Agreement is, among other things, for COUNTY  
28 to provide financial assistance to BORROWER in the maximum amount of ONE MILLION

1 DOLLARS (\$1,000,000) consisting of HOME CHDO set-aside funds, to pay a portion of  
2 development and construction costs related to the Project, as more fully described herein; and

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

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

9 1. PURPOSE. The aforementioned Recitals are true and correct and  
10 incorporated herein by this reference. COUNTY has agreed to lend no more than a maximum  
11 total amount of ONE MILLION DOLLARS (\$1,000,000) in HOME funds (“HOME Loan”) to  
12 BORROWER upon the satisfaction of the terms and conditions set forth herein, including but  
13 not limited to the conditions precedent to distribution of HOME Loan funds set forth in **Section**  
14 **12** below. Subject to **Sections 49** and **50** below, BORROWER shall undertake and complete the  
15 HOME activities required herein and as set forth in **Exhibit A**, and shall utilize the HOME Loan  
16 funds, as required herein and pursuant to the HOME Program regulations. A total of 49 units  
17 shall be reserved as HOME-Assisted Units. During the Affordability Period (as defined in  
18 **Section 15** below), the HOME-Assisted Units shall be rented to and occupied by households that  
19 qualify as very low income households pursuant to 24 CFR Section 92.2 (“Qualified Very Low  
20 Income Households”) for an affordable rent pursuant to 24 CFR Section 92.252, **Sections 19**  
21 **and 20** below, **Exhibit A**, and the Covenant Agreement attached hereto as **Exhibit G** and  
22 incorporated herein by this reference. To remain a Qualified Very Low Income Household, such  
23 household shall occupy their respective unit within the Project as their principal residence.

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

- 27 a. Satisfy the conditions precedent to distribution of HOME Loan funds  
28 set forth in **Section 12** below.



- 1                   b.     Develop the Project in accordance with the timeline set forth in **Exhibit**  
2                   **A.**
- 3                   c.     Operate the Project in such a manner so that it will remain affordable  
4                   to Qualified Very Low Income Households for the Affordability Period  
5                   as defined in **Section 15** below without regard to (i) the term of the  
6                   promissory note or (ii) transfer of ownership.
- 7                   d.     Maintain the Project in compliance with applicable local, state, federal  
8                   laws, codes and regulations as further described in **Section 18** below  
9                   until the expiration of the Term of this Agreement set forth in **Section**  
10                  **7** below and the Affordability Period set forth in **Section 15** below.
- 11                  e.     Provide the COUNTY the Data Universal Number as assigned by the  
12                  Data Universal Number System (DUNS) assigned to BORROWER as  
13                  required by the Federal Funding Accountability and Transparency Act  
14                  of 2006.
- 15                  f.     Cooperate with the Riverside County Work Force  
16                  Development Center (WDC) and post all jobs created, if  
17                  any, as a result of this Project with the WDC. Evidence of  
18                  posted jobs, if any, shall be submitted to the COUNTY prior  
19                  to start of construction.



20                  3.     Reserved.

21                  4.     **HOME LOAN.** Subject to BORROWER's satisfaction of the conditions  
22 precedent to disbursement of the HOME Loan set forth in **Section 12** below, COUNTY shall  
23 provide financing to Borrower in the form of a loan in the amount of \$1,000,000 ("HOME  
24 Loan"), pursuant to the following terms and conditions:

- 25                  a.     Term of HOME Loan. The maturity date of the HOME Loan shall be  
26                  the later to occur of (i) July 1, 2077 or (ii) fifty-five (55) years from the  
27                  recordation of the Notice of Completion in the Official Records for the  
28                  last building for which construction is completed for the Project (the

1 “HOME Loan Term”). The term, “Official Records” used herein shall  
2 mean the Official Records of the Recorder’s Office of the County of  
3 Riverside.

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

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

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

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

23 2. The HOME Note shall be repaid by BORROWER to COUNTY  
24 as follows:

25 i) Fifty percent (50%) of the Project’s Residual  
26 Receipts shall be used towards the payment of  
27 certain loans secured by the Project, which include  
28 the HOME Loan and the Housing Authority of the

1 County of Riverside Low and Moderate Income  
2 Housing Asset Funds Loan in the approximate  
3 amount of \$1,500,000 (“Housing Authority  
4 LMIHAF Loan”). (collectively “Residual Receipts  
5 Loans”). The payment of 50% of the Residual  
6 Receipts shall be allocated to the Residual Receipts  
7 Loans on a pro rata basis (i.e. allocated in proportion  
8 to its share of the total amount of Residual Receipts  
9 Loans), until the HOME Note is repaid in full; and

10 ii) The remaining fifty percent (50%) of the Project’s  
11 Residual Receipts will be paid to BORROWER.

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

1 above. The term "Residual Receipts" used herein shall mean the  
2 gross rental income from all residential and non-residential  
3 components of the Project, proceeds from loss of rent insurance,  
4 and any other income to the BORROWER, derived from the  
5 ownership, operation and management of the Property, not  
6 including interest on required reserve accounts, condemnation  
7 and insurance proceeds applied to restoration and equity  
8 contributions, less the following operating expenses:

- 9 a. auditing and accounting fees;
- 10 b. a reasonable property management fee not to exceed \$55 per  
11 Rental Housing Unit per month, increased annually by an amount equal to  
12 the increase in the Consumer Price Index (CPI), for the Los Angeles-  
13 Riverside-Orange County, CA Area, provided, however, that in the event of  
14 a decrease in the CPI, the property management fee shall remain the same  
15 as the immediately preceding year;
- 16 c. operating expenses (any expense reasonably and normally  
17 incurred in carrying out the Project's day-to-day activities, which shall  
18 include administration, on-site management, utilities, on-site staff payroll,  
19 payroll taxes and maintenance);
- 20 d. replacement reserves, established in a separate account from  
21 operating reserves, limited to \$600 per unit per year for all Rental Housing  
22 Units in the Project;
- 23 e. deferred developer fee;
- 24 f. operating reserves replenishment up to the original amount  
25 of the Project's operative reserve as required by the Senior Lenders and  
26 approved by the COUNTY;
- 27 g. the County HOME Loan monitoring fee of \$10,000 per year,  
28 as set forth in **Section 28**;



1                   h.       a Managing General Partner partnership asset management  
2 fee which shall be in the total initial amount of \$25,000, increased by no  
3 more than 3% annually;

4                   i.       a limited partner asset management fee not to exceed \$8,500  
5 per year, which fee shall be increased annually by 3% during each year of  
6 the tax credit compliance period for the Project, and thereafter any further  
7 increases shall not be permitted without the written approval of the Director  
8 or designee;

9                   j.       payments of principal and interest on amortized loans and  
10 indebtedness senior to the HOME Loan, which have been approved in  
11 writing by COUNTY (collectively, the "Senior Debt");

12                   k.       credit adjusters owned to the BORROWER's limited partner  
13 and

14                   l.       repayment of general partner's and limited partner's loans.

15  
16 Operating expenses shall not include repayment of advances to the BORROWER from its limited  
17 partner(s), general partner(s), their affiliate(s) and/or third parties (including without limitation,  
18 any advances or reimbursements for any portion of the Deferred Developer's Fee to pay any  
19 construction cost overruns) (collectively a "Partnership Loan"); provided, however, such  
20 Partnership Loan may be authorized by the COUNTY's Director of HHPWS, or designee, in  
21 his/her sole discretion, upon written request received by the COUNTY. In considering such  
22 BORROWER request for approval of a Partnership Loan, COUNTY's Director of HHPWS, or  
23 designee, will consider the following: (i) whether such request was made pursuant to the terms of  
24 the Partnership Agreement , (ii) if a Project deficit exists and written evidence of such deficit is  
25 provided to the COUNTY's Director of HHPWS, or designee, (iii) BORROWER has  
26 demonstrated to COUNTY, in writing, that the requested loan is the only available means of  
27 relieving such deficit, (iv) the COUNTY's Director of HHPWS, or designee, approves the loan  
28 terms, including, but not limited to the loan amount, interest rate, and maturity date. The

1 COUNTY's Director of HHPWS, or designee, shall retain the right, in its discretion, to defer such  
2 approval to the COUNTY's Board of Supervisors. Failure by COUNTY's Director of HHPWS,  
3 or designee, to respond to such request within 30 days of the COUNTY's receipt of such written  
4 notice shall be deemed disapproval of such request.

5           5. SECURITY. During the construction phase the HOME Deed of Trust and  
6 this Agreement shall be in a fourth priority lien position. Upon Conversion (defined below), the  
7 HOME Deed of Trust shall be in fifth priority lien position. Lien priority during construction  
8 shall be as follows: (1) first priority deed of trust for the benefit of Wells Fargo Bank, N.A.  
9 ("Wells Fargo"), securing a construction loan for the Project in an amount up to \$22,923,084  
10 ("Wells Fargo Senior Loan"); (2) second priority California Department of Housing and  
11 Community Development Joe Serna Jr. Farmworker Housing Loan in an amount up to \$5,000,000  
12 ("Joe Serna Loan") (3) third priority Housing Authority LMIHAF Loan secured by the LMIHAF  
13 Deed of Trust for the benefit of the Housing Authority of the County of Riverside; (4) fourth  
14 priority HOME Loan secured by the HOME Deed of Trust for the benefit of COUNTY securing  
15 the HOME Loan and the terms of this Agreement, and (5) fifth priority deed of trust for the benefit  
16 of the Sponsor/General Partner. The Wells Fargo Senior Loan, Joe Serna Loan, and Housing  
17 Authority LMIHAF Loan shall be referenced as "Senior Loan" or "Senior Loans."

18 Lien priority upon Conversion shall be as follows (i) first and second priority shall be the Deed  
19 of Trust for the benefit of the United States of America, acting through Rural Housing Service,  
20 United States Department of Agriculture, or its successor agency ("USDA") 514 Loan in an  
21 amount up to \$3,000,000 and two USDA Assumed Loans in a total amount of \$800,000,  
22 respectively, for a total loan amount of \$3,800,000 (collectively "USDA Loans"); (ii) third  
23 priority shall be the Joe Serna Loan; (iii) fourth priority shall be the Housing Authority LMIHAF  
24 Loan; and (iv) fifth priority shall COUNTY Home Loan. Borrower shall cause the Senior Loans  
25 or any other COUNTY approved senior lender to execute and record in the Official Records, a  
26 Subordination Agreement, substantially in a form and of substance as approved by the  
27 COUNTY's Board of Supervisors, which, among other things, grants the COUNTY notice and  
28 opportunity to cure events of default under the Senior Loan documents. The term "Conversion"

1 used herein shall mean that certain date upon which (i) the Deed of Trust securing the Wells Fargo  
2 Senior Loan is fully reconveyed, and (ii) deeds of trust securing the USDA Loans have been  
3 recorded in the Official Records and all USDA Loans funds have been disbursed to and received  
4 by Borrower.

- 5 a. Prepayment. Prepayment of principal and/or interest under the  
6 HOME Note may occur at any time without penalty; provided,  
7 however (i) the requirements of **Section 18**, Compliance with Laws  
8 and Regulations, shall remain in full force and effect for the term  
9 of the Agreement specified in **Section 7** below; and (ii) the  
10 affordability requirements set forth in the Covenant Agreement,  
11 attached hereto as **Exhibit G**, shall remain in effect until the  
12 expiration of the Affordability Period.

13 6. PRIOR COUNTY APPROVAL.

14 a. Except as otherwise expressly provided in this Agreement,  
15 approvals required of the COUNTY shall be deemed granted by the written approval of the  
16 Director for the Department of Housing, Homelessness Prevention and Workforce Solutions or  
17 designee ("Director"). Notwithstanding the foregoing, the Director may, in his or her sole  
18 discretion, refer to the governing body of the COUNTY any item requiring COUNTY approval;  
19 otherwise, "COUNTY approval" means and refers to approval by the Director or designee.

20 b. The Director or designee shall have the right to make non-  
21 substantive changes to the attachments to this Agreement in order to ensure that all such  
22 attachments are consistent with the terms and provisions of this Agreement.

23 7. TERM OF AGREEMENT. This Agreement shall become effective upon  
24 the Effective Date, as defined in **Section 56** below, and unless terminated earlier pursuant to the  
25 terms hereof, shall continue in full force and effect until the later to occur of (i) July 1, 2077 or  
26 (ii) fifty-five (55) years from the recordation of the Notice of Completion in the Official Records  
27 for the last building for which rehabilitation is completed for the Project ("Term of Agreement").

28 8. BORROWER'S REPRESENTATIONS. BORROWER represents and

1 warrants to COUNTY as follows:

- 2 a. Authority. BORROWER is a duly organized limited partnership  
3 in good standing under the laws of the State of California. The  
4 copies of the documents evidencing the organization of  
5 BORROWER, which have been delivered to COUNTY, are true  
6 and complete copies of the originals, amended to the date of this  
7 Agreement. BORROWER has full right, power and lawful  
8 authority to enter into this Agreement and accept the loan of HOME  
9 Loan funds and undertake all obligations as provided herein. The  
10 execution, performance and delivery of this Agreement by  
11 BORROWER have been fully authorized by all requisite actions  
12 on the part of BORROWER.
- 13 b. No Conflict. To the best of BORROWER's knowledge,  
14 BORROWER's execution, delivery and performance of its  
15 obligations under this Agreement will not constitute a default or a  
16 breach under contract, agreement or order to which BORROWER  
17 is a party or by which it is bound.
- 18 c. No Bankruptcy. BORROWER is not the subject of a bankruptcy  
19 proceeding.
- 20 d. Prior to Closing. BORROWER shall upon learning of any fact or  
21 condition which would cause any of the warranties and  
22 representations in this **Section 8** not to be true as of Closing,  
23 immediately give written notice of such fact or condition to  
24 COUNTY. Such exception(s) to a representation shall not be  
25 deemed a breach by BORROWER hereunder, but shall constitute  
26 an exception which COUNTY shall have the right to approve or  
27 disapprove if such exception would have an effect on the value  
28 and/or operation of the Project Site.



1           9.     COMPLETION SCHEDULE. BORROWER shall proceed consistent  
2 with the implementation schedule (“Implementation Schedule”) set forth in **Exhibit A**, (as such  
3 schedule may be amended pursuant to **Section 11**) and subject to Force Majeure Delays, as  
4 defined in **Section 10**.

5           10.    FORCE MAJEURE DELAYS. “Force Majeure” means event(s) beyond  
6 the reasonable control of BORROWER, and which could not have been reasonably anticipated,  
7 which prevent(s) BORROWER from complying with any of its obligations under this  
8 Agreement, including, but not limited to: acts of God, acts of war, acts or threats of terrorism,  
9 civil disorders, strikes, labor disputes, flood, fire, explosion, earthquake or other similar acts.

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

26           11.    EXTENSION OF TIME. COUNTY may grant an extension to the  
27 Implementation Schedule set forth in **Exhibit A** for the purpose of completing BORROWER's  
28 activities which cannot be completed as outlined in **Exhibit A**. BORROWER shall request said

1 extension in writing, stating the reasons therefore, which extension must be first approved in  
2 writing by the COUNTY in its reasonable discretion. The Director or designee, on behalf of the  
3 COUNTY and without referring such matter to the County's Board of Supervisor's may extend  
4 all pending deadlines in the Implementation Schedule on two (2) or fewer occasions, so long as  
5 the aggregate duration of such administrative time extensions is no greater than ninety (90) days.  
6 Every term, condition, covenant, and requirement of this Agreement shall continue in full force  
7 and effect during the period of any such extension.

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

- a. 15 BORROWER executes this Agreement and delivers to COUNTY for recordation in the Official  
16 Records;
- b. 17 Borrower submits written evidence to COUNTY that Borrower has obtained sufficient financing  
18 commitments necessary to undertake the acquisition and rehabilitation of the project as required  
19 herein;
- c. 20 BORROWER provides COUNTY with the Data Universal Number as assigned by the Date  
21 Universal Number System assigned to Borrower as required by the Federal Accountability and  
22 Transparency Act of 2006;
- d. 23 BORROWER provides COUNTY with evidence of insurance as required herein;
- e. 24 BORROWER executes the HOME Deed of Trust, substantially conforming in form and substance  
25 to the Deed of Trust and Assignment of Rents attached hereto as **Exhibit B**, in recordable form,  
26 and delivers such document to the County of Riverside for recordation in the Official Records;
- f. 27 BORROWER executes the HOME Note, substantially conforming in form and substance to the  
28 Promissory Note attached hereto as **Exhibit C** and delivers to COUNTY;

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

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

p. 3 BORROWER consults and complies with concerned Native American tribes pursuant to Section  
4 106 requirements;

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

q.27 Pursuant to 24 CFR, Part 5, BORROWER agrees to verify that BORROWER, and its principals,  
28 or any/all persons, contractors, consultants, businesses, etc. ("Developer Associates"), that



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

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

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

- 12 1) Conditional lien release from general contractor;
- 13 2) recorded Notice of Completion;
- 14 3) Permanent Certificate of Occupancy from City of Indio;
- 15 4) architect certification identifying units that are accessible to  
16 individuals with mobility impairments and units that are  
17 accessible to individuals with sensory impairments in  
18 compliance with Section 504 of the Rehabilitation Act of  
19 1973, as described in **Section 17(i)**;
- 20 5) final Contract and Subcontract Activity report, Minority  
21 Business Enterprise/Women Business Enterprise  
22 (“MBE/WBE”) report, HUD form 2516;
- 23 6) submission of documentation that shows compliance with  
24 the Uniform Relocation Assistance and Real Property  
25 Acquisition Policies Act of 1970 and 24 CFR Part 42;
- 26 7) submission of a Project completion report including Tenant  
27 Checklist as shown in **Exhibit F** which is attached hereto  
28 and by this reference incorporated herein;

- 1 8) Affirmative Fair Housing Marketing Plan – Multifamily
- 2 Housing, HUD form 935.2A, as described in **Section 18(c)**;
- 3 9) Tenant Selection Policy;
- 4 10) Management Plan;
- 5 11) Certified statement of final development costs; and
- 6 12) Certified statement of final sources and uses of funds for the
- 7 project.

8 13. REALLOCATION OF FUNDS. If Borrower fails to meet (1) the  
9 Construction Start Deadline as set forth in **Section 49(a)**, (2) the Completion Deadline as set  
10 forth in **Section 49(b)**, (3) the Lease Deadline as set forth in **Section 20(b)**, or (4) the Project  
11 Financing Contingency in **Section 50**, all of which are herein (collectively, the “Performance  
12 Deadlines”), subject to the notice and cure periods set forth in **Section 33** herein, then the HOME  
13 Loan funds allocated, reserved, or placed in a HOME Investment Trust Fund account pursuant  
14 to this Agreement may be reallocated by COUNTY after at least thirty (30) days’ prior written  
15 notice is given to BORROWER. Upon such reallocation and repayment of funds, this  
16 Agreement shall be terminated and be of no further force and effect and Borrower shall be  
17 released and discharged from any obligations under this Agreement, except as to those  
18 obligations which by their terms survive termination of this Agreement.

