

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



**ITEM: 3.9**  
(ID # 16875)

**MEETING DATE:**  
Tuesday, October 05, 2021

**FROM :** HOUSING, HOMELESSNESS PREVENTION AND WORKFORCE SOLUTIONS:

**SUBJECT:** HOUSING, HOMELESSNESS PREVENTION AND WORKFORCE SOLUTIONS (HHPWS): Approve the Form of Loan Agreement for the Use of HOME Funds for The Monarch Homes Apartments, in the City of Palm Springs and Authorize the Director of HHPWS to Execute a Form of the HOME Loan Agreement, Covenant Agreement and Subsequent Subordination Agreements; District 4 [\$500,000 - 100% HOME Investment Partnerships Act Funds] (CEQA Exempt) (Clerk of the Board to File the Notice of Exemption)

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

1. Find, in its independent judgment and analysis as a Responsible Agency under the California Environmental Quality Act (CEQA) in issuing certain limited approvals, after it reviewed and considered the information in the previously adopted Notice of Exemption (NOE) by the City of Palm Springs, as lead agency, on February 6, 2019 for The Monarch Homes Apartments (Project), that the project has been determined to qualify as a ministerial project under Government Code 65913.4, and ministerial projects are not subject to CEQA pursuant to Public Resources Code section 21080, and State CEQA Guidelines section 15268;

Continued on page 2

**ACTION:**Policy


  
Heidi Marshall, Director 9/13/2021

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Spiegel, seconded by Supervisor Washington 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: October 5, 2021  
xc: HHPWS, Recorder

Kecia R. Harper  
Clerk of the Board  
By:   
Deputy

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

2. Affirm the Finding of No Significant Impact adopted by the Board of Supervisors on May 5, 2020, for the Project concluding that the Project is not an action which may affect the quality of the environment pursuant to the provisions of the National Environmental Policy Act of 1969 (NEPA) and under the implementing regulations of 24 CFR Parts 50 and 58;
3. Approve the attached form of Loan Agreement for the Use of HOME Program Funds, including all attachments thereto, (HOME Loan Agreement), between the County and Monarch PS LP (Partnership), providing a loan derived from the HOME Investment Partnerships Program in the amount of \$500,000 (HOME Loan), to be used to pay a portion of the development and construction costs for a multi-family affordable rental housing project in the City of Palm Springs;
4. Approve the attached forms of HOME Loan Deed of Trust and Assignment of Rents, HOME Loan Promissory Note and HOME Covenant Agreement;
5. Authorize the Director of the Housing, Homelessness Prevention and Workforce Solutions (HHPWS), or designee, to execute the HOME Loan Agreement and HOME Covenant Agreement conforming in form and substance to the attached HOME Loan Agreement and HOME Covenant Agreement, subject to approval as to form by County Counsel;
6. Authorize the Director of the HHPWS, or designee, to negotiate and execute a Subordination Agreement subordinating the HOME Loan Deed of Trust and Assignment of Rents to a Deed of Trust for the benefit of Flagstar Bank, senior lender, securing a construction loan for the Project for a not to exceed amount of \$25,850,000, subject to approval as to form by County Counsel;
7. Authorize the Director of the HHPWS, or designee, to negotiate and execute a Subordination Agreement subordinating the HOME Loan Deed of Trust and Assignment of Rents to a Deed of Trust for the benefit of California Community Reinvestment Corporation, senior lender, securing a permanent loan for the Project for a not to exceed amount of \$7,000,000, subject to approval as to form by County Counsel;
8. Authorize the Director of the HHPWS, or designee, to negotiate and execute a Subordination Agreement subordinating the HOME Loan Deed of Trust and Assignment of Rents to a Deed of Trust for the benefit of City of Palm Springs, senior lender, securing a permanent loan for the Project for a not to exceed amount of \$2,700,000, subject to approval as to form by County Counsel;



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9. Authorize the Director of the HHPWS, or designee, to take all necessary steps to implement the HOME Loan Agreement and Subordination Agreements, including but not limited to, signing subsequent necessary and relevant documents, subject to approval as to form by County Counsel; and
10. Direct the Clerk of the Board to file the Notice of Exemption within 5 business days.

<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>	\$500,000	\$ 0	\$500,000	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> HOME Investment Partnerships Act Funds (100%)			<b>Budget Adjustment:</b>	No
			<b>For Fiscal Year:</b>	21/22

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

**BACKGROUND:**

**Summary**

On August 6, 2019, in connection with The Monarch Apartment Homes, a proposed 60-unit multi-family affordable rental housing complex for low-income families including one residential manager's unit, located in the City of Palm (Project), the County of Riverside Board of Supervisors approved Resolution No. 2019-172, which allocated \$500,000 in HOME Investment Partnerships Act Funds (HOME Loan), subject to the satisfaction of certain conditions contained therein, and supported the submission of a low income housing tax credit application by Monarch PS LP, a California limited partnership (Partnership), to the California Tax Credit Allocation Committee (CTCAC) for the Project.

The project was allocated tax credits by CTCAC and, since all of the conditions to funding set forth in Resolution No. 2019-172 have been satisfied, staff recommends that the Board approve the Loan Agreement for the Use of HOME Funds, including exhibits (HOME Loan Agreement) between the County and Partnership. The loan of \$500,000 derived from HOME Program funds will be used to pay a portion of the development and construction costs for the Project. The HOME Loan will be evidenced by a Promissory Note which will be secured by a Deed of Trust encumbering the Project, each attached. If there are any realized cost savings to the project, then any remaining HOME funds will not be disbursed. The project was also awarded 15 Housing Choice Voucher Program (HCVP) Project Based Vouchers (PBVs) through a competitive Request for Proposals released by the Housing Authority of the County of Riverside on August 12, 2019.

The project will provide 59 new affordable and permanent, supportive housing units within 12 two-story garden style buildings. The Project will be located at North Indian Canyon Drive, Palm Springs CA 92262, within the City of Palm Springs on 3.62 acres of land identified as Assessor's Parcel Number 501-031-028 (Project Site). The Project will consist of 28 one-

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bedroom units, 16 two-bedroom units and 16 three-bedroom units. The 15 PBVs will be placed on 15 one-bedroom units restricted at 30% of the Area Median Income. The one-bedroom units are approximately 560 to 620 square feet. All units will have patios and balconies with access to a community building with computer classroom, rental office, and a community lounge adjacent to a kitchen for community group functions and private parties. A laundry room is also centrally located with the community building.

Eleven of the units will be restricted as HOME-assisted units for individuals whose incomes do not exceed 60% of the area median income for the County of Riverside, of which 3 units will be restricted to individuals whose incomes do not exceed 50% of the area median income for the County of Riverside adjusted by family size at the time of occupancy. The HOME-assisted units will be restricted for a period of at least 55 years from the recordation of the Notice of Completion.

Staff recommends approval of HOME funds for the Project to pay a portion of the development and construction costs for the Project and direct project staffing costs in an amount not to exceed 10% of HOME funds approved for the Project as follows:

The Monarch Apartment Homes	\$500,000	HOME Project Funding
<u>The Monarch Apartment Homes</u>	<u>\$ 50,000</u>	HOME Direct Staffing (10%)
Total	\$550,000	



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<b>Construction Sources</b>	
City Housing Successor Funds	\$ 1,800,000
City Land Loan	\$ 840,000
County of Riverside HOME Loan	\$ 450,000
Limited Partner Tax Credit Equity	\$ 1,995,904
Credit Suisse Funds	\$ 1,000,000
GP Equity	\$ 100
Construction Loan - Tax Exempt	\$ 15,176,717
Construction Loan - Taxable	\$ 7,911,919
Costs Deferred Until Conversion	\$ 1,670,915
<b>Total</b>	<b>\$ 30,845,555</b>

<b>Permanent Sources</b>	
Perm Loan	\$ 5,271,000
City Housing Successor Funds	\$ 1,800,000
City Land Loan	\$ 840,000
County of Riverside HOME Loan	\$ 500,000
Credit Suisse Funds	\$ 1,000,000
GP Loan	\$ 1,225,417
GP Sponsor Loan (Certificated State Credits)	\$ 6,186,400
Deferred Developer Fee	\$ 250,000
GP Equity	\$ 100
Limited Partner Tax Credit Equity	\$ 13,772,638
<b>Total</b>	<b>\$ 30,845,555</b>

The County HOME Covenant Agreement will be in a lien position junior to the City of Palm Springs Covenants (Density Bonus Agreement), the Bond Regulatory Agreement, the City of Palm Springs Regulatory Agreement and senior to all other security instruments. Flagstar Bank FSB as construction lender, California Community Reinvestment Corporation as permanent lender, and City of Palm Springs as land and development lender (collectively, Senior Lenders), require as a condition precedent to the funding of their respective loans that the HOME Loan are subordinate to the Senior Lenders liens. Subordination of the HOME Loan is necessary since an economically feasible alternative method of financing the Project on comparable terms is not available without subordination. As a result of the subordination requirement, lien priority during the construction phase shall be as follows: 1st priority Flagstar Bank FSB Construction Loan, 2nd priority City of Palm Springs Loan, 3rd priority County HOME Loan, and 4th priority Community Housing Opportunities Corporation Sponsor Loan. Once the Project is completed,

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the Flagstar Bank Construction Loan will be repaid in its entirety with the tax credit equity and California Community Reinvestment Corporation Permanent Loan Proceeds. Upon Project completion, lien priority will be as follows: 1st priority California Community Reinvestment Corporation Permanent Loan, 2nd priority City of Palm Springs Housing Loan, 3rd priority County HOME Loan, and 4th priority Community Housing Opportunities Corporation Loan.

On January 7, 2020, the Board of Supervisors adopted a Finding of No Significant Impact for the Project and concluded that the Project is not an action which may affect the quality of the environment pursuant to the provisions of the National Environmental Policy Act of 1969 (NEPA) and under implementing regulations at 24 CFR Parts 50 and 58. Staff recommends that the County Board of Supervisors affirm that the environmental effects of the HOME Loan Agreement will not have a significant effect on the environment. Any potential significant effects of the Project have been addressed by the City of Palm Springs, as Lead Agency in its Notice of Exemption for The Monarch Apartment Homes (Palm Springs Project Case No. 3.3333 MAJ), approved by the City of Palm Springs Planning Commission on January 23, 2019, adopted by the City of Palm Springs City Council and filed with the Riverside County Clerk's Office on February 6, 2019. Acting as the Responsible Agency, the County of Riverside Board of Supervisors will adopt the Notice of Exemption. The HOME Loan Agreement does not constitute a project pursuant to CEQA and State CEQA Guidelines. Pursuant to CEQA Guidelines Section 15004(b), approval of the HOME Loan Agreement provides for financing subject to specific conditions. The agreement requires the developer to obtain all necessary land use approvals and entitlements from the City of Palm Springs including compliance with CEQA. As the jurisdiction exercising land use control over the property, the City of Palm Springs will be the lead agency for purposes of CEQA. The agreement does not commit the lead agency to any definite course of action or foreclose alternatives or mitigation measures that would ordinarily be part of CEQA review.