19 12a.) CHDO DESIGNATION. Pursuant to 24 CFR 92.300(a), the Project  
20 is funded using HOME CHDO set aside (“Set-Aside”) funds as that term  
21 is defined in 24 CFR 92.300(a). Borrower hereby understands and agrees  
22 that the HOME CHDO Set Aside funds provided by County for this Project  
23 pursuant to this Agreement must be allocated only for housing developed,  
24 sponsored or owned by a CHDO, its subsidiary or partnership of which it  
25 or its subsidiary is the managing general partner. Borrower represents that  
26 since BORROWER is the sole owner and manager of the Project, it is  
27 eligible to receive HOME funds and conduct activities pursuant to this  
28 Agreement. Any proposed sale, assignment or other transfer of the Project

1 shall be subject to the provisions set forth in **Section 22**, Sale or Transfer  
2 of the Project, herein.

3 14. DISTRIBUTION OF FUNDS. The HOME Investment Trust Fund account  
4 established in the United States Treasury is managed through HUD, Integrated Disbursement  
5 and Information System (IDIS) for the HOME Investment Partnerships Program. The IDIS  
6 System is a computerized system which manages, disburses, collects, and reports information on  
7 the use of HOME funds in the United States Treasury Account. Disbursement of HOME funds  
8 shall occur upon the satisfactory receipt of copies of invoices and conditional (upon receipt of  
9 payment) lien releases for construction costs to be paid with the proceeds of the HOME Loan.  
10 Any disbursement of funds is expressly conditioned upon the satisfaction of conditions set forth  
11 in **Section 12**. COUNTY shall pay to BORROWER the sum specified in **Section 1** above on a  
12 "cost-as-incurred" basis for all eligible approved costs under itemized schedule shown in  
13 **Exhibit "A"** as follows:

- 14 i. Up to fifty percent (50%) of the HOME Loan at the commencement  
15 of construction.
- 16 ii. Up to ninety percent (90%) of the HOME Loan upon fifty-one  
17 percent (51%) completion of Project, as certified and documented  
18 by the project architect.
- 19 iii. COUNTY shall release final draw down of ten percent (10%) of  
20 the HOME Loan following receipt of all of the items listed in  
21 **Section 12**.

22 15. TERMS OF AFFORDABILITY. The COUNTY HOME-Assisted Units  
23 shall remain occupied and rented to Qualified Very Low Income Households for an affordable  
24 rent pursuant to **Sections 19 and 20** below, **Exhibit A** and the Covenant Agreement attached  
25 hereto as **Exhibit G** until the later of (i) fifty-five (55) years from the recordation of the Notice  
26 of Completion in the Official Records for the last building for which construction is completed  
27 for the Project, or (ii) July 1, 2077 ("Affordability Period").

28 16. INSURANCE. Without limiting or diminishing BORROWER'S

1 obligation to indemnify or hold COUNTY harmless, BORROWER shall procure and maintain  
2 or cause to be maintained, at its sole cost and expense, the following insurance coverage's during  
3 the Term of this Agreement.

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

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

4 b. Worker's Compensation Insurance.

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

14 c. Commercial General Liability Insurance.

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

28 d. Vehicle Liability Insurance.



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

14 e. General Insurance Provisions – All Lines.

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

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

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

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

1 endorsement for each policy and the Certificate of Insurance.

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

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

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

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

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

27 17. FINANCIAL AND PROJECT RECORDS. BORROWER shall maintain  
28 financial, programmatic, statistical, and other supporting records of its operations and financial

1 activities in accordance with the requirements of the HOME Program, and the regulations as  
2 amended and promulgated thereunder, which records shall be open to inspection and audit by  
3 authorized representatives of COUNTY, HUD, and the Comptroller General of the United States  
4 during regular working hours. COUNTY, HUD, and the Comptroller General, or any of their  
5 representatives, have the right of access with at least forty-eight (48) hours prior notice, to any  
6 pertinent books, documents, papers, or other records of BORROWER, in order to make audits,  
7 examinations, excerpts, and transcripts. Said records shall be retained for such time as may be  
8 required by the regulations of the HOME Program, but in no event no less than five (5) years  
9 after the Project completion date as evidenced by recordation of the Notice of Completion;  
10 except that records of individual tenant income verifications, project rents, and project  
11 inspections must be retained for the most recent five (5) year period, until five (5) years after the  
12 Affordability Period terminates. If any litigation, claim, negotiation, audit, or other action has  
13 been started before the expiration of the regular period specified, the records must be retained  
14 until completion of the action and resolution of all issues which arise from it, or until the end of  
15 the regular period, whichever is later.

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

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

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

6 b. Section 92.350 Other Federal requirements and nondiscrimination.

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

11 c. Section 92.351 Affirmative marketing and minority outreach  
12 program. BORROWER must adopt affirmative marketing

13 procedures and requirements. These must include:

14 (1) Methods for informing the public, owners, and potential  
15 tenants about Federal fair housing laws and the affirmative  
16 marketing policy (e.g., the use of the Equal Housing  
17 Opportunity logotype or slogan in press releases and  
18 solicitations for owners, and written communication to fair  
19 housing and other groups).

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

25 (3) Procedures to be used by BORROWER to inform and  
26 solicit applications from persons in the housing market area  
27 who are not likely to apply without special outreach (e.g.,  
28 use of community organizations, employment centers, fair



1 housing groups, or housing counseling agencies).

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

5 (5) A description of how BORROWER will annually assess the  
6 success of affirmative marketing actions and what  
7 corrective actions will be taken where affirmative  
8 marketing requirements are not met.

9 (6) BORROWER must prescribe procedures to establish and  
10 oversee a minority outreach program to ensure the  
11 inclusion, to the maximum extent possible, of minorities  
12 and women, and entities owned by minorities and women,  
13 including, without limitation, real estate firms, construction  
14 firms, appraisal firms, management firms, financial  
15 institutions, investment banking firms, underwriters,  
16 accountants, and providers of legal services, in all contracts  
17 entered into by BORROWER with such persons or entities,  
18 public and private, in order to facilitate the activities of  
19 COUNTY to provide affordable housing authorized under  
20 this Act or any other Federal housing law. Section 24 CFR  
21 85.36(e) provided affirmative steps to assure that minority  
22 business enterprises and women business enterprises are  
23 used when possible in the procurement of property and  
24 services. The steps include:

25 (i) Placing qualified small and minority businesses and  
26 women's business enterprises on solicitation lists.

27 (ii) Assuring that small and minority businesses, and  
28 women's business enterprises are solicited

1 whenever they are potential sources.

2 (iii) Dividing total requirements, when economically  
3 feasible, into smaller tasks or quantities to permit  
4 maximum participation by small and minority  
5 business, and women's business enterprises.

6 (iv) Establishing delivery schedules, where the  
7 requirement permits, which encourage participation  
8 by small and minority business, and women's  
9 business enterprises.

10 (v) Using the services and assistance of the Small  
11 Business Administration, and the Minority Business  
12 Development Agency of the Department of  
13 Commerce.

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

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

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

1 of this project assisted with HOME Funds.

2 f. Section 92.354 Lead-based paint. Housing assisted with HOME  
3 funds is subject to the lead-based paint requirements of 24 CFR  
4 Part 35 issued pursuant to the Lead-Based Paint Poisoning  
5 Prevention Act (42 U.S.C. 4821, et seq.). The lead-based paint  
6 provisions of 24 CFR 982.401 (j), except 24 CFR 982.401 (j)(1)(i),  
7 also apply, irrespective of the applicable property standard under  
8 §92.251.

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

20 h. Section 92.356 Conflict of Interest. In the procurement of property  
21 and services by BORROWER, the conflict of interest provisions in  
22 24 CFR 85.36 and 24 CFR 85.42, respectively shall apply. Section  
23 92.356 shall cover all cases not governed by 24 CFR 85.36 and 24  
24 CFR 84.42.

25 i. Section 504 of the Rehabilitation Act of 1973; Housing  
26 accessibility requirement at 24 CFR Part 8, implementing Section  
27 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). The design  
28 and construction of multi-family dwellings as defined at 24 CFR

1 100.201 must comply with the requirements set forth in 24 CFR  
2 100.205 implementing the Fair Housing Act. Dwelling units must  
3 be designed and constructed in accordance with the Uniform  
4 Federal Accessibility Standards (UFAS) will be deemed to comply  
5 with the Section 504 regulation.

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

14 (2) 24 CFR Part 8.23 Alterations of existing housing  
15 facilities. If alterations are undertaken to a project  
16 that has 15 or more units and the cost of the  
17 alterations is 75 percent or more of the replacement  
18 cost of the completed facility, then the provisions of  
19 §8.22 shall apply. Alterations to dwelling units in a  
20 multifamily housing project shall, to the maximum  
21 extent feasible, be made to be readily accessible to  
22 and usable by individuals with handicaps. If  
23 alterations of single elements or spaces of a  
24 dwelling unit, when considered together, amount to  
25 an alteration of a dwelling unit, the entire dwelling  
26 unit shall be made accessible. Once 5 percent (5%)  
27 of the dwelling units in a project are readily  
28 accessible to and usable by individuals with

1 mobility impairments, then no additional elements  
2 of dwelling units, or entire dwelling units, are  
3 required to be accessible under this paragraph.  
4 Alterations to common areas or parts of facilities  
5 that affect accessibility of existing housing facilities  
6 shall, to the maximum extent feasible, be made to  
7 be accessible to and usable by individuals with  
8 handicaps. For purposes of this paragraph, the  
9 phrase to the maximum extent feasible shall not be  
10 interpreted as requiring that a recipient make a  
11 dwelling unit, common area, facility or element  
12 thereof accessible if doing so would impose undue  
13 financial and administrative burdens on the  
14 operation of the multifamily housing project.

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

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



1 Section 3 Clause verbatim that is contained at 24 CFR 135.38  
2 attached hereto as **Exhibit D-2**, which is attached hereto and by this  
3 reference incorporated herein.

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

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

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

22 1. BORROWER does not assume COUNTY'S environmental  
23 responsibilities described at 24 CFR Part 92.352; and

24 2. BORROWER does not assume COUNTY's responsibility  
25 for initiating the review process under the provisions of 24  
26 CFR Part 92.352

27 o. Uniform Administrative Requirements of 24 CFR 92.505 and 24  
28 CFR Part 200 as now in effect and as may be amended from time

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

5 p. BORROWER shall include written agreements that include all  
6 provisions of **Section 18** if BORROWER provides HOME funds  
7 to for-profit owners or developers, non-profit owners or  
8 developers, sub-recipients, homeowners, homebuyers, tenants  
9 receiving tenant-based rental assistance, or contractors.

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

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

21 19. INCOME TARGETING REQUIREMENTS. BORROWER shall set aside  
22 forty-nine (49) units to be designated as HOME-Assisted Units which shall be occupied and  
23 rented to households whose incomes do not exceed fifty percent (50%) of the area median  
24 income for the County of Riverside (“Qualified Very Low Income Households”), adjusted by  
25 family size at the time of occupancy as published by HUD.

26 20. RENT LIMITATIONS. BORROWER shall comply with the rent  
27 limitations set forth under 24 CFR 92.252 of the HOME Investment Partnerships Act and HOME  
28 Investment Partnerships (“HOME”) program, which was enacted under Title II of the Cranston-

1 Gonzalez National Affordable Housing Act (the “Act”), as amended (commencing at 42 U.S.C.  
2 12701 et seq.), and the implementing regulations thereto (24 CFR Part 92) (collectively, the  
3 “HOME Program”). A total of 49 of the units shall be reserved as HOME-Assisted Units and  
4 rented at Low HOME rent levels as published by HUD. The HOME-Assisted Units shall be a  
5 “floating” designation on the Property such that the requirements of this Agreement will be  
6 satisfied so long as the total number of HOME-Assisted Units and bedroom size remains the  
7 same throughout the Affordability Period. COUNTY shall review and approve proposed rents  
8 to the extent required under this section. BORROWER shall ensure the HOME-Assisted Units  
9 are rented to qualified Very Low Income Households at the Low HOME rent levels required  
10 herein. The maximum monthly allowances for utilities and services (excluding telephone) shall  
11 not exceed the utility allowance as described below. The BORROWER shall also cause the  
12 HOME-Assisted Units to comply with the requirements of the USDA 514 Farm Labor Housing  
13 program in all respects. The HOME Assisted Units may overlap with the Housing  
14 AuthorityLMIHAF-Assisted Units.

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

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

27 b. Initial Occupancy of Vacant Units: All forty-nine (49) HOME-  
28 Assisted Units consisting shall be occupied by and rented to Qualified Very Low Income

1 Households for an affordable rent within six (6) months from the recordation of the Notice of  
2 Completion in the Official Records (“Lease Deadline”) for the last building constructed as part  
3 of the Project. If a COUNTY HOME-Assisted Unit remains unoccupied or not leased to an  
4 eligible tenant, BORROWER must provide to COUNTY information about current marketing  
5 efforts and an enhanced plan for marketing the unit so that it is leased promptly.

6 Within twelve (12) months from the Lease Deadline six (6) months  
7 from the recordation of the Notice of Completion), if a HOME-Assisted Unit  
8 remains unoccupied or not leased to an eligible tenant, then BORROWER agrees  
9 to repay HOME funds for any HOME-Assisted Unit that is not rented to eligible tenants.  
10 BORROWER may request an extension of the Lease Deadline, as stated in Implementation  
11 Schedule set forth in this Agreement from COUNTY if BORROWER can provide to COUNTY  
12 evidence showing efforts of aggressive marketing efforts and proof that the circumstances that  
13 led to the failure to lease the HOME-Assisted Unit(s) by the Lease Deadline were beyond the  
14 BORROWER’s control. The extension and time of extension is subject to COUNTY’s approval  
15 and not guaranteed. The Director, or designee, has the authority, at his or her discretion, to  
16 consent to an extension of the Lease Deadline.



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

25 a. HOME Rent Limitations: Effective July 1, 2020, HUD published  
26 HOME Rent Limits for the County of Riverside. In order to calculate net rent to be charged, an  
27 applicable utility allowance must be subtracted from the gross rents listed. The BORROWER  
28 shall use the HUD Utility Schedule Model (“HUSM”) to establish maximum monthly

1 allowances for utilities and services to be used by the BORROWER in calculating Rents. The  
2 HUSM and use instructions can be found at:

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

4 c. Approval: The BORROWER shall submit to the COUNTY for  
5 review and written approval, all proposed rents for the HOME-Assisted Units prior to lease-up.  
6 Low HOME rent limitations for COUNTY HOME-Assisted units shall be as set forth under 24  
7 CFR 92.252 and such units shall be rented and occupied by income qualified applicants at the  
8 HOME rent levels for the County of Riverside, which are published periodically by HUD. If  
9 during the re-certification process a household income falls between 51% and 60% Area Median  
10 Income then the High HOME rent limit shall apply. If during the recertification process a  
11 household income falls above 80% of the Area Median Income then household shall pay the  
12 lesser of 30% of the adjusted income or Market rent.

13 21. TENANT PROTECTIONS. During the Affordability Period,  
14 BORROWER shall adhere to the tenant protections and selection standard set forth in 24 CFR  
15 92.253, as may be amended from time to time, and the following requirements:

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

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

- 23 (1) Agreement to be sued. Agreement by the tenant to be sued,  
24 to admit guilt or to a judgment in favor of BORROWER in  
25 a lawsuit brought in connection with the lease.
- 26 (2) Treatment of property. Agreements by tenant that  
27 BORROWER may take, hold, or sell personal property of  
28 household members without notice to the tenant and a court



1 decision on the rights of the parties. This prohibition,  
2 however, does not apply to an agreement by the tenant  
3 concerning disposition of personal property remaining in  
4 the housing unit after the tenant has moved out of the unit.  
5 BORROWER may dispose of this personal property in  
6 accordance with State law.

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

11 (4) Waiver of notice. Agreement of the tenant that  
12 BORROWER may institute a lawsuit without notice to the  
13 tenant.

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

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

21 (7) Waiver of right to appeal court decision. Agreement by the  
22 tenant to waive the tenant's right to appeal, or to otherwise  
23 challenge in court, a court decision in connection with the  
24 lease.

25 (8) Tenant chargeable with cost of legal actions regardless of  
26 outcome. Agreement by the tenant to pay attorneys' fees or  
27 other legal costs even if the tenant wins in a court  
28 proceeding by BORROWER against the tenant. The tenant,



1 eligibility, BORROWER must give a reasonable amount of time to  
2 find new housing or establish eligibility under another covered  
3 housing program. A Notice of Rights under VAWA 2013 for tenants  
4 must be provided at the time a person applies for housing, when a  
5 person is admitted as a tenant of a housing unit, and when a tenant is  
6 threatened with eviction or termination of housing benefits. Tenants  
7 must request an emergency transfer and reasonably believe that they  
8 are threatened with imminent harm from further violence if the tenant  
9 remains in the same unit. The provisions of VAWA 2013 that are  
10 applicable to HUD programs are found in title VI of VAWA 2013,  
11 which is entitled "Safe Homes for Victims of Domestic Violence,  
12 Dating Violence, Sexual Assault, and Stalking." Section 601 of  
13 VAWA 2013 amends subtitle N of VAWA (42 U.S.C. 14043e et seq.)  
14 to add a new chapter entitled "Housing Rights."

15 22. FEDERAL REQUIREMENTS. BORROWER shall comply with the  
16 provisions of the HOME Program and any amendments thereto and all applicable federal  
17 regulations and guidelines now or hereafter enacted pursuant to the Act.

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

1 the date of such sale. Notwithstanding anything to the contrary contained herein, upon written  
2 notice to COUNTY, BORROWER may (i) admit limited partners to BORROWER, and provide  
3 for the purchase of any such limited partnership interest or interests by BORROWER's general  
4 partner; (ii) remove for cause any General Partner by a limited partner of the Borrower, and the  
5 replacement thereof, pursuant to the Partnership Agreement, provided County receives 5  
6 business days advance written notice of such removal. Without limiting Borrower's obligation  
7 to provide advance notice of such removal for cause of any General Partner by a limited partner  
8 and the replacement thereof set forth in the immediately preceding sentence, amendments to the  
9 Partnership Agreement required to effectuate the Permitted Transfer set forth in this clause (ii)  
10 shall not require the consent of the County; provided, however, Borrower shall provide County  
11 with an executed copy of such amended agreement within 10 days of execution thereof;; (iii) the  
12 lease for occupancy of all or any of the HOME-Assisted Units; (iv) the granting of easements or  
13 permits to facilitate the development of the Property in accordance with this Agreement; and (v)  
14 the withdrawal and/or replacement of any limited partner of BORROWER, (collectively a  
15 "Permitted Transfer"). All Permitted Transfers shall be subject to reasonable review of  
16 documentation by the COUNTY. The parties hereto acknowledge that "affiliate" for purposes  
17 of this section means, as to any Person (as defined below), any general partnership, limited  
18 partnership, corporation, joint venture, trust, business trust, cooperative, association, limited  
19 liability company or individual (collectively, a "Person") that (A) directly or indirectly controls  
20 or is controlled by (such as any partnership or limited liability company in which the Person,  
21 directly or indirectly, serves as a general partner or managing member, respectively) or is under  
22 common control with the specified Person; (B) is an officer or director of, commissioner of,  
23 partner in, member of or trustee of, or serves in a similar capacity with respect to, the specified  
24 Person or of which the Specified Person is an officer, director, member, partner or trustee, or  
25 with respect to which the specified Person serves in a similar capacity; or (C) is the beneficial  
26 owner, directly or indirectly, of 10% or more of any class of equity securities of the specified  
27 Person or of which the specified Person is directly or indirectly the owner of 10% or more of any  
28 class of equity securities. The term "control" (including the term "controlled by" and "under

1 common control with”) means the possession, direct or indirect, of the power to direct or cause  
2 the direction of the management and policies of a Person, whether through the ownership of  
3 voting securities, by contract or otherwise.

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

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

28



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

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

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



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

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

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

27 26. PROHIBITION AGAINST CONFLICTS OF INTEREST:

28 BORROWER and its assigns, employees, agents, consultants, officers and elected and appointed

1 officials shall become familiar with and shall comply with the conflict of interest provisions in  
2 OMB Circular A-110, 24 CFR 85.36, 24 CFR 84.42, 24 CFR 92.356 and Policy Manual #A-11,  
3 attached hereto as **Exhibit E** and by this reference incorporated herein.

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

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

17. Any violation of this section shall be deemed a material breach of this Agreement, and the  
18 Agreement shall be immediately terminated by COUNTY.

19           27. RELIGIOUS ACTIVITIES. Under federal regulations, 24 CFR 92.257  
20 HOME funds may not be provided to primarily religious organizations, such as churches, for  
21 any activity including secular activities. In addition, HOME funds may not be used to  
22 rehabilitate or construct housing owned by primarily religious organizations or to assist primarily  
23 religious organizations in acquiring housing. However, HOME funds may be used by a secular  
24 entity to acquire housing from a primarily religious organization, and a primarily religious entity  
25 may transfer title to property to a wholly secular entity and the entity may participate in the  
26 HOME program in accordance with the requirements set forth at 24 CFR 92.257. The entity  
27 may be an existing or newly established entity, which may be an entity established by the  
28 religious organization. The completed housing project must be used exclusively by the

1 BORROWER/participant entity for secular purposes, available to all persons regardless of  
2 religion. In particular, there must be no religious or membership criteria for tenants of the  
3 property.

4 28. PROJECT MONITORING AND EVALUATION.

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

19 b. Inspections. Pursuant to 24 CFR 92.504(d)(ii), during the  
20 Affordability Period, COUNTY must perform on-site inspections of COUNTY HOME-assisted  
21 rental housing to determine compliance with the property standards of §92.251 and to verify the  
22 information submitted by the owners in accordance with the requirements of §92.252. The  
23 inspections must be in accordance with the inspection procedures that the participating  
24 jurisdiction establishes to meet the inspection requirements of §92.251. The on-site inspections  
25 must occur within 12 months after Notice of Completion and at least once every 3 years  
26 thereafter during the Affordability Period. If there are observed deficiencies for any of the  
27 inspectable items in the property standards established by COUNTY, in accordance with the  
28 inspection requirements of §92.251, a follow-up on-site inspection to verify that deficiencies are

1 corrected must occur within 12 months. COUNTY may establish a list of non-hazardous  
2 deficiencies for which correction can be verified by third party documentation (e.g., paid invoice  
3 for work order) rather than re-inspection. Health and safety deficiencies must be corrected  
4 immediately, in accordance with §92.251. COUNTY must adopt a more frequent inspection  
5 schedule for properties that have been found to have health and safety deficiencies. The property  
6 owner must annually certify to the COUNTY that each building and all HOME- assisted units  
7 in the project are suitable for occupancy, taking into account State and local health, safety, and  
8 other applicable codes, ordinances, and requirements, and the ongoing property standards  
9 established by the participating jurisdiction to meet the requirements of §92.251. Inspections  
10 must be based on a statistically valid sample of units appropriate for the size of the COUNTY  
11 HOME-Assisted project, as set forth by HUD through notice. For projects with one-to-four  
12 COUNTY HOME-Assisted Units, COUNTY must inspect 100 percent of the COUNTY HOME-  
13 Assisted Units and the inspectable items (site, building exterior, building systems, and common  
14 areas) for each building housing COUNTY HOME-assisted units.

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

19 29. MONITORING FEE. Provided that BORROWER pays the COUNTY a  
20 monitoring fee in the amount of Ten Thousand Dollars (\$10,000) (“Monitoring Fee”), in  
21 connection with the monitoring of the Project as it relates to the County HOME Loan,  
22 BORROWER shall not be required to pay the COUNTY an additional monitoring fee hereunder.  
23 In the event BORROWER is no longer required to pay the aforementioned Monitoring Fee to  
24 the COUNTY in connection with the County HOME Loan, BORROWER shall be required to  
25 pay to the COUNTY an annual compliance monitoring fee in the annual amount of \$10,000.  
26 The first Monitoring Fee is due on July 1<sup>st</sup> of each year for the monitoring period of July 1<sup>st</sup> to  
27 June 30<sup>th</sup> commencing January 1, 2022. The Monitoring Fee will be due on July 1<sup>st</sup> thereafter  
28 and will continue until the expiration of the Affordability Period. .

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

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

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

18           b.    Non-Monetary Default. (1) Discrimination by BORROWER or  
19 BORROWER's agent(s) on the basis of characteristics prohibited  
20 by this Agreement or applicable law; (2) the imposition of any  
21 encumbrances or liens on the Project without COUNTY's prior  
22 written approval that are prohibited under this Agreement or that  
23 have the effect of reducing the priority or invalidating the lien of  
24 the HOME Deed of Trust; (3) BORROWER's failure to obtain and  
25 maintain the insurance coverage required under this Agreement; (4)  
26 any material default under this Agreement, the HOME Loan Deed  
27 of Trust, Covenant Agreement, HOME Note or any document  
28 executed by the County in connection with this Agreement, and /or



1 (5) a default under the terms of any Senior Loan documents or any  
2 other instrument or document secured against the Property or the  
3 Project;

4 c. General Performance of Loan Obligations. Any substantial or  
5 continuous or repeated breach by BORROWER or BORROWER's  
6 agents of any material obligations of BORROWER under this  
7 Agreement;

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

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

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

28 g. Bankruptcy, Dissolution and Insolvency. BORROWER's or



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

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

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

1 diligence.

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

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

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

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

28           33. COUNTY REMEDIES. Upon the occurrence of an Event of Default, after

1 notice and opportunity to cure, COUNTY's obligation to disburse HOME funds shall terminate,  
2 and COUNTY shall also have the right, but not the obligation to, in addition to other rights and  
3 remedies permitted by this Agreement or applicable law, proceed with any or all of the  
4 following remedies in any order or combination COUNTY may choose in its sole discretion:

5. Terminate this Agreement, in which event the entire HOME Loan amount as well as any other  
6 monies advanced to BORROWER by COUNTY under this Agreement including administrative  
7 costs, shall immediately become due and payable to COUNTY at the option of COUNTY.

8. Bring an action in equitable relief (1) seeking the specific performance by BORROWER of the  
9 terms and conditions of this Agreement, and/or (2) enjoining, abating, or preventing any violation  
10 of said terms and conditions, and/or (3) seeking declaratory relief.

11 c. Accelerate the HOME Loan, and demand immediate full payment  
12 of the principal payment outstanding and all accrued interest under  
13 the HOME Note, as well as any other monies advanced to  
14 BORROWER by COUNTY under this Agreement.

15 d. Enter the Project and take any remedial actions necessary in its  
16 judgment with respect to hazardous materials that COUNTY deems  
17 necessary to comply with hazardous materials laws or to render the  
18 Project suitable for occupancy, which costs shall be due and payable  
19 by BORROWER to COUNTY.

20 e. Enter upon, take possession of, and manage the Project, either in  
21 person, by agent, or by a receiver appointed by a court, and collect  
22 rents and other amounts specified in the assignment of rents in the  
23 Deed of Trust and apply them to operate the Project or to pay off the  
24 HOME Loan or any advances made under this Agreement, as  
25 provided for by the HOME Deed of Trust.

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

27 34. RESERVED.

28 35. 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 36. BORROWER'S CERTIFICATION. BORROWER certifies, to the best of  
11 its knowledge and belief, that:

- a. 12 No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned,  
13 to any person for influencing or attempting to influence an officer or employee of any agency, a  
14 member of Congress, an officer or employee of Congress, or an employee of a member of Congress  
15 in connection with the awarding of any federal contract, the making of any federal grant, the  
16 making of any federal loan, the entering into of any cooperative agreement, and the extension,  
17 continuation, review, amendment, or modification of any federal contract, grant, loan, or  
18 cooperative agreement.
- b. 19 If any funds other than federally appropriated funds have been paid or will be paid to any person  
20 for influencing or attempting to influence an officer or employee of any agency, a member of  
21 Congress, an officer or employee of Congress, or an employee of a member of Congress in  
22 connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall  
23 complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance  
24 with its instructions.
- c. 25 The undersigned shall require that the language of this certification be included in the award  
26 documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under  
27 grants, loans, and cooperative agreements) and that BORROWER shall certify and disclose  
28 accordingly. This certification is a material representation of fact upon which reliance was placed

1 when this transaction was made or entered into.

2           37. 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, except in the event of the gross negligence or willful misconduct of the Indemnified  
12 parties; provided however, any gross negligence or willful misconduct of Indemnitees will only  
13 affect the duty to indemnify for the specific act found to be gross negligence or willful  
14 misconduct, and will not preclude a duty to indemnify for any act or omission of Borrower.  
15 BORROWER shall defend, at its sole expense, all costs and fees including, but not limited, to  
16 attorney fees, cost of investigation, defense and settlements or awards, the County of Riverside,  
17 its Agencies, Districts, Special Districts and Departments, their respective directors, officers,  
18 Board of Supervisors, elected and appointed officials, employees, agents and representatives in  
19 any claim or action based upon such alleged acts or omissions.

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

26           BORROWER’s obligation hereunder shall be satisfied when BORROWER has provided  
27 to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action  
28 or claim involved.



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

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

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

9 38. TERMINATION.

10 a. BORROWER. BORROWER may terminate this Agreement prior to  
11 disbursement of any HOME Loan funds by COUNTY in accordance with the applicable HOME  
12 Program regulations.

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

- 16 1. In the event BORROWER fails to perform the covenants  
17 herein contained at such times and in such manner as  
18 provided in this Agreement after the applicable notice and  
19 cure provision hereof; or
- 20 2. In the event there is a conflict with any federal, state or local  
21 law, ordinance, regulation or rule rendering any material  
22 provision, in the judgment of COUNTY of this Agreement  
23 invalid or untenable; or
- 24 3. In the event the HOME funding from HUD identified in  
25 **Section 1** above is terminated or otherwise becomes  
26 unavailable.

27 c. This Agreement may be terminated or funding suspended in whole or in  
28 part for cause. Cause shall be based on the failure of BORROWER to materially comply with



1 either the terms or conditions of this Agreement after the expiration of all applicable notice and  
2 cure provisions hereof. Upon suspension of funding, BORROWER agrees not to incur any costs  
3 related thereto, or connected with, any area of conflict from which COUNTY has determined that  
4 suspension of funds is necessary.

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

9 39. AFFORDABILITY RESTRICTIONS. COUNTY and BORROWER, on  
10 behalf of its successors and assigns, hereby declare their express intent that the restrictions set  
11 forth in this Agreement shall continue in full force and effect for the duration of the Affordability  
12 Period (as defined in **Section 15** above). Each and every contract, deed or other instrument  
13 hereafter executed covering and conveying the Property or any portion thereof shall be held  
14 conclusively to have been executed, delivered and accepted subject to such restrictions,  
15 regardless of whether such restrictions are set forth in such contract, deed or other instrument.  
16 Borrower shall execute and record as a lien against the Property, a Covenant Agreement,  
17 substantially conforming in form and substance to the Covenant Agreement attached hereto as  
18 **Exhibit G** and incorporated herein by this reference, setting forth the affordability use and  
19 income restriction required in this Agreement.

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

27 41. ENTIRE AGREEMENT. It is expressly agreed that this Agreement  
28 embodies the entire agreement of the parties in relation to the subject matter hereof, and that no

1 other agreement or understanding, verbal or otherwise, relative to this subject matter, exists  
2 between the parties at the time of execution.

3 42. AUTHORITY TO EXECUTE. The persons executing this Agreement or  
4 exhibits attached hereto on behalf of the parties to this Agreement hereby warrant and represent  
5 that they have the authority to execute this Agreement and warrant and represent that they have  
6 the authority to bind the respective parties to this Agreement to the performance of its obligations  
7 hereunder.

8 43. WAIVER. Failure by a party to insist upon the strict performance of any  
9 of the provisions of this Agreement by the other party, or the failure by a party to exercise its  
10 rights upon the default of the other party, shall not constitute a waiver of such party's rights to  
11 insist and demand strict compliance by the other party with the terms of this Agreement  
12 thereafter.

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

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

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

28 47. MINISTERIAL ACTS. COUNTY's Director/Housing, Homelessness

1 Prevention & Workforce Solutions or designee(s) are authorized to take such ministerial actions  
2 as may be necessary or appropriate to implement the terms, provisions, and conditions of this  
3 Agreement as it may be amended from time to time by both parties.

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

14 49. CONDITIONAL COMMITMENT.

15 a. Construction. Pursuant to 24 CFR 92.2, under the  
16 definition of Commitment, all necessary financing has been secured, a budget and  
17 schedule have been established, and underwriting has been completed and under  
18 which construction is scheduled to start within the earlier of six (6) months from the Effective  
19 Date of this Agreement, or such date as may be required by TCAC (“Construction Start  
20 Deadline”). If BORROWER cannot start construction or provide evidence such as construction  
21 permits within four (4) months of the Effective Date, then COUNTY and BORROWER mutually  
22 agree that this Agreement will self-terminate and any HOME Loan funds drawn to date shall be  
23 returned within thirty (30) calendar days. Upon such termination, this Agreement shall become  
24 null and void. COUNTY and BORROWER shall be released and discharged respectively from  
25 its obligations under this Agreement, except for those provisions which by their terms survive  
26 termination. All cost incurred by each party on the Project will be assumed respectively.





1                   b.     Completion. The Project must be completed and a  
2 Notice of Completion shall have been recorded in the Official Records no later than  
3 two (2) years from the Effective Date of this Agreement (the “Completion  
4 Deadline”). BORROWER may request a one year extension of the Completion Deadline from  
5 COUNTY (“Extension”), which may be granted in COUNTY’s sole and absolute discretion, if  
6 the BORROWER can provide proof that the circumstances that led to the failure to complete the  
7 Project by the Completion Deadline were beyond the BORROWER’s control. Extension is  
8 subject to COUNTY’s approval and not guaranteed. The Director of Housing, Homelessness  
9 Prevention & Workforce Solutions, or designee, has the authority, at his or her discretion, to  
10 consent to such Extension. If BORROWER is unable to meet the condition as required by this  
11 **Section 49** including Extension, then COUNTY and BORROWER mutually agree that this  
12 Agreement will self-terminate and any HOME Loan funds disbursed to BORROWER to date  
13 shall be returned to COUNTY within thirty (30) calendar days of such termination. Upon such  
14 termination, this Agreement shall become null and void. COUNTY and BORROWER shall be  
15 released and discharged respectively from their obligations under this Agreement, except for  
16 those provisions which by their terms survive termination. All costs incurred by each party on the  
17 Project will be assumed respectively.

18                   c.     Tenant Leases. BORROWER shall comply with the initial  
19 occupancy requirements set forth in **Section 20(b)** of this Agreement.

20                   50.    PROJECT FINANCING CONTINGENCY. This Agreement is expressly  
21 conditioned upon BORROWER's delivery to COUNTY, on or prior to **February 1, 2021** of (i)  
22 written documentation of such binding loan commitments required to fully finance the  
23 development and construction of the Project (less the HOME Loan), on terms and conditions  
24 acceptable to BORROWER and COUNTY, including, but not limited any conventional  
25 construction and/or permanent financing, including without limitation, a construction and  
26 permanent loan from an institutional construction lender. Either COUNTY or BORROWER may  
27 elect to terminate this Agreement with ten (10) days prior written notice to the other party if  
28 BORROWER fails to acquire the project financing as required by this **Section 50**. Upon such

1 termination, this Agreement shall be null and void, and:

- 2 a. If BORROWER elects to terminate this Agreement,  
3 BORROWER shall be released and discharged by COUNTY  
4 from its obligations under this Agreement; or  
5 b. If COUNTY elects to terminate this Agreement, COUNTY shall  
6 be released and discharged by BORROWER from its obligations  
7 under this Agreement.

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

11 51. Reserved.

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

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

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

26  
27 COUNTY  
28 Director, Riverside County  
Housing, Homelessness Prevention &

BORROWER  
Fred Young Phase III Associates, L.P.  
45-701 Monroe Street, Suite G



1 Workforce Solutions  
2 5555 Arlington Avenue  
3 Riverside, CA 92504

Indio, CA 92201

4 County shall send a copy of all Borrower notices to Borrower's investor limited partner at the  
5 address below:

6 Wells Fargo Affordable Housing  
7 Community Development Corporation  
8 MAC D1053-170  
9 301 South College Street, 17<sup>th</sup> Floor  
10 Charlotte, NC 28288  
11 Attention: Director of Asset Management

12 United States Department of Agriculture  
13 22690 March Memorial Drive  
14 Suite 280  
15 Moreno Valley, CA 92553

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

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

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

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

59. CONSTRUCTION AND INTERPRETATION OF AGREEMENT.



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

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

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

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

1 incorporated by reference in this instrument.

2 e. As used in this Agreement, and as the context may require, the  
3 singular includes the plural and vice versa, and the masculine gender includes the feminine and  
4 vice versa.

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

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

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

14 63. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS.

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

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

22 c. All waivers of the provisions of this Agreement must be in writing  
23 and signed by the appropriate authorities of the COUNTY or the BORROWER, and all  
24 amendments hereto must be in writing and signed by the appropriate authorities of the COUNTY  
25 and the BORROWER. This Agreement and any provisions hereof may be amended by mutual  
26 written agreement by the BORROWER and the COUNTY.