Staff recommends that the Board of Supervisors approve the attached form of HOME Loan Agreement, including all exhibits, including, but not limited to the forms of the HOME Loan Deed of Trust and Assignment of Rents, HOME Loan Promissory Note and HOME Covenant Agreement. Staff further recommends that the Board of Supervisors authorize the Director of the Housing, Homelessness Prevention and Workforce Solutions (HHPWS), or designee, to negotiate and execute subordination agreements, as required conditions to the Senior Lenders financing, subordinating the HOME 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 The Monarch Apartment Homes in the City of Palm Springs will have a positive impact on the citizen and businesses within the County of Riverside. The Project is expected to generate construction, permanent maintenance and property management jobs, as well as provide affordable housing for residents of the County of Riverside.

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**SUPPLEMENTAL:**

**Additional Fiscal Information**


No impact upon the County's General Fund; the County's contribution to the Project will be fully funded with HOME funds from the U.S. Department of Housing and Urban Development.

Attachments:

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

  
Steven Atkeson

9/24/2021

  
Gregory L. Priamos, Director County Counsel

9/23/2021





Original Negative Declaration/Notice of Determination was routed to County Clerks for posting on. 10/12/21 Date JRG Initial

### Notice of Exemption

To:

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

From:

Public  
Agency: County of Riverside  
Address: 4080 Lemon Street, Suite 400  
Riverside, CA 92501  
Contact: Mervyn Manalo  
Phone: (951) 955-0774

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

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

**SUBJECT: Filing of Notice of Determination in Compliance with Section 21108 or 21152 of the public Resources Code.**

State Clearinghouse Number (if submitted to State Clearinghouse): \_\_\_\_\_

Project Title: Loan Agreement of the Use of HOME Investment Partnerships Act Funds for The Monarch Apartment Homes

Project Location (include county): County of Riverside- North Indian Canyon Drive, Palm Springs CA 92262, within the City of Palm Springs on 3.62 acres of land identified as Assessor's Parcel Number 501-031-028

**Project Description:**

Loan Agreement for the Use of HOME Funds, including exhibits (HOME Loan Agreement) between the County and Monarch PS LP, a California limited partnership. The loan of \$500,000 derived from HOME Program funds will be used to pay a portion of the development and construction costs for the Project. The HOME Loan will be evidenced by a Promissory Note. The Monarch Apartment Homes is a new construction multi-family affordable housing development sitting on 3.62 acres and that will consist of a total of 60 units (a mix of one, two and three bedroom units), located at 3130 N Indian Canyon Drive, Palm Springs, CA 92262. One unit will be reserved for the Managers Unit. There are a total of eleven residential buildings and one community building. The residential buildings will house multiple units from 4 units to 8 units per building. One story buildings will house 4 units and two story buildings garden style walk up apartments will be stacked and no elevators. The unit mix will be: 28 one bedroom, 16 two bedroom and 16 three bedroom units.

Project Sponsor: County of Riverside Department of Housing, Homelessness Prevention and Workforce Solutions

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

Lead agency or  Responsible Agency

July 28, 2021 and has made the following determinations regarding the above described project:  
(tentative date)

The Agreement does not constitute a project pursuant to the California Environmental Quality Act and State CEQA Guidelines (CEQA). Pursuant to CEQA Guidelines Section 15004(b), approval of the HOME Loan Agreement provides for financing subject to specific conditions. The agreement requires the developer to obtain all necessary land use approvals and entitlements from the City of Palm Springs including compliance with CEQA. As the jurisdiction exercising land use control over the property, the City of Springs will be the lead agency for purposes of CEQA. The agreement does not commit the lead agency to any definite course of action or foreclose alternatives or mitigation measures that would ordinarily be part of CEQA review.

Signature: (Public Agency) Juan Garcia Title: Principal Development Specialist

Date: 9/22/21 Date received for filing at OPR: \_\_\_\_\_



Board Date: October 5, 2021

To: Clerk of the Board of Supervisors  
4080 Lemon St, 1st Floor, Suite 127  
Riverside CA 92501

From: Juan Garcia, Principal Development Specialist  
Department of Housing, Homelessness Prevention and Workforce Solutions  
County of Riverside  
3403 Tenth Street, Suite # 300  
Riverside, CA 92501

**Subject: Notice of Exemption (NOE) – Loan Agreement for the Use of HOME Funds for The Monarch Apartment Homes, in the City of Palm Springs; District 4 [\$500,000 - 100% HOME Investment Partnerships Act Funds]**

The Department of Housing, Homelessness Prevention and Workforce Solutions is requesting the Clerk of the Board of Supervisors post the attached Notice of Exemption. Authorization to bill by journal voucher is included for your posting fee.

After posting, please return the document to:

Mail Stop #3760  
Attention: Juan Garcia, Principal Development Specialist  
Department of Housing, Homelessness Prevention and Workforce Solutions  
County of Riverside  
3403 Tenth Street, Suite # 300  
Riverside, CA 92501

If you have any questions, please contact Juan Garcia at 951-955-8126.

Attachment

Cc: file

# Riverside County Clerk-Recorder

## Authorization to Bill by Journal Voucher

To be completed by submitting Agency

### COUNTY OF RIVERSIDE DEPARTMENT OF HOUSING, HOMELESSNESS PREVENTION AND WORKFORCE SOLUTIONS (HHPWS)

Authorization # \_\_\_\_\_

Date: 9/22/2021

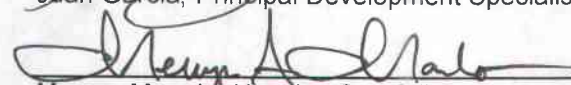
Agency/Division: County of Riverside HHPWS - Attn: Tristan Chen

Accounting String: (Interfund) FUND DEPT ID ACCT  
(Non-Interfund) 537080-21250-190060000 project code: EDH19001190

**This authorizes the "County Clerk & Recorder Office" to issue a Journal Voucher for payment of all fees for the accompanying documents.**

Number of Documents Included: 1 Notice of Exemption (HOME Agmt Monarch Apts)

Authorized by:   
Juan Garcia, Principal Development Specialist

Presented by:   
Mervyn Manalo, Housing Specialist

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### To be completed by County Recorder

Accepted by: \_\_\_\_\_

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

Document no(s)/invoice no(s): \_\_\_\_\_



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

3 Order No.  
4 Escrow No.

5 RECORDING REQUESTED BY AND  
6 WHEN RECORDED MAIL TO:

7 County of Riverside Department of Housing,  
8 Homelessness Prevention and  
9 Workforce Solutions  
10 3403 Tenth Street, Suite # 300  
11 Riverside, CA 92501  
12 Attn: Mervyn Manalo

13 SPACE ABOVE THIS LINE FOR RECORDERS USE

14 LOAN AGREEMENT FOR THE USE OF  
15 HOME PROGRAM FUNDS

16 This LOAN AGREEMENT FOR THE USE OF HOME PROGRAM FUNDS (“Agreement”) is  
17 made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by and between the  
18 COUNTY OF RIVERSIDE, a political subdivision of the State of California (“COUNTY”) and  
19 Monarch PS LP, a California limited partnership (“BORROWER”). The COUNTY and  
20 BORROWER may be individually referred to herein as a “Party” and collectively as the  
21 “Parties.”

22 WITNESSETH:

23 WHEREAS, the COUNTY was qualified by the United States Department of  
24 Housing and Urban Development (“HUD”) as an “Urban County” and an approved participating  
25 jurisdiction that has received funds from HUD pursuant to the HOME Investment Partnerships  
26 (“HOME”) Program, which was enacted under Title II of the Cranston-Gonzalez National  
27 Affordable Housing Act (the “Act”), as amended (commencing at 42 U.S.C. 12701 et seq.), and  
28 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 participants in the development of

1 affordable low-income housing;

2 WHEREAS, BORROWER's General Partner is SCHOC I LLC, a California  
3 limited liability company, whose sole member and manager is Community Housing  
4 Opportunities Corporation, a California nonprofit public benefit corporation and affordable  
5 housing developer ("CHOC");

6 WHEREAS, BORROWER has proposed to utilize HOME funds to pay a portion  
7 of the costs to develop and construct a multi-family affordable rental housing project consisting  
8 of fifty-nine (59) affordable rental housing units and one (1) residential manager's unit  
9 ("Project"), on an approximately 3.62 acres of vacant land situated at the southeast corner of N  
10 Indian Canyon Drive and E San Rafael Drive, in the City of Palm Springs in the County of  
11 Riverside, also formerly identified as a portion of APN 501-031-028 as more specifically  
12 described in the legal description and depicted on the site map attached hereto as **Exhibit A** and  
13 incorporated herein by this reference ("Property");

14 WHEREAS, a total of eleven (11) units will be reserved as HOME-Assisted Units  
15 which eight (8) units will be restricted to households whose incomes do not exceed 60% of the  
16 area median income for the County of Riverside, adjusted by family size at the time of  
17 occupancy, and three (3) units will be restricted to households whose incomes do not exceed  
18 50% of the area median income for the County of Riverside, adjusted by family size at the time  
19 of occupancy ("HOME-Assisted Units");

20 WHEREAS, the purpose of this Agreement is, among other things, for COUNTY  
21 to provide financial assistance to BORROWER in the maximum amount of Five Hundred  
22 Thousand Dollars (\$500,000) consisting of HOME funds, to pay a portion of development and  
23 construction costs related to the Project, as more fully described herein; and

24 WHEREAS, the HOME-assisted activities described herein comply with the  
25 objectives required under 24 Code of Federal Regulations ("CFR") Part 92 and are consistent  
26 with the County's Consolidated Plan.

27 NOW, THEREFORE, based upon the foregoing Recitals and for good and  
28 valuable consideration, the receipt and sufficiency of which is acknowledged by all Parties, the

1 COUNTY and BORROWER hereby agree as follows:

2 1. PURPOSE. The aforementioned Recitals are true and correct and  
3 incorporated herein by this reference. COUNTY has agreed to lend no more than a maximum  
4 total amount of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) in HOME funds  
5 (“HOME Loan”) to BORROWER upon the satisfaction of the terms and conditions set forth  
6 herein, including but not limited to the conditions precedent to distribution of HOME Loan funds  
7 set forth in **Section 11** below. Subject to **Sections 49** and **50** below, BORROWER shall  
8 undertake and complete the HOME activities required herein and as set forth in **Exhibit A**, and  
9 shall utilize the HOME Loan funds, as required herein and pursuant to the HOME Program  
10 regulations. A total of eleven (11) units shall be reserved as HOME-Assisted Units consisting  
11 of 5 one-bedroom units, 3 two-bedroom units and 3 three-bedrooms in which during the  
12 Affordability Period (as defined in **Section 14** below). More particularly, eight (8) of the  
13 HOME-Assisted Units (1 one-bedroom unit, 3 two-bedroom units, and 4 three-bedroom units)  
14 shall be rented to and occupied by households whose incomes do not exceed 60% of the area  
15 median income for the County of Riverside, adjusted by family size at the time of occupancy,  
16 and three (3) of the HOME-Assisted Units (1 one-bedroom unit, 1 two-bedroom unit, and 1  
17 three-bedroom unit) shall be restricted to households whose incomes do not exceed 50% of the  
18 area median income for the County of Riverside, adjusted by family size at the time of  
19 occupancy, such households shall occupy their respective unit within the Project as their  
20 principal residence (“Qualified Households”).

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

- 24 a. Satisfy the conditions precedent to distribution of HOME Loan funds set  
25 forth in **Section 11** below.
- 26 b. Develop the Project in accordance with the timeline set forth in **Exhibit A**.
- 27 c. Operate the Project in such a manner so that it will remain affordable to  
28 Qualified Households for the Affordability Period as defined in **Section 14**



1 below without regard to (i) the term of the promissory note or (ii) transfer  
2 of ownership.

3 d. Maintain the Project in compliance with applicable local, state, federal  
4 laws, codes and regulations as further described in **Section 17** below until  
5 the expiration of the Term of this Agreement set forth in **Section 6** below  
6 and the Affordability Period set forth in **Section 14** below.

7 e. Provide the COUNTY the Data Universal Number as assigned by the Data  
8 Universal Number System (DUNS) assigned to BORROWER as required  
9 by the Federal Funding Accountability and Transparency Act of 2006.

10 f. Cooperate with the Riverside County Work Force Development Center  
11 (WDC) and post all jobs created, if any, as a result of this Project with the  
12 WDC. Evidence of posted jobs, if any, shall be submitted to the COUNTY  
13 prior to start of construction.

14 3. RESERVED.

15 4. HOME LOAN. Subject to BORROWER's satisfaction of the conditions  
16 precedent to disbursement of the HOME Loan set forth in **Section 11** below, COUNTY shall  
17 provide financing to Borrower in the form of a loan in the amount of \$500,000 ("HOME Loan"),  
18 pursuant to the following terms and conditions:

19 a. Term of HOME Loan. The maturity date of the HOME Loan shall be  
20 the later to occur of (i) July 1, 2077 or (ii) fifty-five (55) years from the  
21 recordation of the Notice of Completion in the Official Records for the  
22 last building for which construction is completed for the Project (the  
23 "HOME Loan Term"). The term, "Official Records" used herein shall  
24 mean the Official Records of the Recorder's Office of the County of  
25 Riverside.

26 b. Principal. The total amount of the HOME Loan shall not exceed  
27 \$500,000, and shall be evidenced by a Promissory Note, substantially  
28 conforming in form and substance to the Promissory Note attached

1 hereto as **Exhibit C** and incorporated herein by this reference (“HOME  
2 Note”), which note shall be secured by a Deed of Trust and Assignment  
3 of Rents, substantially conforming in form and substance to the Deed  
4 of Trust and Assignment of Rents attached hereto as **Exhibit B** and  
5 incorporated herein by this reference (“HOME Deed of Trust”).

6 c. Interest. The interest rate shall be one percent (1%) simple interest per  
7 annum.

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

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

17 2. The HOME Note shall be repaid by BORROWER to COUNTY as  
18 follows:

19 i) Fifty percent (50%) of the Project’s Residual Receipts shall  
20 be used towards the payment of the Residual Receipts  
21 Loans . The payment of 50% of the Residual Receipts shall  
22 be allocated to the Residual Receipts Loans on a pro rata  
23 basis (i.e. allocated in proportion to its share of the total  
24 amount of Residual Receipts Loans), until the HOME Note  
25 is repaid in full; and

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

28 3. The Project’s Residual Receipts shall be determined based on

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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 1<sup>st</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> thereafter to the extent of available Residual Receipts until the earlier of full repayment of the HOME Loan or the HOME Loan maturity date as set forth above. The term "Project Residual Receipts" used herein shall mean the gross rental income from all residential and non-residential components of the Project, proceeds from loss of rent insurance, and any other income to the Developer derived from the ownership, operation and management of the Property, not including interest on required reserve accounts, less operating expenses consistent with the definition of such expenses in the BORROWER'S Amended and Restated Limited Partnership Agreement, dated as of [October \_\_], 2021, and approved by the COUNTY, including but not limited to the following operating expenses:

- a) auditing and accounting fees;



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- b) a reasonable property management fee not to exceed \$60 per unit per month, increased annually by an amount equal to the increase in the Consumer Price Index for Los Angeles-Riverside-Orange County, CA area (“CPI”), provided, however, that in the event of a decrease in the CPI, the property management fee shall remain the same as the immediate preceding year;
- c) Operating Expenses (any expense reasonably and normally incurred in carrying out the Project’s day-to-day activities, which shall include administration, on-site management, utilities, on-site staff payroll, payroll taxes, and maintenance);
- d) replacement reserves, established in a separate account from operating reserves, limited to \$500 per unit per year for all units in the Project, as defined in **Exhibit A**;
- e) Operating Reserves replenishment;
- f) deferred developer’s fee in the approximate amount of \$[1,459,518];
- g) a general partner asset management annual fees which shall be in the total initial amount of no more than \$25,000, increased by no more than 3% annually on a cumulative basis if not paid in prior years;
- h) an annual limited partner asset management fee not to exceed \$5,000, 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 COUNTY’s Director of Department of Housing, Homelessness

1 Prevention and Workforce Solutions (“Director HHPWS”)  
2 in his/her discretion;

- 3 i) payments of principal and interest on amortized loans and  
4 indebtedness senior to the HOME Loan, which have been  
5 approved by COUNTY (collectively, the “Senior Debt”);  
6 and  
7 j) COUNTY's Annual Monitoring Fee in the total annual  
8 amount of \$4,000 for the County HOME Loan as more  
9 specifically discussed in **Section 28**.

10 The calculation of operating expenses shall be subject to the reasonable approval  
11 of Director HHPWS or designee.

12 Except as set forth above, operating expenses shall not include repayment of  
13 advances to the Borrower from its limited partner(s), general partner(s), their affiliate(s) and/or  
14 third parties (including without limitation, any advances or reimbursements for any portion of the  
15 Deferred Developer’s Fee to pay any construction cost overruns) (collectively a “Partnership  
16 Loan”); provided, however, such Partnership Loan may be authorized by the Director HHPWS  
17 or designee, in his/her sole discretion, upon written request received by the County. In  
18 considering such Borrower request for approval of a Partnership Loan, Director HHPWS or  
19 designee, will consider the following: (i) whether such request was made pursuant to the terms of  
20 the Partnership Agreement , (ii) if a Project deficit exists and written evidence of such deficit is  
21 provided to the Director HHPWS or designee, (iii) Borrower has demonstrated to County, in  
22 writing, that the requested loan is the only available means of relieving such deficit, (iv) the  
23 Director HHPWS or designee, approves the loan terms, including, but not limited to the loan  
24 amount, interest rate, and maturity date. The Director HHPWS or designee, shall retain the right,  
25 in its discretion, to defer such approval to the County’s Board of Supervisors. Failure by the  
26 Director HHPWS or designee to respond to such request within 15 days of the County’s receipt  
27 of such written notice shall be deemed disapproval of such request.

28 4. Security. During the construction phase the HOME Deed of Trust

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and this Agreement shall be in a fourth priority lien position. Upon Conversion (defined below), the HOME Deed of Trust shall remain in a fourth priority lien position. Lien priority during construction shall be as follows: (1) first priority deed of trust for the benefit of Flagstar Bank, FSB ("Flagstar") securing a construction loan for the Project in an amount up to \$25,850,000 ("Flagstar Construction Senior Loan"); (2) second priority deed of trust for the benefit of the City of Palm Springs Loan ("City Loan") totaling \$2,640,000 (including a Housing Successor Fund Loan securing \$1,800,000 and City Land Loan securing \$840,000), respectively for a total loan in the approximate amount of \$27,640,000 (the Flagstar Construction Senior Loan, the City Loan, collectively hereafter, the "Senior Loans" and, collectively, "Senior Lien Holder"); (3) third priority deed of trust for the benefit of the County of Riverside securing the County HOME Loan up to \$500,000 ("County HOME Loan"); (4) fourth priority deed of trust for the benefit of CHOC securing a loan in the amount of \$6,186,400 (the "Sponsor State Tax Credit Loan"), (5) fifth priority deed of trust for the benefit of CHOC securing a loan in the amount of \$[1,225,417] (the Sponsor/GP Loan], and (6) a sixth priority deed of trust for the benefit of Column Financial, Inc., in the amount of \$1,000,000 (the "CFI Loan"). Lien priority upon Conversion shall be as follows: (1) first priority deed of trust for the benefit of California Community Reinvestment Corporation, NA ("CCRC") securing the project in an amount up to \$5,250,000 ("Permanent Senior Loan"), (2) second priority deed of trust for the benefit of the City Loan; (3) third priority deed of trust for the benefit of the County of Riverside securing the County HOME Loan; (4) fourth priority deed of trust



1 for the benefit of Community Housing Opportunities Corporation  
2 ("Sponsor") securing the Sponsor State Tax Credit Loan, and (5)  
3 fifth priority deed of trust for the benefit of CHOC securing the  
4 "Sponsor/GP Loan", and (6) a sixth priority deed of trust securing  
5 the CFI Loan. Borrower shall cause the Construction Senior Loan  
6 and Permanent Senior Loan or any other COUNTY approved  
7 senior lender to execute and record in the Official Records, a  
8 Subordination Agreement, substantially in a form and of substance  
9 approved by the COUNTY, which, among other things, grants the  
10 COUNTY notice and opportunity to cure events of default under  
11 the Senior Loan documents. The term "Conversion" used herein  
12 shall mean that certain date upon which (i) the Deed of Trust  
13 securing the Flagstar Construction Senior Loan is fully reconveyed,  
14 and (ii) the deed of trust securing the CCRC Permanent Senior  
15 Loan have been recorded in the Official Records and all other  
16 Loans funds have been disbursed to and received by Borrower.

17 a. Prepayment. Prepayment of principal and/or interest under the HOME  
18 Note may occur at any time without penalty; provided, however (i) the requirements of **Section**  
19 **17**, Compliance with Laws and Regulations, shall remain in full force and effect for the term of  
20 the Agreement specified in **Section 6** below; and (ii) the affordability requirements set forth in  
21 the Covenant Agreement, attached hereto as **Exhibit G**, shall remain in effect until the expiration  
22 of the Affordability Period.

23 5. PRIOR COUNTY APPROVAL.

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

1 HHPWS or designee.

2 b. Director HHPWS or designee shall have the right to make non-  
3 substantive changes to the attachments to this Agreement in order to ensure that all such  
4 attachments are consistent with the terms and provisions of this Agreement.