27  
28 (SIGNATURES ON THE NEXT PAGE)

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

4 COUNTY:

BORROWER:

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

FRED YOUNG PHASE III ASSOCIATES, L.P.,  
a California limited partnership

7  
8 By: Fred Young Phase III, LLC  
a California limited liability company  
9 Its: General Partner

10 By: The Coachella Valley Housing Coalition, a  
11 California corporation, its sole  
12 member/manager

13 By: \_\_\_\_\_  
14 Heidi Marshall, Director

By: \_\_\_\_\_  
Alice Salinas, Executive Director

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

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

17  
18 APPROVED AS TO FORM:  
19 GREGORY P. PRIAMOS, County Counsel

20 By:  \_\_\_\_\_  
21 Amrit P. Dhillon, Deputy County Counsel

22 (Signatures need to be notarized)  
23  
24  
25  
26  
27  
28

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

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

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2020, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature

**EXHIBIT "A"**

**Borrower:** Fred Young Phase III Associates, L.P.  
**Address:** 45-701 Monroe Street, Suite G, Indio, CA 92201  
**Project Title:** Villa Hermosa Apartments III  
**Location:** Van Buren Street and Dr. Carreon Boulevard, City of Indio, also identified as APN 612-170-30

**Project Description:**

Fred Young Phase III Associates, L.P. shall develop and construct a multi-family affordable rental housing project for farmworker families consisting of one hundred (100) rental units including one (1) residential manager's unit ("Project" or "Phase 3") on real property located on approximately 8.40 acres of vacant land located on Van Buren Street and Dr. Carreon Boulevard, in the City of Indio also identified as APN 612-170-030 ("Property").

A total of 49 units shall be designated as HOME Assisted Units and rented at Low HOME rent levels as published by HUD. The HOME assisted units shall be "floating" designation on the Property and shall be rented to and occupied by households whose incomes do not exceed fifty percent (50%) of the area median income for the County of Riverside, adjusted by family size at the time of occupancy as determined and published by HUD, for a period of 55 years. The Project shall be comprised of affordable units in addition to the HOME Assisted Units financed through Low Income Housing Tax Credits, the United States Department of Agriculture, Federal Home Loan Bank Affordable Housing Program, County HOME Loan and Housing Authority LMIHAF Loan. The Project shall include a total of 100 rental units as follows:

36	One Bedroom	22,608	sq.ft.
32	Two Bedroom	28,736	sq.ft.
23	Three Bedroom	25,024	sq.ft.
8	Four Bedroom	9,920	sq.ft.
1	Three Bedroom	1,088	sq.ft.

The limited partnership for Phase 1, Phase II and for Phase III will enter into a joint use agreement to allow tenants to enjoy all common areas and amenities, including a 3,172 square foot community room with internet access, soccer fields, four tot-lots and a swimming pool.

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



**IMPLEMENTATION SCHEDULE**

<b>Milestone</b>	<b>Completion Date</b>
1. Financing Commitment	January 1, 2021
2. Construction Start Deadline	January 1, 2021
3. Completion Deadline	January 1, 2023
4. Lease Deadline 6 months from Notice of Completion	July 1, 2023
5. Submission of Final actual project costs and Sources and Uses of Funds	August 1, 2023
6. Submission of income & ethnic characteristics report	August 1, 2023

LEGAL DESCRIPTION OF PROPERTY

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA,  
DESCRIBED AS FOLLOWS:

PARCEL 1:

PARCEL C OF CERTIFICATE OF COMPLIANCE LOT LINE ADJUSTMENT NO. 2015-04, RECORDED  
MARCH 16, 2016 AS INSTRUMENT NO. 2016-0101282 OF OFFICIAL RECORDS, BEING MORE  
PARTICULARLY DESCRIBED  
AS FOLLOWS:

IN THE CITY OF INDIO, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, PORTIONS OF PARCELS 2  
AND 3 OF PARCEL MAP 36273, AS SHOWN BY MAP ON FILE IN BOOK 234, PAGES 6 THROUGH 10  
INCLUSIVE OF

PARCEL MAPS, RECORDS OF SAID COUNTY, BEING IN SECTION 25, TOWNSHIP 5 SOUTH, RANGE 7  
EAST,

SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL 3;

THENCE ALONG THE WESTERLY LINE OF SAID PARCEL 3 SOUTH 00° 03' 11" EAST, A DISTANCE OF  
267.83

FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 3;

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 3 NORTH 89° 55' 46" EAST, A DISTANCE OF  
1383.50

FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 3, ALSO BEING A POINT ON THE WESTERLY  
RIGHT-OF-

WAY LINE OF VAN BUREN STREET, 43.00 FEET IN HALF WIDTH;

THENCE NORTH 00° 11' 07" WEST, ALONG THE EASTERLY LINE OF SAID PARCEL 3 AND ALONG SAID  
WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 405.62 FEET;

THENCE SOUTH 89° 48' 53" WEST, A DISTANCE OF 95.32 FEET;

THENCE NORTH 45° 05' 20" WEST, A DISTANCE OF 8.52 FEET;

THENCE SOUTH 90° 00' 00" WEST, A DISTANCE OF 87.87 FEET;

THENCE SOUTH 81° 00' 45" WEST, A DISTANCE OF 355.98 FEET;

THENCE SOUTH 75° 14' 25" WEST, A DISTANCE OF 26.47 FEET TO THE BEGINNING OF A TANGENT  
CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 500.00 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 01° 58' 02",  
AN ARC DISTANCE OF 17.17 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 16° 43' 37" WEST;

THENCE NON-TANGENT TO SAID CURVE SOUTH 00° 02' 08" EAST, A DISTANCE OF 299.79 FEET;

THENCE SOUTH 89° 58' 33" WEST, A DISTANCE OF 137.49 FEET;

THENCE SOUTH 66° 35' 15" WEST A DISTANCE OF 43.81° FEET;

THENCE SOUTH 89° 55' 46" WEST, A DISTANCE OF 68.13 FEET;

THENCE NORTH 00° 04' 14" WEST, A DISTANCE OF 127.65 FEET;

THENCE NORTH 28° 06' 48" WEST, A DISTANCE OF 62.15 FEET;

THENCE SOUTH 89° 55' 46" WEST A DISTANCE OF 240.54 FEET;

THENCE NORTH 61° 07' 22" WEST A DISTANCE OF 118.34 FEET TO A POINT ON THE NORTHERLY LINE  
OF SAID PARCEL 3;

THENCE SOUTH 89° 56' 49" WEST, ALONG SAID NORTHERLY LINE A DISTANCE OF 180.24 FEET TO  
THE POINT OF BEGINNING.

PARCEL 2:

INTENTIONALLY DELETED

Assessor's Parcel Number: **612-170-030-6**

**Permanent Sources and Uses of Funds:**

Sources:

USDA 514 Loan/Assumed Loans	\$3,843,214
HCD Joe Serna Jr. Farmworker Housing Grant	\$5,000,000
Housing Authority LMIHAF Funds	\$1,500,000
County of Riverside HOME Loan	\$1,000,000
Wells Fargo Community Lending & Investment	\$28,660,896
GP Equity	<u>\$1,000,100</u>
Total Sources	\$41,004,300

Uses:

Land Acquisition Costs	\$ 848,669
Site Work/Structures- Hard Costs	\$ 26,925,588
Contractor's Overhead & Profit & Gen'l Req.	\$ 3,238,225
General Liability Insurance	\$ 150,000
Construction Contingency (Hard and Soft)	\$ 2,337,944
Architectural & Engineering Cost	\$ 1,303,500
Construction Interest & Fees	\$ 2,381,982
Reserves	\$ 698,765
Permit Processing Fees	\$ 857,353
Other Fees, Marketing & Furnishings	\$ 509,684
TCAC Fees	\$ 142,590
Legal Fees	\$ 190,000
Permanent Financing Fees	\$ 20,000
Developer's fee	<u>\$ 1,400,000</u>
Total Uses	\$41,004,300

**DOCUMENT SUBMISSION SCHEDULE**

<b>Documents</b>	<b>Due Date</b>
1. Construction Activities Reporting	Monthly, due by the 5 <sup>th</sup> 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– <b>March 1<sup>st</sup> &amp; September 15<sup>th</sup></b>
4. Section 504 Architect Certification	Beginning of Construction – initial letter End of Construction – final letter
5. Project Site Photos	Bimonthly, due by the 5 <sup>th</sup> of each month
6. The filing of the Notice of Completion	End of Construction
7. Certificate of Occupancy	End of Construction
8. Tenant Checklist Reporting	Close of Project; and Semi-Annually– <b>Sept 30<sup>th</sup> &amp; March 31<sup>st</sup></b>
9. Conditional/Unconditional Release for Final from GC, and if applicable, Sub-contractors	Close of Project
10. Project Completion Report	Close of Project
11. Final Development Cost - Sources and Uses	Close of Project
12. Final Cost Certification by CPA	Close of Project and Audits Completed
13. Final 15/30 Year Cash Flow Projection	Close of Project
14. Affirmative Fair Housing Marketing Plan, HUD form 935.2A	Marketing Stage
15. Management Plan	Marketing Stage
16. Tenant Selection Policy	Marketing Stage
17. Copy of Lease Agreement	Marketing Stage
18. Flyers, Community Contacts, Outreach, Press Releases, Grand Opening info	Marketing Stage
19. Project Operating Budget	Annual submission
20. Audited Yearly Income Expense Report for the Project	Annual submission

# **EXHIBIT "B"**



EXEMPT RECORDING FEE CODE 6103

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

County of Riverside Housing, Homelessness  
Prevention & Workforce Solutions Agency  
5555 Arlington Avenue  
Riverside, CA 92504  
Attn. Monica Telles

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**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 Fred Young Phase III Associates, L.P., a California limited partnership, (hereinafter referred to as "Trustor"), whose address is 45-701 Monroe Street, Suite G, Indio, CA 92201. The trustee is \_\_\_\_\_ ("Trustee"). The beneficiary is the County of Riverside, a political subdivision of the State of California, (hereinafter called "Beneficiary"), whose address is 5555 Arlington Avenue, Riverside, CA 92504.

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

(A) That certain fee interest in the real property in the City of Indio, County of Riverside, State of California more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference (such interest in real property is hereafter referred to as the "Subject Property");

(B) All buildings, structures and other improvements now or in the future located or to be constructed on the Subject Property (the "Improvements");

(C) All tenements, hereditaments, appurtenances, privileges, franchises and other rights and interests now or in the future benefiting or otherwise relating to the Subject Property or the Improvements, including easements, rights-of-way and development rights (the "Appurtenances"). (The Appurtenances, together with the Subject Property and the Improvements, are hereafter referred to as the "Real Property");

(D) All rents, issues, income, revenues, royalties and profits now or in the future payable with respect to or otherwise derived from the Trust Estate or the Trustorship, use, management, operation leasing or occupancy of the Trust Estate, including those past due and unpaid (the "Rents");

(E) All present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code (the "UCC"), and whether existing now or in the future) now or in the future located at, upon or about, or affixed or attached to or installed in, the Real Property, or used

or to be used in connection with or otherwise relating to the Real Property or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property, including furniture, furnishings, theater equipment, seating, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property, but not including personal property that is donated to Trustor (the "Goods," and together with the Real Property, the "Property"); and

(F) All present and future right, title and interest of Trustor in and to all accounts, general intangibles, chattel paper, deposit accounts, money, instruments and documents (as those terms are defined in the UCC) and all other agreements, obligations, rights and written material (in each case whether existing now or in the future) now or in the future relating to or otherwise arising in connection with or derived from the Property or any other part of the Trust Estate or the Ownership, use, development, construction, maintenance, management, operation, marketing, leasing, occupancy, sale or financing of the property or any other part of the Trust Estate, including (to the extent applicable to the Property or any other portion of the Trust Estate) (i) permits, approvals and other governmental authorizations, (ii) improvement plans and specifications and architectural drawings, (iii) agreements with contractors, subcontractors, suppliers, project managers, supervisors, designers, architects, engineers, sales agents, leasing agents, consultants and property managers, (iv) takeout, refinancing and permanent loan commitments, (v) warranties, guaranties, indemnities and insurance policies, together with insurance payments and unearned insurance premiums, (vi) claims, demands, awards, settlements, and other payments arising or resulting from or otherwise relating to any insurance or any loss or destruction of, injury or damage to, trespass on or taking, condemnation (or conveyance in lieu of condemnation) or public use of any of the Property, (vii) license agreements, service and maintenance agreements, purchase and sale agreements and purchase options, together with advance payments, security deposits and other amounts paid to or deposited with Trustor under any such agreements, (viii) reserves, deposits, bonds, deferred payments, refunds, rebates, discounts, cost savings, escrow proceeds, sale proceeds and other rights to the payment of money, trade names, trademarks, goodwill and all other types of intangible personal property of any kind or nature, and (ix) all supplements, modifications, amendments, renewals, extensions, proceeds, replacements and substitutions of or to any of such property (the "Intangibles").

Trustor further grants to Trustee and Beneficiary, pursuant to the UCC, a security interest in all present and future right, title and interest of Trustor in and to all Goods and Intangibles and all of the Trust Estates described above in which a security interest may be created under the UCC (collectively, the "Personal Property"). This Deed of Trust constitutes a security agreement under the UCC, conveying a security interest in the Personal Property to Trustee and Beneficiary. Trustee and Beneficiary shall have, in addition to all rights and remedies provided herein, all the rights and remedies of a "secured party" under the UCC and other applicable California law. Trustor covenants and agrees that this Deed of Trust constitutes a fixture filing under Section 9334 and 9502(b) of the UCC.

FOR THE PURPOSE OF SECURING, in such order of priority as Beneficiary may elect, the following:

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 \$1,000,000;
- (b) that certain Loan Agreement for the Use of HOME Program Funds dated \_\_\_\_\_ and recorded in the Official Records ("Official Records") of the County of Riverside concurrently herewith, between Trustor ("Borrower" therein) and Beneficiary ("County" therein) (the "HOME Loan Agreement"); and
- (c) that certain Covenant Agreement dated \_\_\_\_\_ and recorded concurrently herewith in the Official Records, between Trustor ("Borrower" therein) and Beneficiary ("County" therein) ("Covenant Agreement").

ii. payment of indebtedness of the Trustor to the Beneficiary not to exceed ONE MILLION DOLLARS (the "HOME Loan") according to the terms of the Note.

Said Note, HOME Loan Agreement and Covenant Agreement (collectively, referred to as the "Secured Obligations") and all of their terms are incorporated herein by reference and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof however evidenced, and additional advances evidenced by any note reciting that it is secured hereby. The Note, HOME Loan Agreement and Covenant Agreement as used herein shall mean, refer to and include the Note, HOME Loan Agreement and Covenant Agreement, as well as any riders, exhibits, addenda, implementation agreements, amendments, or attachments thereto (which are hereby incorporated herein by this reference). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the HOME Loan Agreement.

The HOME Loan evidenced by the Note and secured by this Deed of Trust is being made pursuant to the HOME Investment Partnerships Program and the regulations issued thereunder (Title II, the Cranston-Gonzales National Affordable Housing Act, Public Law No. 101-625, 104 Stat. 4079 (1990), (24 C.F.R. Part 92) (the "HOME Program"). Pursuant to the HOME Loan Agreement, the maturity date of the HOME Loan shall be the later to occur of (i) July 1, 2077 or (ii) fifty five (55) years from recordation of the Notice of Completion for the last building completed as part of the Project (as defined in the HOME Loan Agreement) ("HOME 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 HOME Loan Agreement and Covenant Agreement at the time and in the manner respectively provided therein.

2. That Trustor shall not permit or suffer the use of any of the property for any purpose other than the use set forth in the HOME Loan Agreement and Covenant Agreement.

3. That the Secured Obligations are incorporated in and made a part of the Deed of Trust. Upon default of a Secured Obligation, and after the giving of notice and the expiration of any applicable cure period, the Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be due and payable.

4. That all rents, profits and income from the property covered by this Deed of Trust are hereby assigned to the Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor so long as no default exists hereunder after the giving of notice and the expiration of any applicable cure period, to collect such rents, profits and income for use in accordance with the provisions of the HOME Loan Agreement and Covenant Agreement.

4a. That upon default hereunder or under any of the Secured Obligations and after giving notice and opportunity to cure, Beneficiary shall be entitled to the appointment of receiver by any court having jurisdiction, without notice, to take possession and protect the Property described herein and operate same and collect the rents, profits and income therefrom

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

6. **Taxes and Insurance.** Trustor shall pay before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Deed of Trust, 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 HOME Deed of Trust.** During the construction phase the HOME Deed of Trust and the HOME Loan Agreement shall be in a fourth priority lien position. Upon Conversion (defined below), the HOME Deed of Trust shall be in fifth priority lien position. Lien priority during construction shall be as follows: (1) first priority deed of trust for the benefit of Wells Fargo Bank, N.A. ("Wells Fargo"), securing a construction loan for the Project in an amount up to \$22,923,084 ("Wells Fargo Senior Loan"); (2) second priority California Department of Housing and Community Development Joe Serna Jr. Farmworker Housing Loan in an amount up to \$5,000,000 ("Joe Serna Loan") (3) third priority Housing Authority LMIHAF Loan secured by the LMIHAF Deed of Trust for the benefit of the Housing Authority of the County of Riverside; (4) fourth priority HOME Loan secured by the HOME Deed of Trust for the benefit of COUNTY securing the HOME Loan and the terms of this Agreement, and (5) fifth priority deed of trust for the benefit of the Sponsor/General Partner. The Wells Fargo Senior Loan, Joe Serna Loan, and Housing Authority LMIHAF Loan shall be referenced as "Senior Loan" or "Senior Loans."

Lien priority upon Conversion shall be as follows (i) first and second priority shall be the Deed of Trust for the benefit of the United States of America, acting through Rural Housing Service, United States Department of Agriculture, or its successor agency ("USDA") 514 Loan in an amount up to \$3,000,000 and two USDA Assumed Loans in a total amount of \$800,000, respectively, for a total loan amount of \$3,800,000 (collectively "USDA Loans"); (ii) third priority shall be the Joe Serna Loan; (iii) fourth priority shall be the Housing Authority LMIHAF Loan; and (iv) fifth priority shall COUNTY Home Loan. Borrower shall cause the Senior Loans or any other COUNTY approved senior lender to execute and record in the Official Records, a Subordination Agreement, substantially in a form and of substance as approved by the COUNTY's Board of Supervisors, which, among other things, grants the COUNTY notice and opportunity to cure events of default under the Senior Loan documents. The term "Conversion" used herein shall mean that certain date upon which (i) the Deed of Trust securing the Wells Fargo Senior Loan is fully reconveyed, and (ii) deeds of trust securing the USDA Loans have been recorded in the Official Records and all USDA Loans funds have been disbursed to and received by Borrower.

The term "conversion" used herein shall mean the date upon which (i) the Deed of Trust securing the Wells Fargo Senior Loan is fully reconveyed, and (ii) deeds of trust securing the USDA Loans have been recorded in the Official Records and USDA Loan funds have been disbursed and received by Borrower.