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

10 7. BORROWER’S REPRESENTATIONS. BORROWER represents and  
11 warrants to COUNTY as follows:

12 a. Authority. BORROWER is a duly organized limited partnership  
13 in good standing under the laws of the State of California. The  
14 copies of the documents evidencing the organization of  
15 BORROWER, which have been delivered to COUNTY, are true  
16 and complete copies of the originals, as amended to the date of this  
17 Agreement. BORROWER has full right, power and lawful  
18 authority to enter into this Agreement and accept the loan of HOME  
19 Loan funds and undertake all obligations as provided herein. The  
20 execution, performance and delivery of this Agreement by  
21 BORROWER have been fully authorized by all requisite actions  
22 on the part of BORROWER.

23 b. No Conflict. To the best of BORROWER’s knowledge,  
24 BORROWER’s execution, delivery and performance of its  
25 obligations under this Agreement will not constitute a default or a  
26 breach under contract, agreement or order to which BORROWER  
27 is a party or by which it is bound.

28 c. No Bankruptcy. BORROWER is not the subject of a bankruptcy

1 proceeding.

2 d. Prior to Closing. BORROWER shall upon learning of any fact or  
3 condition which would cause any of the warranties and  
4 representations in this **Section 7** not to be true as of Closing,  
5 immediately give written notice of such fact or condition to  
6 COUNTY. Such exception(s) to a representation shall not be  
7 deemed a breach by BORROWER hereunder, but shall constitute  
8 an exception which COUNTY shall have the right to approve or  
9 disapprove if such exception would have an effect on the value  
10 and/or operation of the Project Site.

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

15 9. FORCE MAJEURE DELAYS. “Force Majeure” means event(s) beyond  
16 the reasonable control of BORROWER, and which prevent(s) BORROWER from complying  
17 with any of its obligations under this Agreement, including, but not limited to: acts of God, acts  
18 of war, acts or threats of terrorism, civil disorders, strikes, labor disputes, pandemics such as  
19 COVID-19, flood, fire, explosion, earthquake or other similar acts.

20 “Force Majeure Delay” is delay due to Force Majeure that, in each case, (i)  
21 materially adversely affects the performance by BORROWER of its obligations hereunder, (ii)  
22 is beyond BORROWER's reasonable control, (iii) despite the exercise of reasonable diligence,  
23 cannot be prevented, avoided or removed by BORROWER and is not attributable to the  
24 negligence, willful misconduct or bad faith of BORROWER, and (iv) is not the result of the  
25 failure of BORROWER to perform any of its obligations under this Agreement.  
26 Notwithstanding the foregoing, a Force Majeure Delay shall not be deemed to have occurred  
27 unless BORROWER has notified COUNTY in writing of such occurrence of Force Majeure  
28 within fifteen (15) days after BORROWER's reasonable determination that such event has



1 occurred and has provided COUNTY with the details of such event and the length of the  
2 anticipated delay within an additional fifteen (15) days thereafter. BORROWER shall diligently  
3 attempt to remove, resolve, or otherwise eliminate such event, keep COUNTY advised with  
4 respect thereto, and shall commence performance of its obligations hereunder immediately upon  
5 such removal, resolution or elimination. During the occurrence and continuance of a Force  
6 Majeure Delay, BORROWER shall be excused from performance of its obligations under this  
7 Agreement to the extent the Force Majeure prevents BORROWER from performing such  
8 obligations.

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

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

- 27                   a.    BORROWER executes this Agreement and delivers to COUNTY  
28                           for recordation in the Official Records;

- 1                   b.     Borrower submits written evidence to COUNTY that Borrower has  
2                             obtained sufficient financing commitments necessary to undertake  
3                             the acquisition and rehabilitation of the project as required herein;  
4                   c.     BORROWER provides COUNTY with the Data Universal  
5                             Number as assigned by the Data Universal Number System  
6                             assigned to Borrower as required by the Federal Accountability and  
7                             Transparency Act of 2006;  
8                   d.     BORROWER provides COUNTY with evidence of insurance as  
9                             required herein;  
10                  e.     BORROWER executes the HOME Deed of Trust, substantially  
11                             conforming in form and substance to the Deed of Trust and  
12                             Assignment of Rents attached hereto as **Exhibit B**, in recordable  
13                             form, and delivers such document to the County of Riverside for  
14                             recordation in the Official Records;  
15                  f.     BORROWER executes the HOME Note, substantially conforming  
16                             in form and substance to the Promissory Note attached hereto as  
17                             **Exhibit C** and delivers to COUNTY;  
18                  g.     BORROWER executes the Covenant Agreement, substantially  
19                             conforming in form and substance to the Covenant Agreement  
20                             attached hereto as **Exhibit G** and incorporated herein by this  
21                             reference, in recordable form, and delivers to the County of  
22                             Riverside for recordation in the Official Records;  
23                  h.     COUNTY executes and records the Requests for Notice of Default  
24                             conforming in form and substance to **Exhibit H** attached hereto;  
25                  i.     BORROWER provides, at its expense, an ALTA lender's policy in  
26                             favor of COUNTY, insuring the HOME Deed of Trust as a third  
27                             priority lien against the Property junior only to the Senior Loans  
28                             identified in **Section 4(d)(4)**;

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



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- p. BORROWER consults and complies with concerned Native American tribes pursuant to Section 106 requirements;
- q. If Davis Bacon and/or prevailing wages are required to be paid, BORROWER hires a qualified professional firm to review and monitor Davis Bacon and/or prevailing wage compliance for all submissions of contractors certified payrolls to COUNTY. In the event that the Project requires prevailing wages, BORROWER shall comply with any applicable labor regulations and all other State laws in connection with the construction of the improvements which compromise the Project, including if applicable, requirements relating to prevailing wages. BORROWER agrees and acknowledges that it is the responsibility of BORROWER to obtain legal determination, at BORROWER's sole cost and expense, as to whether prevailing wages must be paid during the construction of the Project. If the Project is subject to prevailing wage, then BORROWER shall be solely responsible to pay its contractors and subcontractors the required prevailing wage rates. BORROWER agrees to indemnify, defend, and hold COUNTY harmless from and against any and all liability arising out of and related to BORROWER's failure to comply with any and all applicable Davis Bacon and/or prevailing wage requirements;
- r. Pursuant to 24 CFR, Part 5, BORROWER agrees to verify that BORROWER, and its principals, or any/all persons, contractors, consultants, businesses, etc. ("Developer Associates"), that BORROWER is conducting business with, are not presently debarred, proposed for debarment, suspended, declared ineligible, or voluntarily excluded from participation or from receiving federal contracts or federally approved subcontracts or from certain types

1 of federal financial and nonfinancial assistance and benefits with  
2 the Excluded Parties Listing System (“EPLS”). EPLS records are  
3 located at [www.sam.gov](http://www.sam.gov); and

4 s. BORROWER shall search and provide a single comprehensive list  
5 of Developer Associates (individuals and firms) and print and  
6 maintain evidence of the search results of each Developer  
7 Associate as verification of compliance with this requirement as  
8 provided in **Exhibit I**, Contractor Debarment Certification Form,  
9 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;
- 15 4) architect certification identifying units that are accessible to individuals  
16 with mobility impairments and units that are accessible to individuals  
17 with sensory impairments in compliance with Section 504 of the  
18 Rehabilitation Act of 1973, as described in **Section 17(i)**;
- 19 5) final Contract and Subcontract Activity report, Minority Business  
20 Enterprise/Women Business Enterprise (“MBE/WBE”) report, HUD  
21 form 2516;
- 22 6) submission of documentation that shows compliance with the Uniform  
23 Relocation Assistance and Real Property Acquisition Policies Act of  
24 1970 and 24 CFR Part 42;
- 25 7) submission of a Project completion report including Tenant Checklist as  
26 shown in **Exhibit F** which is attached hereto and by this reference  
27 incorporated herein;
- 28 8) Affirmative Fair Housing Marketing Plan – Multifamily Housing, HUD

1 form 935.2A, as described in **Section 17(c)**;

2 9) Tenant Selection Policy;

3 10) Management Plan;

4 11) Certified statement of final development costs; and

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

6 12. REALLOCATION OF FUNDS. If Borrower fails to meet (1) the  
7 Construction Start Deadline as set forth in **Section 48(a)**, (2) the Completion Deadline as set  
8 forth in **Section 48(b)**, (3) the Lease Deadline as set forth in **Section 19(b)**, or (4) the Project  
9 Financing Contingency in **Section 49**, all of which are herein (collectively, the "Performance  
10 Deadlines"), subject to the notice and cure periods set forth in **Section 31** herein, then the HOME  
11 Loan funds allocated, reserved, or placed in a HOME Investment Trust Fund account pursuant  
12 to this Agreement may be reallocated by COUNTY after at least thirty (30) days' prior written  
13 notice is given to BORROWER. Upon such reallocation and repayment of funds, this  
14 Agreement shall be terminated and be of no further force and effect and Borrower shall be  
15 released and discharged from any obligations under this Agreement, except as to those  
16 obligations which by their terms survive termination of this Agreement.

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

28 i. Up to fifty percent (50%) of the HOME Loan at the commencement of



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construction.

- ii. Up to ninety percent (90%) of the HOME Loan upon fifty-one percent (51%) completion of Project, as certified and documented by the project architect.
- iii. COUNTY shall release final draw down of ten percent (10%) of the HOME Loan following receipt of all the items listed in **Section 11**.

14. TERMS OF AFFORDABILITY. The COUNTY HOME-Assisted Units shall remain occupied and rented to Qualified Households for an affordable rent pursuant to **Sections 18 and 19** below, **Exhibit A** and the Covenant Agreement attached hereto as **Exhibit G** until the later of (i) fifty-five (55) years from the recordation of the Notice of Completion in the Official Records for the last building for which construction is completed for the Project, or (ii) July 1, 2077 (“Affordability Period”).

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

- a. **Builder’s All Risk (Course of Construction) Insurance**. BORROWER shall provide a policy of Builder’s All Risk (Course of Construction) insurance coverage including (if the work is located in an earthquake or flood zone or if required on financed or bond financing arrangements) coverage for earthquake and flood, covering the COUNTY, BORROWER and every subcontractor, of every tier, for the entire Project, including property to be used in the construction of the work while such property is at off-site storage locations or while in transit or temporary off-site storage. Such policy shall include, but not be limited to, coverage for fire, collapse, faulty workmanship, debris removal, expediting expense, fire department service charges, valuable papers and records, trees,

1 grass, shrubbery and plants. If scaffolding, false work and  
2 temporary buildings are insured separately by the BORROWER or  
3 others, evidence of such separate coverage shall be provided to  
4 County prior to the start of the work. Such policy shall be written  
5 on a completed value form. Such policy shall also provide  
6 coverage for temporary structures (on-site offices, etc.), fixtures,  
7 machinery and equipment being installed as part of the work.  
8 BORROWER shall be responsible for any and all deductibles  
9 under such policy. Upon request by COUNTY, BORROWER  
10 shall declare all terms, conditions, coverages and limits of such  
11 policy. If the County so provides, in its sole discretion, the All Risk  
12 (Course of Construction) insurance for the Project, then  
13 BORROWER shall assume the cost of any and all applicable policy  
14 deductibles (currently, \$50,000 per occurrence) and shall insure its  
15 own machinery, equipment, tools, etc. from any loss of any nature  
16 whatsoever.