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

10. **Hazard or Property Insurance.** Trustor shall keep the improvements now existing or hereafter erected on the Property insured against loss of fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Beneficiary requires insurance. This insurance shall be maintained in the amounts and for the periods as required in the HOME Loan Agreement. The insurance carrier providing the insurance shall be chosen by Trustor subject to Beneficiary's approval which shall not be unreasonably withheld. If Trustor fails to maintain coverage described above, Beneficiary may, at Beneficiary's option, obtain coverage to protect Beneficiary's rights in the Property in accordance with **Section 12**.

a. All insurance policies and renewals shall be acceptable to Beneficiary and shall include a standard mortgagee clause. All requirements hereof pertaining to insurance shall be deemed satisfied if the Trustor complies with the insurance requirements under this Deed of Trust and the HOME Loan Agreement. Trustor shall promptly give to Beneficiary certificates of insurance showing the coverage is in full force and effect and that Beneficiary is named as additional insured. In the event of loss, Trustor shall give prompt notice to the insurance carrier, the Senior Lien Holder, if any, and Beneficiary. Beneficiary may make proof of loss if not made promptly by the Senior Lien Holder, if any, or the Trustor.

b. Unless Beneficiary and Trustor otherwise agree in writing and subject to the rights of senior lenders, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided Trustor determines that such restoration or repair is economically feasible and there is no default continuing beyond the expiration of all applicable cure periods. If Trustor determines that such restoration or repair is not economically feasible or if a default exists after expiration of all applicable cure periods, the insurance proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Trustor. If the Property is abandoned by Trustor, or if Trustor fails to respond to Beneficiary within 30 days from the date notice is mailed by Beneficiary to Trustor that the insurance carrier offers to settle a claim for insurance benefits, Beneficiary is authorized to collect and apply the insurance proceeds at Beneficiary's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

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

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

11. **Preservation, Maintenance and Protection of the Property; Trustor's Loan Application; Leaseholds.** Trustor shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property; normal wear and tear excepted. Trustor

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

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

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

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

13. **Reserved.**

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

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

a. In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Deed of Trust, whether or not then due, with any excess paid to Trustor. In the

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

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

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

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

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

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



19. **Notices.** Any notice to Trustor provided for in this Deed of Trust shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Trustor's mailing address stated herein or any other address Trustor designates by notice to Beneficiary. All such notices to Trustor shall also be provided to the investment limited partner at the address set forth in the HOME Loan Agreement. Any notice to Beneficiary shall be given by first class mail to Beneficiary's address stated herein or any other address Beneficiary designates by notice to Trustor. Any notice required to be given to a Senior Lien Holder shall be given by first class mail to such other address the Senior Lien Holder designates by notice to the Trustor. Any notice provided for in this Deed of Trust shall be deemed to have been given to Trustor or Beneficiary when given as provided in this Section.

20. **Governing Law; Severability.** This Deed of Trust 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 HOME Loan Agreement, if all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Trustor is sold or transferred and Trustor is not a natural person) without Beneficiary's prior written consent (including a transfer of all or any part of the Property to any person who, at initial occupancy of the Property, does not use the Property for "low-income housing" within the meaning of the HOME Program) Beneficiary may, at its option, require immediate payment in full of all sums secured by this Deed of Trust. However, this option shall not be exercised by Beneficiary if exercise is prohibited by federal law as of the date of this Deed of Trust. Nothing in this Deed of Trust shall be deemed to require Beneficiary's approval of a transfer of a limited partnership interest in the Trustor or of a conveyance of an easement interest in the Property for utility purposes.

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

b. Notwithstanding anything to the contrary contained herein, upon written notice to Beneficiary, Trustor may (i) admit limited partners to Trustor, and provide for the purchase of any such limited partnership interest or interests by Trustor's general partner; (ii) remove for cause any General Partner by a limited partner of the Trustor, and the replacement thereof, pursuant to the

Partnership Agreement, provided Beneficiary receives 5 business days advance written notice of such removal. Without limiting Trustor's obligation to provide advance notice of such removal for cause of any General Partner by a limited partner and the replacement thereof set forth in the immediately preceding sentence, amendments to the Partnership Agreement required to effectuate the Permitted Transfer set forth in this clause (ii) shall not require the consent of the Beneficiary; provided, however, Trustor shall provide Beneficiary with an executed copy of such amended agreement within 10 days of execution thereof;; (iii) the lease for occupancy of all or any of the HOME-Assisted Units (as defined in the HOME Loan Agreement); (iv) the granting of easements or permits to facilitate the development of the Property in accordance with the HOME Loan Agreement; and (v) the withdrawal and/or replacement of any limited partner of Trustor, (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 or the investor limited partner 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 investor limited partner, the Senior Lien Holder and to the other persons prescribed by applicable law. Trustee shall give notice of sale by public advertisement for the time and in the manner prescribed by applicable law. Trustee, without demand on Trustor, shall sell the Property at public auction to the highest bidder for cash at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property to any later time on the same date by public announcement at the time and place of any previously scheduled sale. Beneficiary or its designee may purchase the Property at any sale.

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

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

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

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

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

32. **General Partner Change.** Except as otherwise provided in the HOME Loan Agreement, the withdrawal, removal, and/or replacement of a non-Affiliate general partner of the Trustor pursuant to the terms of the Partnership Agreement shall not constitute a default under any of the Secured Obligations, and any such actions shall not accelerate the maturity of the HOME Loan, provided that any required substitute general partner is reasonably acceptable to Beneficiary and is selected with reasonable promptness, subject to Section 22.b above. Any proposed General Partner replacement shall have the qualifications and financial responsibility as reasonably determined by Beneficiary necessary and adequate to fulfill the obligations undertaken in the HOME Loan Agreement, as amended.

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

**[Remainder of Page Blank]**

**[Signatures on Following Page]**

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

TRUSTOR:

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

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

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

By: \_\_\_\_\_  
Alice Salinas, Executive Director

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

**(Signature needs to be notarized)**

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

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

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2020, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature



# EXHIBIT "A"

## LEGAL DESCRIPTION OF PROPERTY

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA,  
DESCRIBED AS FOLLOWS:

### PARCEL 1:

PARCEL C OF CERTIFICATE OF COMPLIANCE LOT LINE ADJUSTMENT NO. 2015-04, RECORDED  
MARCH 16, 2016 AS INSTRUMENT NO. 2016-0101282 OF OFFICIAL RECORDS, BEING MORE  
PARTICULARLY DESCRIBED

AS FOLLOWS:

IN THE CITY OF INDIO, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, PORTIONS OF PARCELS 2  
AND 3 OF PARCEL MAP 36273, AS SHOWN BY MAP ON FILE IN BOOK 234, PAGES 6 THROUGH 10  
INCLUSIVE OF

PARCEL MAPS, RECORDS OF SAID COUNTY, BEING IN SECTION 25, TOWNSHIP 5 SOUTH, RANGE 7  
EAST,

SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL 3;

THENCE ALONG THE WESTERLY LINE OF SAID PARCEL 3 SOUTH  $00^{\circ} 03' 11''$  EAST, A DISTANCE OF  
267.83

FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 3;

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 3 NORTH  $89^{\circ} 55' 46''$  EAST, A DISTANCE OF  
1383.50

FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 3, ALSO BEING A POINT ON THE WESTERLY  
RIGHT-OF-

WAY LINE OF VAN BUREN STREET, 43.00 FEET IN HALF WIDTH;

THENCE NORTH  $00^{\circ} 11' 07''$  WEST, ALONG THE EASTERLY LINE OF SAID PARCEL 3 AND ALONG SAID  
WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 405.62 FEET;

THENCE SOUTH  $89^{\circ} 48' 53''$  WEST, A DISTANCE OF 95.32 FEET;

THENCE NORTH  $45^{\circ} 05' 20''$  WEST, A DISTANCE OF 8.52 FEET;

THENCE SOUTH  $90^{\circ} 00' 00''$  WEST, A DISTANCE OF 87.87 FEET;

THENCE SOUTH  $81^{\circ} 00' 45''$  WEST, A DISTANCE OF 355.98 FEET;

THENCE SOUTH  $75^{\circ} 14' 25''$  WEST, A DISTANCE OF 26.47 FEET TO THE BEGINNING OF A TANGENT  
CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 500.00 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF  $01^{\circ} 58' 02''$ ,  
AN ARC DISTANCE OF 17.17 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH  $16^{\circ} 43' 37''$  WEST;

THENCE NON-TANGENT TO SAID CURVE SOUTH  $00^{\circ} 02' 08''$  EAST, A DISTANCE OF 299.79 FEET;

THENCE SOUTH  $89^{\circ} 58' 33''$  WEST, A DISTANCE OF 137.49 FEET;

THENCE SOUTH  $66^{\circ} 35' 15''$  WEST A DISTANCE OF 43.81 FEET;

THENCE SOUTH  $89^{\circ} 55' 46''$  WEST, A DISTANCE OF 68.13 FEET;

THENCE NORTH  $00^{\circ} 04' 14''$  WEST, A DISTANCE OF 127.65 FEET;

THENCE NORTH  $28^{\circ} 06' 48''$  WEST, A DISTANCE OF 62.15 FEET;

THENCE SOUTH  $89^{\circ} 55' 46''$  WEST A DISTANCE OF 240.54 FEET;

THENCE NORTH  $61^{\circ} 07' 22''$  WEST A DISTANCE OF 118.34 FEET TO A POINT ON THE NORTHERLY LINE  
OF SAID PARCEL 3;

THENCE SOUTH  $89^{\circ} 56' 49''$  WEST, ALONG SAID NORTHERLY LINE A DISTANCE OF 180.24 FEET TO  
THE POINT OF BEGINNING.

### PARCEL 2:

INTENTIONALLY DELETED

Assessor's Parcel Number: **612-170-030-6**

**EXHIBIT "C"**

**PROMISSORY NOTE (HOME Loan)**

**\$1,000,000**

**Riverside, CA**

In installments as hereafter stated, for value received, FRED YOUNG PHASE III ASSOCIATES, L.P., a California limited partnership ("Borrower"), promises to pay the COUNTY OF RIVERSIDE, a political subdivision of the State of California ("COUNTY"), or order, at 5555 Arlington Avenue, Riverside, CA 92504, the sum of One Million Dollars and No/100 Dollars (U.S. \$1,000,000.00) (the "HOME Loan" or "Note Amount") which at the time of payment is lawful for the payment of public and private debts.

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

- (1) The HOME Loan evidenced by this Note and secured by the Deed of Trust are being made pursuant to the HOME Investment Partnerships Program and the regulations issued thereunder (Title II, the Cranston-Gonzales National Affordable Housing Act, Public Law No. 101-625, 104 Stat. 4079 (1990), (24 C.F.R. Part 92) (the "HOME Program"). Borrower agrees for itself, its successors and assigns, that the use of the Property shall be subject to the restrictions on rent and occupancy set forth in the HOME Program regulations, the Home Loan Agreement and that certain Covenant Agreement dated on or about the date hereof and recorded concurrently herewith in the Official Records, between Borrower and County.
- (2) That the HOME Loan will accrue simple interest at a rate of three percent (3%) per annum, except in the case of default as hereinafter provided, and shall be repaid on an annual basis from the Project's Residual Receipts as defined herein. Interest will accrue 30 days from the date of recordation of the Notice of Completion in the Official Records.
- (3) This Note shall be repaid according to the following: Fifty percent (50%) of the Project's Residual Receipts shall be used towards the payment of the loans secured by the Project, ("Residual Receipts Loans"). The payment shall be split pro-rata between each Residual Receipts Loan based on the percentage of each respective loan amount according to its share of the total amount of all such loans, until the HOME Note is repaid in full; and fifty percent (50%) of the Project's Residual Receipts will be paid to Borrower.
- (4) The Project's Residual Receipts shall be determined based on an annual review of certified financial statements for the Project. Annual audited financial statements shall be submitted by BORROWER within one hundred twenty (120) days following the close of the project fiscal year commencing on April 1 of the first full calendar year following the recordation of the Notice of Completion. All outstanding principal along with accrued interest shall be due upon maturity of the HOME Loan Agreement, which shall be the later to occur of (i) July 1, 2077 or (ii) fifty-five (55) years from and after the recordation of the Notice of Completion (the "HOME Loan Term"). The first payment shall be due on July 1<sup>st</sup> 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 1<sup>st</sup> thereafter to the extent of available Residual Receipts until sooner of full repayment of the HOME Loan or the HOME Loan maturity date as set forth above. The Project's Residual Receipts shall be determined based on an annual review of certified financial statements for the Project. Annual audited financial statements shall be submitted by BORROWER to COUNTY within one hundred twenty (120) days following the close of the project fiscal year commencing on April 1st of the first full calendar year following the recordation of the Notice of Completion. All outstanding principal along with accrued interest shall be due upon the maturity date of the HOME Note and the expiration of the HOME Loan Term as set forth in Section 4(a). The first payment from BORROWER to COUNTY shall be due on July 1st in the first full calendar year following the date of the recordation of the Notice of Completion, to the extent of available Residual Receipts, as set forth herein. Subsequent payments shall be made on July 1st thereafter to the extent of available Residual Receipts until the earlier of full repayment of the HOME Loan or the HOME Loan maturity date as set forth above.

The term "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 BORROWER, derived from the ownership, operation and management of the Property, not including interest on required reserve accounts, condemnation and insurance proceeds applied to restoration and equity contributions, less the following operating expenses:

- a. auditing and accounting fees;
- b. a reasonable property management fee not to exceed \$55 per Rental Housing Unit per month, increased annually by an amount equal to the increase in the Consumer Price Index (CPI), for the Los Angeles-Riverside-Orange County, CA Area, provided, however, that in the event of a decrease in the CPI, the property management fee shall remain the same as the immediately 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 \$600 per unit per year for all Rental Housing Units in the Project;
- e. deferred developer fee;
- f. operating reserves replenishment up to the original amount of the Project's operative reserve as required by the Senior Lenders and approved by the COUNTY;
- g. the County HOME Loan monitoring fee of \$10,000 per year;
- h. a Managing General Partner partnership asset management fee which shall be in the total initial amount of \$25,000, increased by no more than 3% annually;
- i. a limited partner asset management fee not to exceed \$8,500 per year, which fee shall be increased annually by 3% during each year of the tax credit compliance period for the Project, and thereafter any further increases shall not be permitted without the written approval of the Director or designee;
- j. payments of principal and interest on amortized loans and indebtedness senior to the HOME Loan, which have been approved in writing by COUNTY (collectively, the "Senior Debt");
- k. credit adjusters owned to the BORROWER's limited partner and
  - m. repayment of general partner's and limited partner's loans.

Operating expenses shall not include repayment of advances to the BORROWER from its limited



partner(s), general partner(s), their affiliate(s) and/or third parties (including without limitation, any advances or reimbursements for any portion of the Deferred Developer's Fee to pay any construction cost overruns) (collectively a "Partnership Loan"); provided, however, such Partnership Loan may be authorized by the COUNTY's Director of HHPWS, or designee, in his/her sole discretion, upon written request received by the COUNTY. In considering such BORROWER request for approval of a Partnership Loan, COUNTY's Director of HHPWS, or designee, will consider the following: (i) whether such request was made pursuant to the terms of the Partnership Agreement, (ii) if a Project deficit exists and written evidence of such deficit is provided to the COUNTY's Director of HHPWS, or designee, (iii) BORROWER has demonstrated to COUNTY, in writing, that the requested loan is the only available means of relieving such deficit, (iv) the COUNTY's Director of HHPWS, or designee, approves the loan terms, including, but not limited to the loan amount, interest rate, and maturity date. The COUNTY's Director of HHPWS, or designee, shall retain the right, in its discretion, to defer such approval to the COUNTY's Board of Supervisors. Failure by COUNTY's Director of HHPWS, or designee, to respond to such request within 30 days of the COUNTY's receipt of such written notice shall be deemed disapproval of such request.

- (5) The HOME Loan evidenced by this Note is secured by that certain HOME Deed of Trust and Assignment of Rents executed by Borrower for the benefit of the County, dated on or about the date hereof and recorded in the Official Records of the County of Riverside on or about the date hereof ("Deed of Trust").
- (6) This Note may be prepaid in whole or in part by the undersigned at any time without prepayment penalty or premium, provided however notwithstanding such prepayment, Borrower shall be required to adhere to the affordability restrictions contained in the Covenants until the expiration of the term contained therein.
- (7) Subject to the provisions and limitations of this Paragraph 8, the obligation to repay the Note Amount is a nonrecourse obligation of Borrower and its partners. Neither Borrower nor its partners shall have any personal liability for repayment of the Note Amount, except as provided in this Paragraph 8. The sole recourse of the County shall be the exercise of its rights against the Property (or any portion thereof) and any related security for the HOME Loan; provided, however, that the foregoing shall not (i) constitute a waiver of any other obligation evidenced by this Note or the Deed of Trust; (ii) limit the right of the COUNTY to name Borrower as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Borrower; (iii) release or impair either this Note or the Deed of Trust; (iv) prevent or in any way hinder the COUNTY from exercising, or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing this Note or as prescribed by law or in equity in case of default; (v) prevent or in any way hinder the COUNTY from exercising, or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing this Note; or (vi) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by this Note and the Deed of Trust. Notwithstanding the first sentence of this Section 8, the COUNTY may recover directly from Borrower or, unless otherwise



prohibited by any applicable law, from any other party: (a) any damages, costs and expenses incurred by the COUNTY as a result of fraud, misrepresentation or any criminal act or acts of Borrower or any general partner, shareholder, officer, director or employee of Borrower, or of any member or general partner of Borrower, or of any general partner of such member or general partner; (b) any damages, costs and expenses incurred by the COUNTY as a result of any misappropriation of funds provided to pay costs as described in the HOME Loan Agreement, rents and revenues from the operation of the Project, or proceeds of insurance policies or condemnation proceeds; (c) any misappropriation of rental proceeds resulting in the failure to pay taxes, assessments, or other charges that could create statutory liens on the Project and that are payable or applicable prior to any foreclosure under the Deed of Trust; (d) the fair market value of any personal property or fixtures removed or disposed of by the Borrower other than in accordance with the Deed of Trust; (e) any and all amounts owing by Borrower pursuant to any indemnity set forth in the HOME Loan Agreement and/or Deed of Trust or the indemnification regarding Hazardous Substances pursuant to the HOME Loan Agreement and/or Deed of Trust, and (f) all court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions.

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

a. Monetary Default. (1) Borrower's failure to pay when due any sums payable under the HOME Note or any advances made by COUNTY under this Agreement, (2) Borrower's or any agent of Borrower's use of HOME funds for costs other than those costs permitted under the HOME Loan Agreement or for uses inconsistent with terms and restrictions set forth in this Agreement, (3) Borrower's or any agent of Borrower's failure to make any other payment of any assessment or tax due under the HOME Loan Agreement, and /or (4) default past any applicable notice and cure period under the terms of (i) that certain Deed of Trust executed by Borrower for the benefit of Wells Fargo Bank securing a construction loan in a principal amount up to \$22,923,084, (ii) that certain Deed of Trust for the benefit of the United States Department of Agriculture 514 Loan and Assumed Loans in a total amount up to \$3,800,000 (iii) that certain Deed of Trust for the benefit of the County of Riverside HOME Loan in a principal amount up to \$1,000,000, (iv) that certain Deed of Trust for the benefit of Housing Authority LMIHAF Loan in a principal amount up to \$1,500,000, and (v) any other instrument or document secured against the Property;

b. Non-Monetary Default - Operation. (1) Discrimination by Borrower or Borrower's agent on the basis of characteristics prohibited by this Agreement or applicable law, (2) the imposition of any encumbrances or liens on the Project without COUNTY's prior written approval that are prohibited under this agreement or that have the effect of reducing the priority or invalidating the lien of the HOME Deed of Trust, (3) Borrower's failure to obtain and maintain the insurance coverage required under the HOME Loan Agreement, (4) any material default under the HOME Loan Agreement, HOME Deed of Trust with Assignment of Rents, Covenant Agreement, HOME Note, or any document executed by the County in connection with this Agreement, and/or (4) default past any applicable notice and cure period under the terms of the HOME 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 HOME Loan Agreement; and

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

- (9) COUNTY shall give written notice of default to Borrower, specifying the default complained of by the COUNTY. Borrower shall have ten (10) calendar days from the mailing of the notice for a monetary default, by which such action to cure must be taken. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.
- (10) Any failures or delays by COUNTY in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by COUNTY in asserting any of its rights and remedies shall not deprive COUNTY of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.
- (11) If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid. In the event that any provision or clause of this Note conflicts with applicable law, such conflict will not affect other provisions of this Note which can be given effect without the conflicting provision, and to this end the provisions of the Note are declared to be severable.
- (12) Borrower hereby waives diligence, presentment, protest and demand, notice of protest, dishonor and nonpayment of this Note, and expressly agrees that, without in any way affecting the liability of Borrower hereunder, the COUNTY may extend any maturity date or the time for payment of any installment due hereunder, accept additional security, release any party liable hereunder and release any security now or hereafter securing this Note. Borrower further waives, to the full extent permitted by law, the right to plead any and all statutes of limitations as a defense to any demand on this Note, or on any deed of trust, security agreement, guaranty or other agreement now or hereafter securing this Note.
- (13) Should default be made in payment of principal and interest when due and such default shall continue beyond the applicable notice and cure period provided in the HOME Loan Agreement, the whole sum of principal and interest shall become immediately due at the option of the holder of this Note. Principal and interest are payable in lawful money of the United States. If action be instituted on this Note, the undersigned promises to pay such sums as the Court may fix as attorney's fees.
- (14) This Note has been negotiated and entered in the State of California, and shall be governed by, construed and enforced in accordance with the internal laws of the State of California, applied to contracts made in California by California domiciliaries to be wholly performed in California. Any action at law or in equity arising under this Note or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Note shall be filed in the Superior Courts of Riverside County, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.

- (15) No modification, rescission, waiver, release or amendment of any provision of this Note shall be made except by a written agreement executed by Borrower and the duly authorized representative of the COUNTY.
- (16) The COUNTY may, in its sole and absolute discretion, assign its rights under this Note and its right to receive repayment of the Note Amount without obtaining the consent of Borrower.
- (17) In no event shall Borrower assign or transfer any portion of this Note or any rights herein without the prior express written consent of the COUNTY, which consent the COUNTY may give or withhold in its sole and absolute discretion. In the absence of specific written agreement by the COUNTY, no unauthorized assignment or transfer, or approval thereof by the COUNTY, shall be deemed to relieve Borrower or any other party from any obligations under the HOME Loan Agreement or this Note. This provision shall not affect or diminish the COUNTY's assignment rights under this Note.
- (18) Except as to the permitted deeds of trust identified herein, Borrower shall not encumber the Property for the purpose of securing financing either senior or junior in priority or subordinated to the Deed of Trust without the prior written approval of the COUNTY in its sole and absolute discretion.
- (19) The relationship of Borrower and the COUNTY pursuant to this Note is that of debtor and creditor and shall not be, or be construed to be, a joint venture, equity venture, partnership or other relationship.
- (20)
  - (a) Formal notices, demands and communications between the County and Borrower shall be deemed sufficiently given if made in writing and dispatched by any of the following methods to the addresses of the COUNTY and Borrower as set forth below: (i) registered or certified mail, postage prepaid, return receipt requested (in which event, the notice shall be deemed delivered on the date of receipt thereof); (ii) electronic facsimile transmission, followed on the same day by delivery of a "hard" copy via first-class mail, postage prepaid (in which event, the notice shall be deemed delivered on the date of its successful facsimile transmission as evidenced by a facsimile confirmation or "kick-out" sheet); or (iii) personal delivery, including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service (in which event, the notice shall be deemed delivered on the documented date of receipt). Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail.
  - (b) The address of the COUNTY for purposes of receiving notices pursuant to this Note shall be 5555 Arlington Avenue, Riverside, California 92504, Attention: Director of Housing, Homelessness Prevention & Workforce Solutions. The facsimile number for the COUNTY's receipt of notices is (951) 352-4852.
  - (c) The address of Borrower for purposes of receiving notices pursuant to this Note is 45-701 Monroe Street, Suite G, Indio, CA 92201, Attention: Director, with a copy to Borrower's limited partner, Wells Fargo Affordable Housing, Community Development Corporation, MAC D1053-170, 301 South College Street, 17th Floor, Charlotte, NC 28288, Attention: Director of Asset Management.
- (21) The captions and headings in this Note are for convenience only and are not to be used to interpret or define the provisions hereof.

- (22) The undersigned, if comprising more than one person or entity, shall be jointly and severally liable hereunder.
- (23) This Note shall be binding upon Borrower and its heirs, successors and assigns, and shall benefit the COUNTY and its successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

[SIGNATURES ON FOLLOWING PAGE]

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

TRUSTOR:

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

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

By: The Coachella Valley Housing Coalition,  
a California, its sole member/manager

By: \_\_\_\_\_  
Alice Salinas, Executive Director

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



**EXHIBIT "D"**

**RIVERSIDE COUNTY  
HOUSING, HOMELESSNESS PREVENTION and  
WORKFORCE SOLUTIONS**

**SECTION 3**

**24 CFR PART 135**

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

**RIVERSIDE COUNTY ECONOMIC DEVELOPMENT AGENCY**

**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 of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

**Secretary** means the Secretary of Housing and Urban Development.

**Section 3** means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u)

**Section 3 Business Concern** means a business concern, as defined in this Section:

- (1) That is 51 percent or more owned by Section 3 residents; or
- (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- (3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in Sections (1) or (2) in this definition of "Section 3 Business Concern"

**Section 3 Clause** means the contract provisions set forth in Sec. 135.38.

**Section 3 covered activity** means any activity which is funded by Section 3 covered assistance public and Indian housing assistance.

**Section 3 covered assistance** means:

- (1) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with:
  - (i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);
  - (ii) Housing construction; or
  - (iii) Other public construction project (which includes other buildings or improvements regardless of ownership).

**Section 3 covered contract** means a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project. "Section 3 covered contracts" do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). "Section 3 covered contracts" also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract. For example, a contract for the purchase and installation of a furnace would be a Section 3 covered contract because the contract is for work (i.e., the installation of the furnace) and thus is covered by Section 3.

**Section 3 covered project** means the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

**Section 3 resident** means:

- (1) A public housing resident; or

- (2) An individual who resides in the San Bernardino or Riverside County, and who is:
- (i) A low income person, is defined as families whose incomes do not exceed 80 percent of the median income for the Riverside and San Bernardino Counties, as determined by the Secretary, with adjustments for smaller and larger families.
  - (ii) A very low income person, is defined as families whose incomes do not exceed 50 percent of the median income for the Riverside and San Bernardino Counties, as determined by the Secretary, with adjustments for smaller and larger families.
  - (iii) A person seeking the training and employment preference provided by Section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

**Subcontractor** means any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

**Very low income person.** See the definition of "Section 3 resident" in this section.

**RIVERSIDE COUNTY HOUSING, HOMELESSNESS PREVENTION and  
 WORKFORCE SOLUTIONS**

**CONTRACTOR CERTIFICATION**

**REGARDING STATUS AS A SECTION 3 BUSINESS CONCERN**

I, \_\_\_\_\_, hereby certify that the business  
 (print name and title)

known as \_\_\_\_\_  
 (print business name)

- \_\_\_\_\_ is not a Section 3 business. (Please complete the bottom section.)
- \_\_\_\_\_ is a Section 3 business **because** (check one of the following:)
- \_\_\_\_\_ *51 percent or more is owned by Section 3 residents; or*
- \_\_\_\_\_ *30 percent of the permanent full-time employees are currently Section 3 residents or were Section 3 residents when first hired (if within the past three years); or*
- \_\_\_\_\_ *The business commits in writing to subcontract over 25 percent of the total dollar amount of all subcontracts to be let to businesses that meet the requirements of Sections 1 and 2 of this definition;*

**AND**

The business was formed in accordance with state law and is licensed under state, county, or municipal law to engage in the business activity for which it was formed.

A Section 3 Resident is a person living in San Bernardino or Riverside County who is a Public Housing resident or who is low income.

Low-Income Persons mean families (including single persons) whose income does not exceed 80 percent of the median income, as adjusted by HUD, for Riverside and San Bernardino Counties.

Signature \_\_\_\_\_ Project \_\_\_\_\_

Date \_\_\_\_\_

Project \_\_\_\_\_ \$ \_\_\_\_\_

HUD Effective FY 2020 – Annual Low-Income Limit

Persons in Household	1	2	3	4	5	6	7	8
Low-Income Family (80% AMI)	\$42,200	\$48,200	\$46,000	\$60,250	\$65,100	\$69,900	\$74,750	\$79,550

A new hire is qualified as a Section 3 resident if he/she resides in Riverside or San Bernardino County and his/her total family income is less than the family income shown above for his/her household size.



**EXHIBIT D-2**

**§ 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 or 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 action, 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 135 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.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to

Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

Prohibition Against Conflicts of Interest

**EXHIBIT "E"**

§ 92.356 Conflict of interest.

(a) Applicability. In the procurement of property and services by participating jurisdictions, State recipients, and sub-recipients, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, apply. In all cases not governed by 24 CFR 85.36 and 24 CFR 84.42, the provisions of this section apply.

(b) Conflicts prohibited. No persons described in **paragraph (c)** of this section who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(c) Persons covered. The conflict of interest provisions of **paragraph (b)** of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of COUNTY, State recipient, or sub-recipient which are receiving HOME funds.

(d) Exceptions: Threshold requirements. Upon the written request of the recipient, HUD may grant an exception to the provisions of **paragraph (b)** of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME Investment Partnerships Program and the effective and efficient administration of COUNTY's program or project. An exception may be considered only after the recipient has provided the following:

(1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(2) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(e) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of **paragraph (d)** of this section, HUD shall consider the cumulative effect of the following factors, where applicable:

- g. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
- h. Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

- i. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;
- j. Whether the interest or benefit was present before the affected person was in a position as described in **paragraph (c)** of this section;
- k. Whether undue hardship will result either to COUNTY or the person affected when weighed against the public interest served by avoiding the prohibited conflict;
- l. Any other relevant considerations.

Owners/Participants and Developers.

- (1) No owner, developer, or sponsor of a project assisted with HOME funds (or officer, employee, agent or consultant of the owner, developer, or sponsor) whether private, for profit or non-profit (including a community housing development organization (CHDO) when acting as an owner, developer or sponsor) may occupy a HOME-assisted affordable housing unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.
- (2) Exceptions. Upon written request of owner or developer, COUNTY may grant an exception to the provisions of **paragraph (f)(1)** of this section on a case-by-case basis when it determines that the exception will serve to further the purpose of the HOME program and the effective and efficient administration of the owner's or developer's HOME-assisted project. In determining whether to grant a requested exception, COUNTY shall consider the following factors:
  - (i) Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
  - (ii) Whether the person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted housing in question;
  - (iii) Whether the tenant protection requirements of § 92.253 are being observed;
  - (iv) Whether the affirmative marketing requirements of § 92.351 are being observed and followed; and
  - (v) Any other factor relevant to COUNTY's determination, including the timing of the requested exception.

Community Development Block Grant  
Policy Manual, I.D. # A-11

TOPIC: CONFLICT OF INTEREST CODED  
RIVERSIDE COUNTY  
HOUSING, HOMELESSNESS PREVENTION and WORKFORCE SOLUTIONS  
DATE: MARCH 1999

This Conflict of Interest Code is written to comply with Federal Regulations (24 CFR Part 85). These Regulations. "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments" require that grantees and sub-grantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts.

- 1) No employee, officer, or agent of the grantee shall participate in the selection, in the award or in the administration of a contract supported by Federal Funds if a conflict of interest, real or apparent, would be involved.
- 2) Such a conflict will arise when:
  - i) The employee, officer or agent;
  - ii) Any member of the immediate family;
  - iii) His/Her partners; or
  - iv) An organization which employs, or is about to employ any of the above has a financial or other interest in the firm's selection for award.
- 3) The grantee's or sub-grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to sub-agreements except as noted in Section 4.
- 4) A grantee's or sub-grantee's officers, employees or agents will be presumed to have a financial interest in a business if their financial interest exceeds the following:
  - i) Any business entity in which the official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.
  - ii) Any real property in which the official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.
  - iii) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the official within 12 months prior to the time when the decision is made.
  - iv) Any business entity in which the official is a director, officer, partner, trustee, employee, or holds any position of management.
  - v) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the official within 12 months prior to the time when the decision is made.
- 5) For purposes of **Section 4**, indirect investment or interest means any investment or interest owned by the spouse or dependent child of an official, by an agent on behalf of an official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or more.





# **EXHIBIT “G”**

Covenant Agreement

1 NO FEE FOR RECORDING PURSUANT  
2 TO GOVERNMENT CODE SECTION 6103

3 Order No.  
4 Escrow No.  
5 Loan No.

6 RECORDING REQUESTED BY AND  
7 WHEN RECORDED MAIL TO:

8 County of Riverside Housing, Homelessness  
9 Prevention & Workforce Solutions Agency  
10 5555 Arlington Avenue  
11 Riverside, CA 92504  
12 Attn: Monica Telles

SPACE ABOVE THIS LINE FOR RECORDERS USE

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**COVENANT AGREEMENT**  
**(Villa Hermosa Apartments III)**

This Covenant Agreement (Villa Hermosa Apartments III) (“Covenant”) is made and entered into as of the day of \_\_\_\_\_, 2020 by and between the COUNTY OF RIVERSIDE, a political subdivision of the State of California (“COUNTY”), FRED YOUNG PHASE III ASSOCIATES, L.P., a California limited partnership (“OWNER”).

**RECITALS**

WHEREAS, OWNER owns that certain real property located on Van Buren Street and Dr. Carreon Boulevard in the City of Indio, also identified as Assessor’s Parcel Number 612-170-030, described in the legal description attached hereto as **Exhibit A** and incorporated herein by this reference (the “Property”);

WHEREAS, on \_\_\_\_\_ COUNTY and OWNER entered into that certain Loan Agreement for the Use of HOME Program Funds (Villa Hermosa Apartments III) dated \_\_\_\_\_ and recorded in the Official Records (“Official Records”) of the County of Riverside concurrently herewith (the “HOME Loan Agreement” or “Agreement”) which provides for, among other things, the development and construction on the Property, also known as “Villa Hermosa Apartments III,” a multi-family affordable housing project consisting of one hundred (100) rental housing units, including one (1) unit shall be designated as a managers unit, and 49

1 units of which shall be rented to and occupied by very low-income households (“HOME Assisted  
2 Units”) with a preference for farmworkers (collectively the “Project”). Capitalized terms not  
3 defined herein shall have the meaning ascribed to them in the HOME Loan Agreement;

4           WHEREAS, the County was qualified by the United States Department of  
5 Housing and Urban Development (“HUD”) as an “Urban County” and an approved participating  
6 jurisdiction that has received funds from HUD pursuant to the HOME Investment Partnerships  
7 Act and HOME Investment Partnerships Program, Title II of the Cranston-Gonzalez National  
8 Affordable Housing Act, as amended (commencing at 42 U.S.C. 12701 et seq.), and the  
9 implementing regulations thereto (24 CFR Part 92) (collectively, the “HOME Program”), for the  
10 purposes of providing decent, safe, sanitary, and affordable housing with primary attention to  
11 rental housing, for low-income families; to strengthen public-private partnerships to carry out  
12 affordable housing programs; and to provide for coordinated assistance to participants in the  
13 development of affordable low-income housing;

14           WHEREAS, pursuant to the HOME Loan Agreement, COUNTY loaned to OWNER  
15 \$1,000,000 derived from HOME community housing development organization (“CHDO”) set-  
16 aside funds (“HOME Loan”), to pay a portion of the costs to develop and construct the Project, as  
17 more fully described in the HOME Loan Agreement. The HOME Loan is evidenced by a  
18 Promissory Note executed by OWNER, in favor of the COUNTY dated on or about the date hereof  
19 (“HOME Loan Note”) and secured by that certain Deed of Trust and Assignment of Rents executed  
20 by OWNER, for the benefit of COUNTY and recorded in the Official Records concurrently  
21 herewith (“HOME Loan Deed of Trust”); and

22           WHEREAS, pursuant to the HOME Loan Agreement, OWNER has agreed to develop and  
23 construct the Project on the Property and ensure the HOME Assisted Units are rented to and  
24 occupied by qualified very low income households consistent with the HOME Program  
25 requirements and as set forth more specifically below.

26           NOW, THEREFORE, in consideration of the mutual covenants and agreements, and for  
27 other good and valuable consideration, the receipt and sufficiency of which are hereby  
28

1 acknowledged, OWNER, on behalf of itself and its successors, assigns, and each successor in  
2 interest to the Property or any part thereof, hereby declares as follows:

3 1) RESTRICTIONS. The recitals set forth above are true and correct and incorporated  
4 herein. This Covenant shall continue in full force and effect for the later of (i) fifty-five (55) years  
5 from the recordation of the Notice of Completion for the last building for which construction is  
6 completed for the Project on the Property, or (ii) July 1, 2077 (“Term” or “Affordability Period”).  
7 For the duration of the Term, the Property shall be held, sold and conveyed, subject to the following  
8 covenants, conditions, and restrictions:

9 a) Forty-Nine (49) rental units within the Project shall be designated as  
10 floating Low HOME rent units rented to and occupied by very low income households, with a  
11 priority given to farmworker households whose incomes do not exceed fifty percent (50%) of the  
12 area median income for the County of Riverside (“VLI households”), adjusted by family size at  
13 the time of occupancy as published by HUD (“HOME-Assisted Units”). The HOME-Assisted  
14 Units shall be a “floating” designation on the Property such that the requirements of this  
15 Agreement will be satisfied so long as the total number of HOME-Assisted Units remains the same  
16 throughout the Affordability Period and the substituted HOME Assisted Unit is comparable in  
17 terms of size, features, and number of bedrooms to the originally designates HOME Assisted Unit;

18 b) HOME-Assisted Units shall be rented to and occupied by VLI households  
19 that qualify for an affordable rent as defined under 24 CFR 92.252 of the HOME Investment  
20 Partnerships Act and HOME Investment Partnerships (“HOME”) program, which was enacted  
21 under Title II of the Cranston-Gonzalez National Affordable Housing Act (the “Act”), as amended  
22 (commencing at 42 U.S.C. 12701 et seq.), and the implementing regulations thereto (24 CFR Part  
23 92) (collectively, the “HOME Program”). Affordable rents including utility allowance for VLI  
24 households, shall be the product of 30 percent times 50 percent of the area median income adjusted  
25 for family size appropriate for the unit. COUNTY shall review and approve proposed rents to the  
26 extent required under this section. BORROWER shall ensure the HOME-Assisted Units are rented  
27 to qualified applicants at the described rent levels herein. The maximum monthly allowances for  
28



1 utilities and services (excluding telephone) shall not exceed the utility allowance as described  
2 below. The BORROWER shall also cause the 49 HOME-Assisted Units to comply with the  
3 requirements of the USDA 514 Farm Labor Housing program in all respects.