17 b. Worker's Compensation Insurance.

18 If BORROWER has employees as defined by the State of  
19 California, BORROWER shall maintain statutory Workers'  
20 Compensation Insurance (Coverage A) as prescribed by the laws  
21 of the State of California. Policy shall include Employers' Liability  
22 (Coverage B) including Occupational Disease with limits not less  
23 than \$1,500,000 per person per accident. The policy shall be  
24 endorsed to waive subrogation in favor of The County of Riverside,  
25 and, if applicable, to provide a Borrowed Servant/Alternate  
26 Employer Endorsement.

27 c. Commercial General Liability Insurance.

28 Commercial General Liability insurance coverage, including but

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

13 d. Vehicle Liability Insurance.

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

27 e. General Insurance Provisions – All Lines.

28 1) Any insurance carrier providing insurance coverage



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

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

3) BORROWER shall cause BORROWER's insurance carrier(s) to furnish the County of Riverside with copies of the Certificate(s) of Insurance and Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by COUNTY Risk Manager, provide copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation,

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

15 4) It is understood and agreed to by the parties hereto that  
16 BORROWER's insurance shall be construed as primary insurance,  
17 and COUNTY's insurance and/or deductibles and/or self-insured  
18 retention's or self-insured programs shall not be construed as  
19 contributory.

20 5) If, during the term of this Agreement or any extension  
21 thereof, there is a material change in the scope of services; or, there  
22 is a material change in the equipment to be used in the performance  
23 of the scope of work which will add additional exposures (such as  
24 the use of aircraft, watercraft, cranes, etc.); or, the term of this  
25 Agreement, including any extensions thereof, exceeds five (5)  
26 years COUNTY reserves the right to adjust the types of insurance  
27 required under this Agreement and the monetary limits of liability  
28 for the insurance coverage's currently required herein, if; in

1 COUNTY Risk Manager's reasonable judgment, the amount or  
2 type of insurance carried by BORROWER has become inadequate.

3 6) BORROWER shall pass down the insurance obligations  
4 contained herein to all tiers of subcontractors working under this  
5 Agreement.

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

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

12 16. FINANCIAL AND PROJECT RECORDS. BORROWER shall maintain  
13 financial, programmatic, statistical, and other supporting records of its operations and financial  
14 activities in accordance with the requirements of the HOME Program, and the regulations as  
15 amended and promulgated thereunder, which records shall be open to inspection and audit by  
16 authorized representatives of COUNTY, HUD, and the Comptroller General of the United States  
17 during regular working hours. COUNTY, HUD, and the Comptroller General, or any of their  
18 representatives, have the right of access with at least forty-eight (48) hours prior notice, to any  
19 pertinent books, documents, papers, or other records of BORROWER, in order to make audits,  
20 examinations, excerpts, and transcripts. Said records shall be retained for such time as may be  
21 required by the regulations of the HOME Program, but in no event no less than five (5) years  
22 after the Project completion date as evidenced by recordation of the Notice of Completion;  
23 except that records of individual tenant income verifications, project rents, and project  
24 inspections must be retained for the most recent five (5) year period, until five (5) years after the  
25 Affordability Period terminates. If any litigation, claim, negotiation, audit, or other action has  
26 been started before the expiration of the regular period specified, the records must be retained  
27 until completion of the action and resolution of all issues which arise from it, or until the end of  
28 the regular period, whichever is later.



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

6           a.    HOME Program and its implementing regulations set forth in  
7                pursuant to Title III of Division B of the Housing and Economic  
8                Recovery Act of 2008, as amended, Public Law 110-289 (“Act”) and  
9                Federal Register Notice, Vol. 73, No. 194, Docket No. FR-  
10               5255-N-01, dated October 6, 2008, as amended. Since HOME is  
11               a component of the Community Development Block Grant  
12               (CDBG) Program, the CDBG regulatory structure is the platform  
13               used to implement HOME. The regulations created by the Office  
14               of the Assistant Secretary of Community Planning and  
15               Development that pertain to Community Development programs  
16               are contained within 24 CFR part 570 - Community Development  
17               Block Grants. HOME is governed by CDBG regulations except  
18               where specifically waived.

19           b.    Section 92.350 Other Federal requirements and nondiscrimination.  
20               As set forth in 24 CFR part 5, subpart A, BORROWER is required  
21               to include the following requirements: nondiscrimination and equal  
22               opportunity under Section 282 of the Act; disclosure; debarred,  
23               suspended, or ineligible contractors; and drug-free workplace.

24           c.    Section 92.351 Affirmative marketing and minority outreach  
25               program. BORROWER must adopt affirmative marketing  
26               procedures and requirements. These must include:

27               (1)    Methods for informing the public, owners, and potential  
28               tenants about Federal fair housing laws and the affirmative

1 marketing policy (e.g., the use of the Equal Housing  
2 Opportunity logotype or slogan in press releases and  
3 solicitations for owners, and written communication to fair  
4 housing and other groups).

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

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

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

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

22 (6) BORROWER must prescribe procedures to establish and  
23 oversee a minority outreach program to ensure the  
24 inclusion, to the maximum extent possible, of minorities  
25 and women, and entities owned by minorities and women,  
26 including, without limitation, real estate firms, construction  
27 firms, appraisal firms, management firms, financial  
28 institutions, investment banking firms, underwriters,

1 accountants, and providers of legal services, in all contracts  
2 entered into by BORROWER with such persons or entities,  
3 public and private, in order to facilitate the activities of  
4 COUNTY to provide affordable housing authorized under  
5 this Act or any other Federal housing law. Section 24 CFR  
6 85.36(e) provided affirmative steps to assure that minority  
7 business enterprises and women business enterprises are  
8 used when possible in the procurement of property and  
9 services. The steps include:

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



1 through (v) above of this section.

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

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

15 f. Section 92.354 Lead-based paint. Housing assisted with HOME  
16 funds is subject to the lead-based paint requirements of 24 CFR  
17 Part 35 issued pursuant to the Lead-Based Paint Poisoning  
18 Prevention Act (42 U.S.C. 4821, et seq.). The lead-based paint  
19 provisions of 24 CFR 982.401 (j), except 24 CFR 982.401 (j)(1)(i),  
20 also apply, irrespective of the applicable property standard under  
21 §92.251.

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

1 also be subject to the overtime provisions, as applicable, of the  
2 Contract Work Hours and Safety Standards Act (40 U.S.C. 327-  
3 332). BORROWER must apply most current wage rate  
4 determination at the date of execution of this Agreement.

5 h. Section 92.356 Conflict of Interest. In the procurement of property  
6 and services by BORROWER, the conflict of interest provisions in  
7 24 CFR 85.36 and 24 CFR 85.42, respectively shall apply. Section  
8 92.356 shall cover all cases not governed by 24 CFR 85.36 and 24  
9 CFR 84.42.

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

19 (1) 24 CFR Part 8.22 New construction—housing  
20 facilities. For new construction of multi-family  
21 projects, 5 percent (5%) of the units (but not less  
22 than one unit) must be accessible to individuals with  
23 mobility impairments ("Accessible Units"), and an  
24 additional 2 percent (2%) of the units (but not less  
25 than one unit) must be accessible to individuals with  
26 sensory impairments ("Sensory Accessible Units").  
27 In accordance with these requirements, the Project  
28 will include three (3) Accessible Units and two (2)

Sensory Accessible Units.

(2) 24 CFR Part 8.23 Alterations of existing housing facilities. If alterations are undertaken to a project that has 15 or more units and the cost of the alterations is 75 percent or more of the replacement cost of the completed facility, then the provisions of §8.22 shall apply. Alterations to dwelling units in a multifamily housing project shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with handicaps. If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the entire dwelling unit shall be made accessible. Once 5 percent (5%) of the dwelling units in a project are readily accessible to and usable by individuals with mobility impairments, then no additional elements of dwelling units, or entire dwelling units, are required to be accessible under this paragraph. Alterations to common areas or parts of facilities that affect accessibility of existing housing facilities shall, to the maximum extent feasible, be made to be accessible to and usable by individuals with handicaps. For purposes of this paragraph, the phrase to the maximum extent feasible shall not be interpreted as requiring that a recipient make a dwelling unit, common area, facility or element thereof accessible if doing so would impose undue

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1 financial and administrative burdens on the  
2 operation of the multifamily housing project.

3 j. Model Energy Code published by the Council of American  
4 Building Officials.

5 k. Section 3 of the Housing and Urban Development Act of 1968. To  
6 the greatest extent feasible, opportunities for training and  
7 employment arising from HOME funds will be provided to low-  
8 income persons residing in the program service area. To the  
9 greatest extent feasible, contracts for work to be performed in  
10 connection with HOME funds will be awarded to business  
11 concerns that are located in or owned by persons residing in the  
12 program service area as outlined in the County of Riverside Section  
13 3 Contract Requirements attached hereto as **Exhibit D**. Contracts  
14 funded from Section 3 covered funding sources must abide by the  
15 Section 3 Clause prescribed at 24 CFR 135.38. All contracts  
16 subject to the requirements of Section 3 must include the Section 3  
17 Clause verbatim that is contained at 24 CFR 135.38 attached hereto  
18 as **Exhibit D-2**, which is attached hereto and by this reference  
19 incorporated herein.

20 1. Section 106 of the National Historic Preservation Act of 1966  
21 (NHPA). Consultation with concerned Native American tribes  
22 must continue under HUD regulation 24 CFR Part 50 and 58, and  
23 Section 106 of the National Historic Preservation Act and its  
24 implementing regulations 36 CFR Part 800 for possible impacts on  
25 historic properties. Historic properties include archeological sites,  
26 burial grounds, sacred landscapes or features, ceremonial areas,  
27 traditional cultural places and landscapes, plant and animal  
28 communities, and buildings and structures with significant tribal

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association.

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

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

1. BORROWER does not assume COUNTY'S environmental responsibilities described at 24 CFR Part 92.352; and
2. BORROWER does not assume COUNTY's responsibility for initiating the review process under the provisions of 24 CFR Part 92.352

o. Uniform Administrative Requirements of 24 CFR 92.505 and 24 CFR Part 200 as now in effect and as may be amended from time to time. Federal awards expended as a recipient or a subrecipient, as defined by HUD, would be subject to single audit. The payments received for goods or services provided as a vendor would not be considered Federal awards.

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

q. Immigration requirements of Federal Register, Vol. 62, No. 221, Department of Justice Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV

1 of the Personal Responsibility and Work Opportunity  
2 Reconciliation Act of 1996 ("PRWORA"). Final Attorney  
3 General's Order issued pursuant to PRWORA is specified under  
4 Federal Register Vol. 66, No. 10, Department of Justice Final  
5 Specification of Community Programs Necessary for Protection of  
6 Life or Safety Under Welfare Reform Legislation.