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

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

16 d) OWNER shall comply with the terms of the HOME Loan Agreement,  
17 HOME Loan Note, HOME Loan Deed of Trust and any other instrument secured against the  
18 Property.

19 2) SENIOR PRIORITY. Notwithstanding anything to the contrary contained in the  
20 HOME Loan Agreement, including any of its attachments, this Covenant Agreement shall be in  
21 third priority lien position junior to the USDA Regulatory Agreement and the Housing Authority  
22 of the County of Riverside Low and Moderate Income Housing Asset Funds Agreement ("Housing  
23 Authority LMIHAF Covenant Agreement") and senior to all other security instruments, including  
24 but not limited to the following liens: (1) a deed of trust for the benefit of Wells Fargo Bank, N.A.  
25 ("Wells Fargo") which shall be paid in full upon Conversion; (2) two separate deeds of trust for  
26 the benefit of the USDA Loans; (3) a Deed of Trust for the benefit of Joe Serna Jr., Farmworker  
27 Housing Loan a HOME Deed of Trust for the benefit of COUNTY; and 4) a Deed of Trust for the  
28

1 benefit of the Housing Authority of the County of Riverside securing a Low and Moderate Income  
2 Housing Asset Loan.

3 3) COMPLIANCE WITH LAWS AND REGULATIONS. During the Term of this  
4 Covenant, OWNER, for itself and on behalf of its successors and assigns, shall adhere to and  
5 comply with all federal, state and local laws, regulations and ordinances., including, but not limited  
6 to the following:

7 a) The HOME Investment Partnerships Program as enacted under Title II of  
8 the Cranston Gonzalez National Affordable Housing Act (42 USC 12701 et seq.) and its  
9 implementing regulations, 24 CFR Part 92, as both shall be amended from time to time, including,  
10 but not limited to, 24 CFR 92.356, 24 CFR 92.358, 24 CFR 92.253, 24 CFR 92.252, 24 CFR  
11 92.255, 24 CFR 92.256, 24 CFR 92.350, Subpart F, Subpart H, and its implementing regulations  
12 set forth in the Final Rule, as it now exists and may hereafter be amended.

13 b) 24 CFR Section 92.350 Other Federal requirements and nondiscrimination.  
14 As set forth in 24 CFR part 5, Subpart A, OWNER is required to include the following  
15 requirements: nondiscrimination and equal opportunity under Section 282 of the Act; disclosure;  
16 debarred, suspended, or ineligible contractors; and drug-free workplace.

17 c) 24 CFR Section 92.351 Affirmative marketing and minority outreach  
18 program. OWNER must adopt affirmative marketing procedures and requirements. These must  
19 include:

20 (4) Methods for informing the public, owners, and potential tenants about Federal fair  
21 housing laws and the affirmative marketing policy (e.g., the use of the Equal Housing Opportunity  
22 logotype or slogan in press releases and solicitations for owners, and written communication to  
23 fair housing and other groups).

24 (5) Requirements and practices that OWNER must adhere to in order to carry out the  
25 affirmative marketing procedures and requirements (e.g., use of commercial media, use of  
26 community contacts, use of the Equal Housing Opportunity logotype or slogan, and display of  
27 fair housing poster).

28

1 (6) Procedures to be used by OWNER to inform and solicit applications from persons  
2 in the housing market area who are not likely to apply without special outreach (e.g., use of  
3 community organizations, employment centers, fair housing groups, or housing counseling  
4 agencies).

5 (7) Records that will be kept describing actions taken by OWNER to affirmatively  
6 market units and records to assess the results of these actions.

7 (8) A description of how OWNER will annually assess the success of affirmative  
8 marketing actions and what corrective actions will be taken where affirmative marketing  
9 requirements are not met.

10 (9) OWNER must prescribe procedures to establish and oversee a minority outreach  
11 program to ensure the inclusion, to the maximum extent possible, of minorities and women, and  
12 entities owned by minorities and women, including, without limitation, real estate firms,  
13 construction firms, appraisal firms, management firms, financial institutions, investment banking  
14 firms, underwriters, accountants, and providers of legal services, in all contracts entered into by  
15 OWNER with such persons or entities, public and private, in order to facilitate the activities of  
16 COUNTY to provide affordable housing authorized under this Act or any other Federal housing  
17 law. Section 24 CFR 85.36(e) provided affirmative steps to assure that minority business  
18 enterprises and women business enterprises are used when possible in the procurement of  
19 property and services. The steps include:

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

1 business enterprises.

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

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

8 10) TENANT PROTECTIONS. OWNER shall provide protection to the tenants of the  
9 COUNTY HOME Assisted Units in accordance with the requirements set forth at 24 CFR 92.253  
10 and described as follows:

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

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

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

21 (2) *Treatment of property*. Agreements by tenant that OWNER may  
22 take, hold, or sell personal property of household members without  
23 notice to the tenant and a court decision on the rights of the parties.  
24 This prohibition, however, does not apply to an agreement by the  
25 tenant concerning disposition of personal property remaining in the  
26 housing unit after the tenant has moved out of the unit. OWNER  
27 may dispose of this personal property in accordance with State law.  
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- (3) *Excusing OWNER from responsibility.* Agreement by the tenant not to hold OWNER or OWNER's agents legally responsible for any action or failure to act, whether intentional or negligent.
- (4) *Waiver of notice.* Agreement of the tenant that OWNER may institute a lawsuit without notice to the tenant.
- (5) *Waiver of legal proceeding.* Agreement by the tenant that the OWNER may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.
- (6) *Waiver of a jury trial.* Agreement by the tenant to waive any right to a trial by jury.
- (7) *Waiver of right to appeal court decision.* Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.
- (8) *Tenant chargeable with cost of legal actions regardless of outcome.* Agreement by the tenant to pay attorneys' fees or other legal costs even if the tenant wins in a court proceeding by OWNER against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
- (9) *Mandatory supportive services.* Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

c) Violence Against Women Reauthorization Act of 2013. (Pub. L. 113-4, 127 Stat. 54) ("VAWA 2013"). VAWA 2013 reauthorizes and amends the Violence Against Women Act of 1994, as previously amended, (title IV, sec. 40001-40703 of Pub. L. 103-322, 42 U.S.C. 13925 et seq.) VAWA 2013, among other things, bars eviction and termination due to a



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

24 11) MAINTENANCE OF THE IMPROVEMENTS. OWNER, on behalf of itself and  
25 its successors, assigns, and each successor in interest to the Property and Project or any part thereof  
26 hereby covenants to and shall protect, maintain, and preserve the Property in compliance with all  
27 applicable federal and state law and regulations and local ordinances. In addition, OWNER, its  
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1 successors and assigns, shall maintain the improvements on the Property in the same aesthetic and  
2 sound condition (or better) as the condition of the Property at the time of the recordation of the  
3 Notice of Completion for the Project, reasonable wear and tear excepted. This standard for the  
4 quality of maintenance of the Property shall be met whether or not a specific item of maintenance  
5 is listed below. However, representative items of maintenance shall include frequent and regular  
6 inspection for graffiti or damage or deterioration or failure, and immediate repainting or repair or  
7 replacement of all surfaces, fencing, walls, equipment, etc., as necessary; emptying of trash  
8 receptacles and removal of litter; sweeping of public sidewalks adjacent to the Property, on-site  
9 walks and paved areas and washing-down as necessary to maintain clean surfaces; maintenance of  
10 all landscaping in a healthy and attractive condition, including trimming, fertilizing and replacing  
11 vegetation as necessary; cleaning windows on a regular basis; painting the buildings on a regular  
12 program and prior to the deterioration of the painted surfaces; conducting a roof inspection on a  
13 regular basis and maintaining the roof in a leak-free and weather-tight condition; maintaining  
14 security devices in good working order. In the event OWNER, its successors or assigns fails to  
15 maintain the Property in accordance with the standard for the quality of maintenance, the  
16 COUNTY or its designee shall have the right but not the obligation to enter the Property upon  
17 reasonable notice to OWNER, correct any violation, and hold OWNER, or such successors or  
18 assigns responsible for the cost thereof, and such cost, until paid, shall constitute a lien on the  
19 Property.

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

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

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

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

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

18 c) In contracts: “There shall be no discrimination against or segregation of any  
19 person or group of persons, on account of any basis listed in subdivision (a) or (d) of  
20 Section 12955 of the Government Code, as those bases are defined in Sections 12926,  
21 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and  
22 Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use,  
23 occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person  
24 claiming under or through him or her, establish or permit any such practice or practices of  
25 discrimination or segregation with reference to the selection, location, number, use, or  
26 occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land.”  
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1 In addition to the obligations and duties of OWNER set forth herein, OWNER shall, upon  
2 notice from COUNTY, promptly pay to COUNTY all fees and costs, including administrative and  
3 attorneys' fees, incurred by COUNTY in connection with responding to or defending any  
4 discrimination claim brought by any third party and/or local, state or federal government entity,  
5 arising out of or in connection with the Agreement or this Covenant.

6 13) INSURANCE. Without limiting or diminishing OWNER's obligation to indemnify  
7 or hold COUNTY harmless, OWNER shall procure and maintain or cause to be maintained, at its  
8 sole cost and expense, the following insurance coverage's during the term of this Covenant.

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

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

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

8 d) General Insurance Provisions – All Lines.

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

14 ii) OWNER's insurance carrier(s) must declare its insurance self-insured  
15 retentions. If such self-insured retentions exceed \$500,000 per occurrence such  
16 retentions shall have the prior written consent of Risk Manager. Upon  
17 notification of self-insured retention unacceptable to COUNTY, and at the  
18 election of Risk Manager, OWNER's carriers shall either: (a) reduce or  
19 eliminate such self-insured retention, or (b) procure a bond which guarantees  
20 payment of losses and related investigations, claims administration, and defense  
21 costs and expenses.

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

10 iv) It is understood and agreed to by the parties hereto that OWNER's insurance  
11 shall be construed as primary insurance, and COUNTY's insurance and/or  
12 deductibles and/or self-insured retention's or self-insured programs shall not be  
13 construed as contributory.

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

22 vi) OWNER shall pass down the insurance obligations contained herein to all tiers  
23 of subcontractors.

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

27 14) HOLD HARMLESS/INDEMNIFICATION. OWNER shall indemnify and hold harmless the  
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1 County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective  
2 directors, officers, Board of Supervisors, elected and appointed officials, employees, agents  
3 and representatives (individually and collectively hereinafter referred to as Indemnitees) from  
4 any liability whatsoever, based or asserted upon any services of OWNER, its officers,  
5 employees, subcontractors, agents or representatives arising out of or in any way relating to  
6 this Agreement, including but not limited to property damage, bodily injury, or death or any  
7 other element of any kind or nature whatsoever arising from the performance of OWNER, its  
8 officers, employees, subcontractors, agents or representatives Indemnitors from this  
9 Agreement, except in the event of the gross negligence or willful misconduct of the Indemnitees  
10 ; provided however, any gross negligence or willful misconduct of the Indemnitees will only  
11 affect Owner's duty to indemnify for the specific act found to be gross negligence or willful  
12 misconduct, and will not preclude a duty to indemnify for any act or omission of Owner.  
13 OWNER shall defend, at its sole expense, all costs and fees including, but not limited, to  
14 attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any  
15 claim or action based upon such alleged acts or omissions. With respect to any action or claim  
16 subject to indemnification herein by OWNER shall, at their sole cost, have the right to use  
17 counsel of their own choice and shall have the right to adjust, settle, or compromise any such  
18 action or claim without the prior consent of COUNTY; provided, however, that any such  
19 adjustment, settlement or compromise in no manner whatsoever limits or circumscribes  
20 OWNER's indemnification to Indemnitees as set forth herein. OWNER's obligation hereunder  
21 shall be satisfied when OWNER has provided to COUNTY the appropriate form of dismissal  
22 relieving COUNTY from any liability for the action or claim involved. The specified insurance  
23 limits required in this Agreement shall in no way limit or circumscribe OWNER's obligations  
24 to indemnify and hold harmless the Indemnitees herein from third party claims. In the event  
25 there is conflict between this clause and California Civil Code Section 2782, this clause shall  
26 be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve OWNER  
27 from indemnifying the Indemnitees to the fullest extent allowed by law. The indemnification  
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1 set forth in this paragraph 14 shall survive the expiration and earlier termination of this  
2 Covenant.

3 15) NOTICES. All Notices provided for in this Covenant shall be deemed received  
4 when personally delivered, or two (2) days following mailing by certified mail, return receipt  
5 requested. All mailing shall be addressed to the respective parties at their addresses set forth  
6 below, or at such other address as each party may designate in writing and give to the other party:

7 COUNTY

8 Director, Riverside County  
9 Housing, Homelessness Prevention &  
10 Workforce Solutions  
11 5555 Arlington Avenue  
12 Riverside, CA 92504

OWNER

The Coachella Valley Housing Coalition  
45-701 Monroe Street  
Suite G  
Indio, CA 92201

11 United States of America, acting through Rural Housing Service, United States  
12 Department of Agriculture, or its successor agency  
13 22690 March Memorial Drive  
14 Suite 280  
15 Moreno Valley, CA 92553

14 A copy of all notices sent to Owner shall be sent to OWNER's limited partner: Wells Fargo  
15 Affordable Housing, Community Development Corporation, MAC D1053-170, 301 South College  
16 Street, 17th Floor, Charlotte, NC 28288, Attention: Director of Asset Management.

17 16) REMEDIES. COUNTY shall have the right, in the event of any breach of any such  
18 agreement or covenant, to exercise all available rights and remedies, and to maintain any actions  
19 at law or suit in equity or other proper proceedings to enforce the curing of such breach of  
20 agreement or covenant.

21 17) TERM. The non-discrimination covenants, conditions and restrictions contained in  
22 Section 6 of this Covenant shall remain in effect in perpetuity. Every other covenant, condition  
23 and restriction contained in this Covenant shall continue in full force and effect for the Term, as  
24 defined in **Section 1** of this Covenant.

25 18) NOTICE AND CURE. Prior to exercising any remedies hereunder, the COUNTY  
26 shall give OWNER notice of such default pursuant to section 9 above. Any monetary default shall  
27 be cured within ten (10) days of delivery of written notice. Except as otherwise set forth herein,  
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1 if a non-monetary default is reasonably capable of being cured within thirty (30) days of delivery  
2 of such notice of default, OWNER shall have such period to effect a cure prior to exercise of  
3 remedies by COUNTY. If the non-monetary default is such that it is not reasonably capable of  
4 being cured within thirty (30) days of delivery of such notice of default, and OWNER (a) initiates  
5 corrective action within said period, and (b) diligently, continually, and in good faith works to  
6 effect a cure as soon as possible, then OWNER shall have such additional time as is reasonably  
7 necessary to cure the default prior to exercise of any remedies by the COUNTY; but in no event  
8 no later than sixty (60) days from delivery of such notice of default. COUNTY, upon providing  
9 OWNER with any notice of default under this Covenant, shall, within a reasonable time, provide  
10 a copy of such default notice to a Permitted Lender who has given written notice to COUNTY of  
11 its interest in the Property and Project. From and after such notice has been delivered to a Permitted  
12 Lender and the Owner's limited partner, such Permitted Lender shall have the same period for  
13 remedying the default complained of as the cure period provided to OWNER pursuant to this  
14 Section 18. COUNTY shall accept performance by a Permitted Lender or limited partner of Owner  
15 as if the same had been done by OWNER.

16 If a violation of any of the covenants or provisions of this Covenant remains uncured after  
17 the respective time period set forth in this Section 18, COUNTY and its successors and assigns,  
18 without regard to whether COUNTY or its successors and assigns is an owner of any land or  
19 interest therein to which these covenants relate, may institute and prosecute any proceedings at  
20 law or in equity to abate, prevent or enjoin any such violation or attempted violation or to compel  
21 specific performance by OWNER of its obligations hereunder. No delay in enforcing the  
22 provisions hereof as to any breach or violation shall impair, damage or waive the right of any  
23 party entitled to enforce the provisions hereof or to obtain relief against or recover for the  
24 continuation or repetition of such breach or violations or any similar breach or violation hereof at  
25 any later time.

26 Any cure tendered by Owner's limited partner shall be accepted or rejected on the same  
27 basis as if tendered by OWNER.

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1           19)    SALE, ASSIGNMENT OR TRANSFER OF THE PROJECT OR PROPERTY.

2   OWNER hereby covenants and agrees not to sell, transfer, assign or otherwise dispose of the  
3   Project, the Property or any portion thereof, without obtaining the prior written consent of  
4   COUNTY, in its sole discretion. Any sale, assignment, or transfer of the Project or Property, shall  
5   be memorialized an assignment and assumption agreement the form and substance of which have  
6   been first approved in writing by the COUNTY in its sole discretion. Such assignment and  
7   assumption agreement shall, among other things, provide that the transferee has assumed in writing  
8   and in full, and is reasonably capable of performing and complying with OWNER's duties and  
9   obligations under the HOME Loan Agreement and this Covenant, provided, however OWNER  
10  shall not be released of all obligations under the HOME Loan Agreement and this Covenant.

11           20)    AMENDMENTS OR MODIFICATIONS. This Covenant may be changed or  
12  modified only by a written amendment signed by authorized representatives of both parties.

13           21)    GOVERNING LAW; VENUE; SEVERABILITY. This Covenant shall be  
14  governed by the laws of the State of California. Any legal action related to the performance or  
15  interpretation of this Covenant shall be filed only in the Superior Court of the State of California  
16  located in Riverside, California, and the parties waive any provision of law providing for a change  
17  of venue to another location. In the event any provision in this Covenant is held by a court of  
18  competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will  
19  nevertheless continue in full force without being impaired or invalidated in any way

20           22)    BINDING EFFECT. The rights and obligations of this Covenant shall bind and  
21  inure to the benefit of the respective heirs, successors and assigns of the parties.

22           23)    PERMITTED MORTGAGES. No violation or breach of the covenants, conditions,  
23  restrictions, provisions or limitations contained in this Covenant shall defeat or render invalid or  
24  in any way impair the lien or charge of any deed of trust or mortgage permitted by the HOME  
25  Loan Agreement or the lien or charge of a deed of trust made by OWNER for the benefit of any  
26  lender first approved in writing by the COUNTY ( each, a "Permitted Lender") and nothing herein  
27  or in the HOME Loan Agreement shall prohibit or otherwise limit the exercise of a Permitted  
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1 Lender's rights and remedies thereunder, including a foreclosure or deed-in-lieu of foreclosure and  
2 subsequent transfer thereafter.

3 24) SEVERABILITY. In any event that any provision, whether constituting a separate  
4 paragraph or whether contained in a paragraph with other provisions, is hereafter determined to be  
5 void and unenforceable, it shall be deemed separated and deleted from the agreement and the  
6 remaining provisions of this Agreement shall remain in full force and effect.

7 25) PROJECT MONITORING AND EVALUATION.

8 a) Tenant Checklist. OWNER shall submit a Tenant Checklist Form to COUNTY, as shown  
9 in **Exhibit F** of the HOME Loan Agreement, and may be revised by COUNTY,  
10 summarizing the racial/ethnic composition, number and percentage of very low-income  
11 households who are tenants of the HOME-Assisted Units. The Tenant Checklist Form  
12 shall be submitted upon completion of the construction and thereafter, on a semi-annual  
13 basis on or before March 31 and September 30. OWNER shall maintain financial,  
14 programmatic, statistical and other supporting records of its operations and financial  
15 activities in accordance with the requirements of the HOME Program, including the  
16 submission of Tenant Checklist Form. Except as otherwise provided for in this Covenant  
17 and in the HOME Loan Agreement, OWNER shall maintain and submit records to  
18 COUNTY within ten (10) business days of COUNTY's request which clearly documents  
19 OWNER's performance under each requirement of the HOME Program.

20 b) Inspections. Pursuant to 24 CFR 92.504(d)(1)(ii), during the period of affordability,  
21 COUNTY must perform on-site inspections of HOME-Assisted rental housing to  
22 determine compliance with the property standards of §92.251 and to verify the  
23 information submitted by the owners in accordance with the requirements of §92.252. The  
24 inspections must be in accordance with the inspection procedures that the participating  
25 jurisdiction establishes to meet the inspection requirements of §92.251. The on-site  
26 inspections must occur at least once every 3 years thereafter during the period of  
27 affordability. If there are observed deficiencies for any of the inspectable items in the  
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1 property standards established by COUNTY, in accordance with the inspection  
2 requirements of §92.251, a follow-up on-site inspection to verify that deficiencies are  
3 corrected must occur within 12 months. COUNTY may establish a list of non-hazardous  
4 deficiencies for which correction can be verified by third party documentation (e.g., paid  
5 invoice for work order) rather than re-inspection. Health and safety deficiencies must be  
6 corrected immediately, in accordance with §92.251. COUNTY must adopt a more  
7 frequent inspection schedule for properties that have been found to have health and safety  
8 deficiencies. The property owner must annually certify to the COUNTY that each  
9 building and all HOME-Assisted Units in the project are suitable for occupancy, taking  
10 into account State and local health, safety, and other applicable codes, ordinances, and  
11 requirements, and the ongoing property standards established by the participating  
12 jurisdiction to meet the requirements of §92.251. Inspections must be based on a  
13 statistically valid sample of units appropriate for the size of the HOME-Assisted project,  
14 as set forth by HUD through notice. COUNTY will inspect 100 percent of the HOME-  
15 Assisted Units and the inspectable items (site, building exterior, building systems, and  
16 common areas) for each building housing HOME-Assisted Units.

17 26) ACCESS TO PROJECT SITE. Representatives of the COUNTY and HUD shall  
18 have the right of access to the Property, upon 24 hours' written notice to OWNER (except in the  
19 case of an emergency, in which case COUNTY and/or HUD shall provide such notice as may be  
20 practical under the circumstances), without charges or fees, during normal business hours to review  
21 the operation of the Project in accordance with this Covenant and the Agreement.

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

25 28) Recitals. The Recitals set forth above are true and correct and incorporated herein  
26 by this reference.

27 29) This Covenant and the Agreement set forth and contain the entire understanding  
28

1 and agreement of the parties hereto. There are no oral or written representations, understandings,  
2 or ancillary covenants, undertakings or agreements, which are not contained or expressly referred  
3 to within this Covenant, and the Agreement, including all amendments and modifications to the  
4 Agreement.

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[SIGNATURES ON THE NEXT PAGE]

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

3 COUNTY:

OWNER:

4 COUNTY OF RIVERSIDE, a political  
5 Subdivision of the State of California

FRED YOUNG PHASE III ASSOCIATES, L.P.,  
a California limited partnership

6 By: Fred Young Phase III, LLC  
7 a California limited liability company  
8 Its: General Partner

9 By: The Coachella Valley Housing Coalition, a  
10 California corporation, its sole  
11 member/manager

12 By: \_\_\_\_\_  
13 Heidi Marshall, Director

By: \_\_\_\_\_  
Alice Salinas, Executive Director

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

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

16 APPROVED AS TO FORM:  
17 GREGORY P. PRIAMOS, County Counsel

19 By: \_\_\_\_\_  
20 Amrit P. Dhillon, Deputy County Counsel

21  
22  
23  
24 **(COUNTY and OWNER signatures need to be notarized)**  
25  
26  
27  
28





## EXHIBIT "A"

### LEGAL DESCRIPTION OF PROPERTY

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA,  
DESCRIBED AS FOLLOWS:

PARCEL 1:

PARCEL C OF CERTIFICATE OF COMPLIANCE LOT LINE ADJUSTMENT NO. 2015-04, RECORDED  
MARCH 16, 2016 AS INSTRUMENT NO. 2016-0101282 OF OFFICIAL RECORDS, BEING MORE  
PARTICULARLY DESCRIBED

AS FOLLOWS:

IN THE CITY OF INDIO, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, PORTIONS OF PARCELS 2  
AND 3 OF PARCEL MAP 36273, AS SHOWN BY MAP ON FILE IN BOOK 234, PAGES 6 THROUGH 10  
INCLUSIVE OF

PARCEL MAPS, RECORDS OF SAID COUNTY, BEING IN SECTION 25, TOWNSHIP 5 SOUTH, RANGE 7  
EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL 3;

THENCE ALONG THE WESTERLY LINE OF SAID PARCEL 3 SOUTH  $00^{\circ} 03' 11''$  EAST, A DISTANCE OF  
267.83 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 3;

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 3 NORTH  $89^{\circ} 55' 46''$  EAST, A DISTANCE OF  
1383.50 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 3, ALSO BEING A POINT ON THE  
WESTERLY RIGHT-OF-WAY LINE OF VAN BUREN STREET, 43.00 FEET IN HALF WIDTH;

THENCE NORTH  $00^{\circ} 11' 07''$  WEST, ALONG THE EASTERLY LINE OF SAID PARCEL 3 AND ALONG SAID  
WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 405.62 FEET;

THENCE SOUTH  $89^{\circ} 48' 53''$  WEST, A DISTANCE OF 95.32 FEET;

THENCE NORTH  $45^{\circ} 05' 20''$  WEST, A DISTANCE OF 8.52 FEET;

THENCE SOUTH  $90^{\circ} 00' 00''$  WEST, A DISTANCE OF 87.87 FEET;

THENCE SOUTH  $81^{\circ} 00' 45''$  WEST, A DISTANCE OF 355.98 FEET;

THENCE SOUTH  $75^{\circ} 14' 25''$  WEST, A DISTANCE OF 26.47 FEET TO THE BEGINNING OF A TANGENT  
CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 500.00 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF  $01^{\circ} 58' 02''$ ,  
AN ARC DISTANCE OF 17.17 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH  $16^{\circ} 43' 37''$  WEST;

THENCE NON-TANGENT TO SAID CURVE SOUTH  $00^{\circ} 02' 08''$  EAST, A DISTANCE OF 299.79 FEET;

THENCE SOUTH  $89^{\circ} 58' 33''$  WEST, A DISTANCE OF 137.49 FEET;

THENCE SOUTH  $66^{\circ} 35' 15''$  WEST A DISTANCE OF 43.81 FEET;

THENCE SOUTH  $89^{\circ} 55' 46''$  WEST, A DISTANCE OF 68.13 FEET;

THENCE NORTH  $00^{\circ} 04' 14''$  WEST, A DISTANCE OF 127.65 FEET;

THENCE NORTH  $28^{\circ} 06' 48''$  WEST, A DISTANCE OF 62.15 FEET;

THENCE SOUTH  $89^{\circ} 55' 46''$  WEST A DISTANCE OF 240.54 FEET;

THENCE NORTH  $61^{\circ} 07' 22''$  WEST A DISTANCE OF 118.34 FEET TO A POINT ON THE NORTHERLY LINE  
OF SAID PARCEL 3;

THENCE SOUTH  $89^{\circ} 56' 49''$  WEST, ALONG SAID NORTHERLY LINE A DISTANCE OF 180.24 FEET TO  
THE POINT OF BEGINNING.

PARCEL 2:

INTENTIONALLY DELETED

Assessor's Parcel Number: **612-170-030-6**

# **EXHIBIT “H”**

Request for Notices

NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE SECTION 6103

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:  
County of Riverside  
Housing, Homelessness Prevention &  
Workforce Solutions  
5555 Arlington Avenue  
Riverside, CA 92504  
Attn: Monica Telles

SPACE ABOVE THIS LINE FOR RECORDERS USE

### **REQUEST for NOTICE UNDER SECTION 2924b CIVIL CODE**

In accordance with Civil Code, Section 2924b, request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale under the Deed of Trust dated \_\_\_\_\_, 2020 and recorded concurrently herewith in the Official Records of the County of Riverside, California, executed by FRED YOUNG PHASE III ASSOCIATES, L.P., a California limited partnership, as Trustor in which Wells Fargo Bank, a national banking association is named as Beneficiary, and \_\_\_\_\_ as Trustee, and describing land referred to in this Report is situated in the County of Riverside, City of Indio, State of California, and is described as follows:

Real property in the City of Indio, County of Riverside, State of California, described as follows:

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA,  
DESCRIBED AS FOLLOWS:

PARCEL 1:

PARCEL C OF CERTIFICATE OF COMPLIANCE LOT LINE ADJUSTMENT NO. 2015-04, RECORDED MARCH 16, 2016 AS INSTRUMENT NO. 2016-0101282 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

IN THE CITY OF INDIO, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, PORTIONS OF PARCELS 2 AND 3 OF PARCEL MAP 36273, AS SHOWN BY MAP ON FILE IN BOOK 234, PAGES 6 THROUGH 10 INCLUSIVE OF PARCEL MAPS, RECORDS OF SAID COUNTY, BEING IN SECTION 25, TOWNSHIP 5 SOUTH, RANGE 7 EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL 3;

THENCE ALONG THE WESTERLY LINE OF SAID PARCEL 3 SOUTH 00° 03' 11" EAST, A DISTANCE OF 267.83 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 3;

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 3 NORTH 89° 55' 46" EAST, A DISTANCE OF 1383.50 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 3, ALSO BEING A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF VAN BUREN STREET, 43.00 FEET IN HALF WIDTH;

THENCE NORTH 00° 11' 07" WEST, ALONG THE EASTERLY LINE OF SAID PARCEL 3 AND ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 405.62 FEET;

THENCE SOUTH 89° 48' 53" WEST, A DISTANCE OF 95.32 FEET;

THENCE NORTH 45° 05' 20" WEST, A DISTANCE OF 8.52 FEET;

THENCE SOUTH 90° 00' 00" WEST, A DISTANCE OF 87.87 FEET;

THENCE SOUTH 81° 00' 45" WEST, A DISTANCE OF 355.98 FEET;

THENCE SOUTH 75° 14' 25" WEST, A DISTANCE OF 26.47 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 500.00 FEET;  
THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 01° 58' 02", AN ARC DISTANCE OF 17.17 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 16° 43' 37" WEST;  
THENCE NON-TANGENT TO SAID CURVE SOUTH 00° 02' 08" EAST, A DISTANCE OF 299.79 FEET;  
THENCE SOUTH 89° 58' 33" WEST, A DISTANCE OF 137.49 FEET;  
THENCE SOUTH 66° 35' 15" WEST A DISTANCE OF 43.81° FEET;  
THENCE SOUTH 89° 55' 46" WEST, A DISTANCE OF 68.13 FEET;  
THENCE NORTH 00° 04' 14" WEST, A DISTANCE OF 127.65 FEET;  
THENCE NORTH 28° 06' 48" WEST, A DISTANCE OF 62.15 FEET;  
THENCE SOUTH 89° 55' 46" WEST A DISTANCE OF 240.54 FEET;  
THENCE NORTH 61° 07' 22" WEST A DISTANCE OF 118.34 FEET TO A POINT ON THE NORTHERLY LINE OF SAID PARCEL 3;  
THENCE SOUTH 89° 56' 49" WEST, ALONG SAID NORTHERLY LINE A DISTANCE OF 180.24 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

INTENTIONALLY DELETED

Assessor's Parcel Number: **612-170-030-6**

All notices to be mailed to:

Attn: Director  
Riverside County  
Housing, Homelessness Prevention & Workforce Solutions  
5555 Arlington Avenue  
Riverside, California 92504

Request is hereby made that a copy of any notice of default and a copy of any notice of sale under the deed of trust

**NOTICE: A copy of any notice of default and of any notice of sale will be sent only to the address contained in this recorded request. If your address changes, a new request must be recorded.**

RIVERSIDE COUNTY  
HOUSING, HOMELESSNESS PREVENTION &  
WORKFORCE SOLUTIONS

---

Michael F. Walsh, Deputy Director



NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE SECTION 6103

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:  
County of Riverside  
Housing, Homelessness Prevention &  
Workforce Solutions  
5555 Arlington Avenue  
Riverside, CA 92504  
Attn: Monica Telles

SPACE ABOVE THIS LINE FOR RECORDERS USE

### REQUEST for NOTICE UNDER SECTION 2924b CIVIL CODE

In accordance with Civil Code, Section 2924b, request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale under the Deed of Trust dated \_\_\_\_\_, 2020 and recorded concurrently herewith in the Official Records of the County of Riverside, California, executed by FRED YOUNG PHASE III ASSOCIATES, L.P., a California limited partnership, as Trustor in which United States of America, acting through Rural Housing Service, United States Department of Agriculture, or its successor agency is named as Beneficiary, and \_\_\_\_\_ as Trustee, and describing land referred to in this Report is situated in the County of Riverside, City of Coachella, State of California, and is described as follows:

Real property in the City of Indio, County of Riverside, State of California, described as follows:

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA,  
DESCRIBED AS FOLLOWS:

PARCEL 1:

PARCEL C OF CERTIFICATE OF COMPLIANCE LOT LINE ADJUSTMENT NO. 2015-04, RECORDED MARCH 16, 2016 AS INSTRUMENT NO. 2016-0101282 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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THENCE ALONG THE WESTERLY LINE OF SAID PARCEL 3 SOUTH 00° 03' 11" EAST, A DISTANCE OF 267.83 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 3;

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 3 NORTH 89° 55' 46" EAST, A DISTANCE OF 1383.50 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 3, ALSO BEING A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF VAN BUREN STREET, 43.00 FEET IN HALF WIDTH;

THENCE NORTH 00° 11' 07" WEST, ALONG THE EASTERLY LINE OF SAID PARCEL 3 AND ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 405.62 FEET;

THENCE SOUTH 89° 48' 53" WEST, A DISTANCE OF 95.32 FEET;

THENCE NORTH 45° 05' 20" WEST, A DISTANCE OF 8.52 FEET;

THENCE SOUTH 90° 00' 00" WEST, A DISTANCE OF 87.87 FEET;

THENCE SOUTH 81° 00' 45" WEST, A DISTANCE OF 355.98 FEET;

THENCE SOUTH 75° 14' 25" WEST, A DISTANCE OF 26.47 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 500.00 FEET;  
THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 01° 58' 02", AN ARC DISTANCE OF 17.17 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 16° 43' 37" WEST;  
THENCE NON-TANGENT TO SAID CURVE SOUTH 00° 02' 08" EAST, A DISTANCE OF 299.79 FEET;  
THENCE SOUTH 89° 58' 33" WEST, A DISTANCE OF 137.49 FEET;  
THENCE SOUTH 66° 35' 15" WEST A DISTANCE OF 43.81° FEET;  
THENCE SOUTH 89° 55' 46" WEST, A DISTANCE OF 68.13 FEET;  
THENCE NORTH 00° 04' 14" WEST, A DISTANCE OF 127.65 FEET;  
THENCE NORTH 28° 06' 48" WEST, A DISTANCE OF 62.15 FEET;  
THENCE SOUTH 89° 55' 46" WEST A DISTANCE OF 240.54 FEET;  
THENCE NORTH 61° 07' 22" WEST A DISTANCE OF 118.34 FEET TO A POINT ON THE NORTHERLY LINE OF SAID PARCEL 3;  
THENCE SOUTH 89° 56' 49" WEST, ALONG SAID NORTHERLY LINE A DISTANCE OF 180.24 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

INTENTIONALLY DELETED

Assessor's Parcel Number: **612-170-030-6**

All notices to be mailed to:

Attn: Director  
Riverside County  
Housing, Homelessness Prevention & Workforce Solutions  
5555 Arlington Avenue  
Riverside, California 92504

Request is hereby made that a copy of any notice of default and a copy of any notice of sale under the deed of trust

**NOTICE: A copy of any notice of default and of any notice of sale will be sent only to the address contained in this recorded request. If your address changes, a new request must be recorded.**

RIVERSIDE COUNTY  
HOUSING, HOMELESSNESS PREVENTION &  
WORKFORCE SOLUTIONS

\_\_\_\_\_  
Michael F. Walsh, Deputy Director



# Exhibit I

## Sample

### Contractor Debarment Certification Form

#### Excluded Parties Lists System (EPLS)

The purpose of EPLS is to provide a single comprehensive list of individuals and firms excluded by Federal government agencies from receiving federal contracts or federally approved subcontracts and from certain types of federal financial and nonfinancial assistance and benefits.

The EPLS was established to ensure that agencies solicit offers from, award contracts, grants, or financial or non-financial assistance and benefits to, and consent to subcontracts with responsible contractors/vendors only and not allow a party to participate in any affected program if any Executive department or agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion action) that party from participation in an affected program.

In July 2012, all records from CCR/FedReg, ORCA, and EPLS, active or expired, were moved to the System for Award Management (SAM). SAM is a Federal Government owned and operated free web site that consolidates the capabilities in CCR/FedReg, ORCA, and EPLS.

The County of Riverside requires that each contractor/vendor hold the required federal/state/local license for the service provided.

Please complete the following verification process for each contractor/vendor:

- STEP 1: Visit <https://www.sam.gov/portal/public/SAM/>
- STEP 2: Under "Search Records", enter the company name and press enter.
- STEP 3: Click "Print" on the Search Results page.
- STEP 4: Repeat steps 2 & 3 for variations of the name of contractor/vendor (individual last name or firm).
- STEP 5: Attach print out of search results to this certification as supporting documentation.
- STEP 6: Attach to this certification as supporting documentation a copy of contractor/vendor license for the service provided.

By signing below HOME Recipient, developer name, has verified the contractor/vendor known as, name of contractor/vendor, was not listed in the Excluded Parties Lists System and has the required contractor/vendor license as of date of verification.

---

DEVELOPER SIGNATURE