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

9 18. INCOME TARGETING REQUIREMENTS. BORROWER shall set aside  
10 a total of eleven (11) HOME-Assisted Units in which eight (8) units will be restricted to  
11 households whose incomes do not exceed 60% of the area median income for the County of  
12 Riverside, adjusted by family size at the time of occupancy, and three (3) unit will be restricted  
13 to households whose incomes do not exceed 50% of the area median income ("Very Low  
14 Income") for the County of Riverside, adjusted by family size at the time of occupancy. HOME  
15 income limits are published by HUD.

16 19. RENT LIMITATIONS. BORROWER shall comply with the rent  
17 limitations set forth under 24 CFR 92.252 of the HOME Investment Partnerships ("HOME")  
18 program, which was enacted under Title II of the Cranston-Gonzalez National Affordable  
19 Housing Act (the "Act"), as amended (commencing at 42 U.S.C. 12701 et seq.), and the  
20 implementing regulations thereto (24 CFR Part 92) (collectively, the "HOME Program").  
21 Effective 2021, HUD published HOME Rent Limits for the County of Riverside. The Low  
22 HOME rent limit for a one-bedroom unit is \$740, two-bedroom unit is \$888, and three-bedroom  
23 unit is \$1027. The High HOME rent limit for a one-bedroom unit is \$943, two-bedroom unit is  
24 \$1134, and three-bedroom unit is \$1302. HOME rent limits are more specifically set forth in  
25 **Exhibit J** attached hereto and incorporated herein by this reference. In order to calculate net  
26 rent to be charged, an applicable utility allowance must be subtracted from the gross rents listed.

27 Eleven (11) HOME-Assisted Units consists of 5 one-bedroom units, 3 two-  
28 bedroom units, and 3 three-bedroom units. Eight (8) HOME-Assisted Units (4 one-bedroom unit,



1 2 two-bedroom unit, and 2 three-bedroom unit) shall be rented at High HOME rent levels as  
2 published by HUD. Three (3) HOME-Assisted Units (1 one-bedroom unit, 1 two-bedroom unit,  
3 and 1 three-bedroom unit) shall be rented at Low HOME rent levels as published by HUD.

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

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

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

25 b. Initial Occupancy of Vacant Units: All eleven (11) HOME-Assisted Units  
26 consisting of 5 one-bedroom units, 3 two-bedroom units and 3 three-bedrooms shall  
27 be occupied by and rented to Qualified Households for an affordable rent within six  
28 (6) months from the recordation of the Notice of Completion in the Official Records



1 (“Lease Deadline”) for the last building constructed as part of the Project. If a COUNTY HOME-  
2 Assisted Unit remains unoccupied or not leased to an eligible tenant, BORROWER must provide  
3 to COUNTY information about current marketing efforts and an enhanced plan for marketing  
4 the unit so that it is leased promptly.

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

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

24           c.       Approval: The BORROWER shall submit to the COUNTY for  
25 review and written approval, all proposed rents for the HOME-Assisted Units prior to lease-up.  
26 If during the re-certification process a household income falls between 51% and 60% Area  
27 Median Income then the High HOME rent limit shall apply. If during the recertification process  
28 a household income falls above 80% of the Area Median Income then household shall pay the

1 lesser of 30% of the adjusted income or Market rent.

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

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

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

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

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

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



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- (4) Waiver of notice. Agreement of the tenant that BORROWER may institute a lawsuit without notice to the tenant.
- (5) Waiver of legal proceeding. Agreement by the tenant that the BORROWER 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 BORROWER 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.

21. 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 tenant's status as a victim of domestic violence, dating violence, or stalking, and requires landlords to maintain survivor-tenant confidentiality. VAWA 2013 prohibits a tenant who is a

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

25           22.     SALE, ASSIGNMENT OR OTHER TRANSFER OF THE PROJECT.

26 BORROWER hereby covenants and agrees not to sell, assign, transfer or otherwise dispose of  
27 the Project or any portion thereof, without obtaining the prior written consent of the COUNTY,  
28 which consent shall be conditioned upon receipt by the COUNTY of reasonable evidence

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



1 specified Person serves in a similar capacity; or (C) is the beneficial owner, directly or indirectly,  
2 of 10% or more of any class of equity securities of the specified Person or of which the specified  
3 Person is directly or indirectly the owner of 10% or more of any class of equity securities. The  
4 term "control" (including the term "controlled by" and "under common control with") means the  
5 possession, direct or indirect, of the power to direct or cause the direction of the management  
6 and policies of a Person, whether through the ownership of voting securities, by contract or  
7 otherwise.

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

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

1 Code Sections 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended,  
2 and all Administrative Rules and Regulations issued pursuant to said Acts and Orders with  
3 respect to its use of the Property.

4 BORROWER 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 BORROWER, its successors and assigns, shall refrain from restricting the rental, sale, or  
15 lease 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 or her heirs,  
21 executors, administrators, and assigns, and all persons claiming under or through them, that  
22 there shall be no discrimination against or segregation of, any person or group of persons  
23 on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government  
24 Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and  
25 paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government  
26 Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the  
27 premises herein conveyed, nor shall the grantee or any person claiming under or through  
28 him or her, establish or permit any practice or practices of discrimination or segregation

1 with reference to the selection, location, number, use or occupancy of tenants, lessees,  
2 subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing  
3 covenants shall run with the land.”

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

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

25 In addition to the obligations and duties of BORROWER set forth herein, BORROWER  
26 shall, upon notice from County, promptly pay to County all fees and costs, including administrative  
27 and reasonable attorneys’ fees, incurred by County in connection with responding to or defending  
28 any discrimination claim brought by any third party and/or local, state or federal government



1 entity, arising out of or in connection with this Agreement or the Covenant Agreement attached  
2 hereto.

3 25. PROHIBITION AGAINST CONFLICTS OF INTEREST:

- 4 a. BORROWER and its assigns, employees, agents, consultants, officers  
5 and elected and appointed officials shall become familiar with and shall  
6 comply with the conflict of interest provisions in OMB Circular A-110,  
7 24 CFR 85.36, 24 CFR 84.42, 24 CFR 92.356 and Policy Manual #A-  
8 11, attached hereto as **Exhibit E** and by this reference incorporated  
9 herein.
- 10 b. BORROWER understands and agrees that no waiver or exception can  
11 be granted to the prohibition against conflict of interest except upon  
12 written approval of HUD pursuant to 24 CFR 92.356(d). Any request  
13 by BORROWER for an exception shall first be reviewed by COUNTY  
14 to determine whether such request is appropriate for submission to  
15 HUD. In determining whether such request is appropriate for  
16 submission to HUD, COUNTY will consider the factors listed in 24  
17 CFR 92.356(e).
- 18 c. Prior to any funding under this Agreement, BORROWER shall provide  
19 COUNTY with a list of all employees, agents, consultants, officers and  
20 elected and appointed officials who are in a position to participate in a  
21 decision-making process, exercise any functions or responsibilities, or  
22 gain inside information with respect to the HOME activities funded  
23 under this Agreement. BORROWER shall also promptly disclose to  
24 COUNTY any potential conflict, including even the appearance of  
25 conflict that may arise with respect to the HOME activities funded  
26 under this Agreement.
- 27 d. Any violation of this section shall be deemed a material breach of this  
28 Agreement, and the Agreement shall be immediately terminated by

1 COUNTY.

2 26. RELIGIOUS ACTIVITIES. BORROWER shall adhere to the regulations  
3 set forth in 24 CFR Section 92.257 and 24 CFR Section 5.109. .

4 27. 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 28. MONITORING FEE. BORROWER shall pay an annual compliance  
20 monitoring fee to the COUNTY in the total annual amount of \$5,900 ("Monitoring Fee"). The  
21 Monitoring Fee payment is due on July 1<sup>st</sup> of each year for the monitoring period of July 1<sup>st</sup> to  
22 June 30<sup>th</sup> commencing July 1, 2022 and will continue until the expiration of the Affordability  
23 Period. The Monitoring Fee is to be adjusted upwards annually, increased by an amount equal  
24 to the increase in CPI for the Los Angeles-Riverside-Orange County, CA area. In the event of a  
25 decrease in the applicable CPI, the Monitoring Fee currently in effect shall remain the same and  
26 shall not decrease.

27 29. ACCESS TO PROJECT SITE. COUNTY and HUD shall have the right  
28 to access the Project site and the Property at all reasonable times and in accordance with the



1 rights of tenants in possession, and upon completion of the Project upon reasonable written  
2 notice to BORROWER, to review the operation of the Project in accordance with this  
3 Agreement.

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

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

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

24 c. General Performance of Loan Obligations. Any substantial or  
25 continuous or repeated breach, which continues beyond any applicable cure period, by  
26 BORROWER or BORROWER's agents of any material obligations of BORROWER under this  
27 Agreement;

28 d. General Performance of Other Obligations. Any substantial or

1 continuous or repeated breach by BORROWER or BORROWER's agents of any material  
2 obligations of BORROWER related to the Project imposed by any other agreement with respect  
3 to the financing, development, or operation of the Project; whether or not COUNTY is a party  
4 to such agreement; but only following any applicable notice and cure periods with respect to any  
5 such obligation;

6 e. Representations and Warranties. A determination by COUNTY  
7 that any of BORROWER's representations or warranties made in this Agreement, any statements  
8 made to COUNTY by BORROWER, or any certificates, documents, or schedules supplied to  
9 COUNTY by BORROWER were false in any material respect when made, or that BORROWER  
10 concealed or failed to disclose a material fact to COUNTY.

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

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

24 31. NOTICE OF DEFAULT AND OPPORTUNITY TO CURE. Formal  
25 notices, demands and communications between the COUNTY and the BORROWER shall be  
26 sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt  
27 requested, to the principal offices of the COUNTY and the BORROWER, as designated below.  
28 Such written notices, demands and communications may be sent in the same manner to such

1 other addresses as either party may from time to time designate by mail as provided in this  
2 **Section 31.** Any notice that is transmitted by electronic facsimile transmission followed by  
3 delivery of a “hard” copy, shall be deemed delivered upon its transmission; any notice that is  
4 personally delivered (including by means of professional messenger service, courier service  
5 such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed  
6 received on the documented date of receipt by the recipient; and any notice that is sent by  
7 registered or certified mail, postage prepaid, return receipt required shall be deemed received  
8 on the date of delivery thereof.

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

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

22 c. If a monetary event of default occurs, prior to exercising any remedies  
23 hereunder, COUNTY shall give BORROWER written notice of such default. BORROWER  
24 shall have a period of fifteen (15) days after such notice is given within which to cure the default  
25 prior to exercise of remedies by COUNTY.

26 d. If a non-monetary event of default occurs, prior to exercising any remedies  
27 hereunder, COUNTY shall give BORROWER written notice of such default. If the default is  
28 reasonably capable of being cured within thirty (30) days, BORROWER shall have such period



1 to effect a cure prior to exercise of remedies by COUNTY. If the default is such that it is not  
2 reasonably capable of being cured within thirty (30) days, and BORROWER (i) initiates  
3 corrective action within said period, and (ii) diligently, continually, and in good faith works to  
4 effect a cure as soon as possible, then BORROWER shall have such additional time as is  
5 reasonably necessary to cure the default prior to exercise of any remedies by the injured party,  
6 but in no event no more than sixty (60) days from the date of the notice of default unless  
7 otherwise authorized by COUNTY. In no event shall COUNTY be precluded from exercising  
8 remedies if its security becomes or is about to become materially jeopardized by any failure to  
9 cure a default or the default is not cured within sixty (60) days after the first notice of default is  
10 given.

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

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

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

23 b. Bring an action in equitable relief (1) seeking the specific  
24 performance by BORROWER of the terms and conditions of this  
25 Agreement, and/or (2) enjoining, abating, or preventing any  
26 violation of said terms and conditions, and/or (3) seeking  
27 declaratory relief.

28 c. Accelerate the HOME Loan and demand immediate full payment of

1 the principal payment outstanding and all accrued interest under the  
2 HOME Note, as well as any other monies advanced to  
3 BORROWER by COUNTY under this Agreement.

4 d. Enter the Project and take any remedial actions necessary in its  
5 judgment with respect to hazardous materials that COUNTY deems  
6 necessary to comply with hazardous materials laws or to render the  
7 Project suitable for occupancy, which costs shall be due and payable  
8 by BORROWER to COUNTY.

9 e. Enter upon, take possession of, and manage the Project, either in  
10 person, by agent, or by a receiver appointed by a court, and collect  
11 rents and other amounts specified in the assignment of rents in the  
12 Deed of Trust and apply them to operate the Project or to pay off the  
13 HOME Loan or any advances made under this Agreement, as  
14 provided for by the HOME Deed of Trust.

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

16 33. RESERVED.

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

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

1           a.       No federally appropriated funds have been paid or will be paid, by  
2 or on behalf of the undersigned, to any person for influencing or attempting to influence an  
3 officer or employee of any agency, a member of Congress, an officer or employee of Congress,  
4 or an employee of a member of Congress in connection with the awarding of any federal contract,  
5 the making of any federal grant, the making of any federal loan, the entering into of any  
6 cooperative agreement, and the extension, continuation, review, amendment, or modification of  
7 any federal contract, grant, loan, or cooperative agreement.

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

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

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



1 limited, to attorney fees, cost of investigation, defense and settlements or awards, the County of  
2 Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors,  
3 officers, Board of Supervisors, elected and appointed officials, employees, agents and  
4 representatives in any claim or action based upon such alleged acts or omissions. BORROWER's  
5 obligations under this Section 36 shall not apply to the extent that such liability is caused by the  
6 negligence or misconduct of the Indemnified Parties.

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

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

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

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

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

24 37. TERMINATION.

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

28 b. COUNTY. Notwithstanding the provisions of **Section 37(a)**, COUNTY

1 may suspend or terminate this Agreement upon written notice to BORROWER of the action being  
2 taken and the reason for such action in the event one of the following events occur:

- 3 1. In the event BORROWER fails to perform the covenants herein  
4 contained at such times and in such manner as provided in this  
5 Agreement after the applicable notice and cure provision hereof;  
6 or
- 7 2. In the event there is a conflict with any federal, state or local  
8 law, ordinance, regulation or rule rendering any material  
9 provision, in the judgment of COUNTY of this Agreement  
10 invalid or untenable; or
- 11 3. In the event the HOME funding from HUD identified in **Section**  
12 **1** above is terminated or otherwise becomes unavailable.

13 c. This Agreement may be terminated or funding suspended in whole or in  
14 part for cause. Cause shall be based on the failure of BORROWER to materially comply with  
15 either the terms or conditions of this Agreement after the expiration of all applicable notice and  
16 cure provisions hereof. Upon suspension of funding, BORROWER agrees not to incur any costs  
17 related thereto, or connected with, any area of conflict from which COUNTY has determined that  
18 suspension of funds is necessary.

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

23 38. AFFORDABILITY RESTRICTIONS. COUNTY and BORROWER, on  
24 behalf of its successors and assigns, hereby declare their express intent that the restrictions set  
25 forth in this Agreement shall continue in full force and effect for the duration of the Affordability  
26 Period (as defined in **Section 14** above). Each and every contract, deed or other instrument  
27 hereafter executed covering and conveying the Property or any portion thereof shall be held  
28 conclusively to have been executed, delivered and accepted subject to such restrictions, regardless

1 of whether such restrictions are set forth in such contract, deed or other instrument. Borrower  
2 shall execute and record as a lien against the Property, a Covenant Agreement, substantially  
3 conforming in form and substance to the Covenant Agreement attached hereto as **Exhibit G** and  
4 incorporated herein by this reference, setting forth the affordability use and income restriction  
5 required in this Agreement.

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

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

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

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

26           43.    INTERPRETATION AND GOVERNING LAW. This Agreement and any  
27 dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the  
28 State of California. This Agreement shall be construed as a whole according to its fair language



1 and common meaning to achieve the objectives and purposes of the parties hereto, and the rule  
2 of construction to the effect that ambiguities are to be resolved against the drafting party shall not  
3 be employed in interpreting this Agreement, all parties having been represented by counsel in the  
4 negotiation and preparation hereof.

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

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

13 46. MINISTERIAL ACTS. COUNTY's Director HHPWS or designee is  
14 authorized to take such ministerial actions as may be necessary or appropriate to implement the  
15 terms, provisions, and conditions of this Agreement as it may be amended from time to time by  
16 both parties.

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

27 48. CONDITIONAL COMMITMENT.

28 a. Construction. Pursuant to 24 CFR 92.2, under the definition of

1 Commitment, all necessary financing has been secured, a budget and schedule have been  
2 established, and underwriting has been completed and under which construction is scheduled to  
3 start within the earlier of six (6) months from the Effective Date of this Agreement, or such date  
4 as may be required by TCAC ("Construction Start Deadline"). If BORROWER cannot start  
5 construction or provide evidence such as construction permits within four (4) months of the  
6 Effective Date, then COUNTY and BORROWER mutually agree that this Agreement will self-  
7 terminate and any HOME Loan funds drawn to date shall be returned within thirty (30) calendar  
8 days. Upon such termination, this Agreement shall become null and void. COUNTY and  
9 BORROWER shall be released and discharged respectively from its obligations  
10 under this Agreement, except for those provisions which by their terms survive  
11 termination. All cost incurred by each party on the Project will be assumed  
12 respectively.



13                   b. Completion. The Project must be completed and a Notice of  
14 Completion shall have been recorded in the Official Records no later than two (2) years from the  
15 Effective Date of this Agreement (the "Completion Deadline"). BORROWER may request a one  
16 year extension of the Completion Deadline from COUNTY ("Extension"), which may be granted  
17 in COUNTY's sole and absolute discretion, if the BORROWER can provide proof that the  
18 circumstances that led to the failure to complete the Project by the Completion Deadline were  
19 beyond the BORROWER's control. Extension is subject to COUNTY's approval and not  
20 guaranteed. The Director HHPWS or designee, has the authority, at his or her discretion, to  
21 consent to such Extension. If BORROWER is unable to meet the condition as required by this  
22 **Section 48** including Extension, then COUNTY and BORROWER mutually agree that this  
23 Agreement will self-terminate and any HOME Loan funds disbursed to BORROWER to date  
24 shall be returned to COUNTY within thirty (30) calendar days of such termination. Upon such  
25 termination, this Agreement shall become null and void. COUNTY and BORROWER shall be  
26 released and discharged respectively from their obligations under this Agreement,  
27 except for those provisions which by their terms survive termination. All costs  
28 incurred by each party on the Project will be assumed respectively.



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

3 49. PROJECT FINANCING CONTINGENCY. This Agreement is expressly  
4 conditioned upon BORROWER's delivery to COUNTY, on or prior to **October 25, 2021** of (i)  
5 written documentation of such binding loan commitments required to fully finance the  
6 development and construction of the Project (less the HOME Loan), on terms and conditions  
7 acceptable to BORROWER and COUNTY, including, but not limited any conventional  
8 construction and/or permanent financing, including without limitation, a construction and  
9 permanent loan from an institutional construction lender. Either COUNTY or BORROWER may  
10 elect to terminate this Agreement with ten (10) days prior written notice to the other party if  
11 BORROWER fails to acquire the project financing as required by this **Section 49**. Upon such  
12 termination, this Agreement shall be null and void, and:

13 a. If BORROWER elects to terminate this Agreement,  
14 BORROWER shall be released and discharged by COUNTY  
15 from its obligations under this Agreement; or

16 b. If COUNTY elects to terminate this Agreement, COUNTY shall  
17 be released and discharged by BORROWER from its obligations  
18 under this Agreement.

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

22 50. RESERVED.

23 51. EXHIBITS AND ATTACHMENTS. Each of the attachments and exhibits  
24 attached hereto is incorporated herein by this reference.

25 52. MEDIA RELEASES. BORROWER agrees to allow COUNTY to provide  
26 input regarding all media releases regarding the Project. Any publicity generated by  
27 BORROWER for the Project must make reference to the contribution of COUNTY in making the  
28 Project possible. COUNTY's name shall be prominently displayed in all pieces of publicity



1 generated by BORROWER, including flyers, press releases, posters, signs, brochures, and public  
2 service announcements. BORROWER agrees to cooperate with COUNTY in any COUNTY-  
3 generated publicity or promotional activities with respect to the Project.

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

9 COUNTY

10 Director HHPWS  
11 County of Riverside  
12 3403 Tenth Street, Suite # 300  
13 Riverside, CA 92501

BORROWER

14 Monarch PS LP  
15 c/o Community Housing Opportunities Corporation  
16 5030 Business Center Drive, Suite 260  
17 Fairfield, CA 94534

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

20 NEF Assignment Corporation, as nominee  
21 10 South Riverside Plaza, Suite 1700  
22 Chicago, IL 60606  
23 Attn: General Counsel

24 With a copy to:

25 Barnes & Thornburg LLP  
26 41 South High Street, Suite 3300  
27 Columbus, OH 43215  
28 Attn: Jordan Carr

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

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

56. FURTHER ASSURANCES. BORROWER shall execute any further

1 documents consistent with the terms of this Agreement, including documents in recordable form,  
2 as the COUNTY may from time to time find necessary or appropriate to effectuate its purposes  
3 in entering into this Agreement.

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

9           58. CONSTRUCTION AND INTERPRETATION OF AGREEMENT.

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

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

28           c. The captions of the articles, sections, and subsections herein are

1 inserted solely for convenience and under no circumstances are they or any of them to be treated  
2 or construed as part of this instrument.

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

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

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

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

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

23 62. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS.

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

28 b. This Agreement integrates all of the terms and conditions mentioned herein



1 or incidental hereto, and supersedes all negotiations or previous agreements between the parties  
2 with respect to all or any part of the Property.

3 c. All waivers of the provisions of this Agreement must be in writing and  
4 signed by the appropriate authorities of the COUNTY or the BORROWER, and all amendments  
5 hereto must be in writing and signed by the appropriate authorities of the COUNTY and the  
6 BORROWER. This Agreement and any provisions hereof may be amended by mutual written  
7 agreement by the BORROWER and the COUNTY.

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11 (SIGNATURES ON THE NEXT PAGE)

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IN WITNESS WHEREOF, COUNTY and BORROWER have executed this

Agreement as of the dates written below.

COUNTY:

BORROWER:

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

MONARCH PS LP,  
a California limited partnership

By: SCHOC I LLC  
a California limited liability company  
Its: General Partner

By: Community Housing Opportunities  
Corporation, a California nonprofit public  
benefit corporation, its sole member and  
manager

By: \_\_\_\_\_  
Heidi Marshall, Director HHPWS


By: \_\_\_\_\_  
Manuela Silva, Chief Executive Officer

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

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

(Above signatures need to be notarized)

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

By:   
Amrit P. Dhillon, Deputy County Counsel

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

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 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.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public



**EXHIBIT "A"**

**Borrower:** Monarch PS LP  
**Address:** 5030 Business Center Drive, Suite 260, Fairfield CA 94534  
**Project Title:** Monarch Apartment Homes  
**Location:** 3130 N Indian Canyon Dr., in the City of Palm Springs in the County of Riverside, also identified as APN 501-031-028

**Project Description:**

BORROWER proposes to utilize \$500,000 in HOME funds to pay a portion of the costs to develop and construct a multi-family affordable rental housing project consisting of sixty (60) affordable rental housing units including one (1) residential manager's unit on an approximately 3.62 acres of vacant land situated on the southeast corner of N Indian Canyon Drive at E San Rafeal Dr., in the City of Palm Springs in the County of Riverside ("Property").

BORROWER shall set aside a total of eleven (11) HOME-Assisted Units consisting of 5 one-bedroom units, 3 two-bedroom units, and 3 three-bedroom units.

Eight (8) HOME-Assisted Units (4 one-bedroom units, 2 two-bedroom units, and 2 three-bedroom units) shall be rented at High HOME rent levels as published by HUD. The units will be restricted to households whose incomes do not exceed 60% of the area median income for the County of Riverside, adjusted by family size at the time of occupancy.

Three (3) HOME-Assisted Units (1 one-bedroom unit, 1 two-bedroom unit, and 1 three-bedroom unit) shall be rented at Low HOME rent levels as published by HUD. The units will be restricted to households whose incomes do not exceed 50% of the area median income ("Very Low Income") for the County of Riverside, adjusted by family size at the time of occupancy.

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

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

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

## IMPLEMENTATION SCHEDULE

Milestone	Completion Date
1. Financing Commitment	[October 1], 2021
2. Construction Start Deadline	[October 28, 2021]
3. Completion Deadline	[December 31, 2023]
4. Lease Deadline 6 months from Notice of Completion	
5. Submission of Final project costs and Sources and Uses of Funds	[April 1, 2024]
6. Submission of income & ethnic characteristics report	[July 1, 2024]

### LEGAL DESCRIPTION OF PROPERTY

The land referred to is situated in the County of Riverside, City of Palm Springs, State of California, and is described as follows:

The Westerly 275.00 Feet of that portion of the North Half of the Northwest Quarter of the Northwest Quarter Section 2, Township 4 South, Range 4 East, San Bernardino Base and Meridian, according to the official plat thereof, lying Easterly of Indian Avenue, shown as Lot A on Map of Tract No. 2085, as shown by Map on File in Book 41 Page 50 of Maps, Records of Riverside County, California, lying Northerly of Simms Road, shown as Lot B on said Map of Tract No. 2085 and lying Southerly of San Rafael Road, shown as Lot G on said Map of Tract No. 2085.

APN: 501-031-028



**Permanent Sources and Uses of Funds:**

Sources:

Perm Loan	\$5,252,000
City Housing Successor Funds	\$1,800,000
City Land Loan	\$840,000
County of Riverside HOME Loan	\$500,000
GP Sponsor Loan (Certificated State Credits)	\$6,186,400
Deferred Developer Fee	\$1,480,428
GP Equity	\$528,300
Construction Loan - Tax Exempt	\$15,176,717
Construction Loan - Taxable	\$5,487,571
Limited Partner Tax Credit Equity	\$13,183,502
<b>Total:</b>	<b>\$50,437,292</b>

Uses:

Site Improvement (off site)	\$826,337
New construction (includes site work and GC's costs)	\$16,568,923
Contractor's Overhead & Profit & Gen'l Req.	\$2,540,130
Construction Contingency (Hard and Soft)	\$1,197,250
Architectural & Engineering Cost	\$1,621,805
Construction Interest & Fees	\$1,686,470
Reserves	\$329,032
Land Development Impact and Permit Processing Fees	\$200,000
Other Fees, Marketing & Furnishings	\$185,000
TCAC/CDLAC Fees	\$40,357
Accounting and Legal Fees	\$170,000
Developer's fee	\$3,565,700
Land & Acquisition Cost	\$845,000
Repayment of Construction Loan	\$20,664,288
<b>Total:</b>	<b>\$50,437,292</b>

**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 30th &amp; March 31st</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 and  
Workforce Solutions  
5555 Arlington Avenue  
Riverside, CA 92504  
Attn. Mervyn Manalo

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**LEASEHOLD DEED OF TRUST, SECURITY  
AGREEMENT AND FIXTURE FILING**

(WITH ASSIGNMENT OF RENTS)

This LEASEHOLD DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING (WITH ASSIGNMENT OF RENTS) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by Monarch PS LP, a California limited partnership, (hereinafter referred to as "Trustor"), whose address is c/o CHOC, 5030 Business Center Drive, Suite 260, Fairfield, CA 94534 . The trustee is First American Title Company ("Trustee"). The beneficiary is the County of Riverside, a political subdivision of the State of California, (hereinafter called "Beneficiary"), whose address is 3403 Tenth Street, Suite # 300, Riverside, CA 92501.

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

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

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

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

(E) all present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California

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

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

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

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



- i. due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained herein or contained in the following:
  - (a) that certain Promissory Note in favor of the Beneficiary ("County" therein) executed by Trustor ("Borrower" therein) of even date herewith (the "Note") in the principal amount of \$500,000.
  - (b) that certain Loan Agreement for the Use of HOME Program Funds dated \_\_\_\_\_, 2021 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 \_\_\_\_\_, 2021 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 FIVE HUNDRED THOUSAND 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 leasehold 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 lien priority shall be: (1) first priority deed of trust for the benefit of Flagstar Bank, FSB ("Flagstar") securing a construction loan for the Project in an amount up to \$25,850,000 ("Flagstar Construction Senior Loan"); (2) second priority deed of trust for the benefit of the City of Palm Springs Loan ("City Loan") totaling \$2,640,000 (including a Housing Successor Fund Loan securing \$1,800,000 and City Land Loan securing \$840,000), respectively for a total loan in the approximate amount of \$27,640,000 (the Flagstar Construction Senior Loan, the City Loan, collectively hereafter, the "Senior Loans" and, collectively, "Senior Lien Holder"); (3) third priority deed of trust for the benefit of the County of Riverside securing the County HOME Loan up to \$500,000 ("County HOME Loan"); (4) fourth priority deed of trust for the benefit of CHOC securing a loan in the amount of \$6,186,400 (the "Sponsor State Tax Credit Loan"), (5) fifth priority deed of trust for the benefit of CHOC securing a loan in the amount of \$[1,225,417] (the Sponsor/GP Loan), and (6) a sixth priority deed of trust for the benefit of Column Financial, Inc., in the amount of \$1,000,000 (the "CFI Loan"). Lien priority upon Conversion shall be as follows: (1) first priority deed of trust for the benefit of California Community Reinvestment Corporation, NA ("CCRC") securing the project in an amount up to \$5,250,000 ("Permanent Senior Loan"), (2) second priority deed of trust for the benefit of the City Loan; (3) third priority deed of trust for the benefit of the County of Riverside securing the County HOME Loan; (4) fourth priority deed of trust for the benefit of Community Housing Opportunities Corporation ("Sponsor") securing the Sponsor State Tax Credit Loan, and (5) fifth priority deed of trust for the benefit of CHOC securing the "Sponsor/GP Loan", and (6) a sixth priority deed of trust securing the CFI Loan. Borrower shall cause the Construction Senior Loan and Permanent Senior Loan 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 approved by the COUNTY, 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 Flagstar Construction Senior Loan is fully reconveyed, and (ii) the deed of trust securing the CCRC Permanent Senior Loan have been recorded in the Official Records and all other Loans funds have been disbursed to 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 any Senior Lienholder, 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 accordance with lien priority. 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 following the repair and/or restoration of the project, 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 at least 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 residential rental units; (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, which consent shall not be unreasonably conditioned, delayed, or withheld.

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 be twenty (20) calendar days from the date of the mailing of the notice for a monetary default, or a date, which shall be 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, if allowed by applicable law. 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 increases the amount due or extends the maturity date for payment of sums secured under 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 an affiliate of the investor limited partner of Borrower or is otherwise 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:

Monarch PS LP,  
a California limited partnership

By: SCHOC I LLC  
a California limited liability company  
Its: General Partner

By: Community Housing Opportunities  
Corporation, a California nonprofit public  
benefit corporation, its sole member and  
manager

By: \_\_\_\_\_  
Manuela Silva, Chief Executive  
Officer

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

**(Signature needs to be notarized)**

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

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 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.

Notary Public

\_\_\_\_\_  
Name: \_\_\_\_\_



**EXHIBIT "A"**

LEGAL DESCRIPTION OF PROPERTY

The land referred to is situated in the County of Riverside, City of Palm Springs, State of California, and is described as follows:

The Westerly 275.00 Feet of that portion of the North Half of the Northwest Quarter of the Northwest Quarter Section 2, Township 4 South, Range 4 East, San Bernardino Base and Meridian, according to the official plat thereof, lying Easterly of Indian Avenue, shown as Lot A on Map of Tract No. 2085, as shown by Map on File in Book 41 Page 50 of Maps, Records of Riverside County, California, lying Northerly of Simms Road, shown as Lot B on said Map of Tract No. 2085 and lying Southerly of San Rafael Road, shown as Lot G on said Map of Tract No. 2085.

APN: 501-031-028

**EXHIBIT "C"**

**PROMISSORY NOTE (HOME Loan)**

**\$500,000**

**Riverside, CA**

In installments as hereafter stated, for value received, Monarch PS LP, 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 Five Hundred Thousand and No/100 Dollars (U.S. \$500,000.00) (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 \_\_\_\_\_, 2021 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 Leasehold Deed of Trust, Security Agreement and Fixture Filing (with Assignment of Rents) executed by Borrower for the benefit of the County dated \_\_\_\_\_, 2021 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 one percent (1%) 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, which includes the HOME Loan ("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.

- (5) The Project's Residual Receipts shall be determined based on an annual review of certified financial statements for the Project. Annual audited financial statements shall be submitted by BORROWER to COUNTY within one hundred twenty (120) days following the close of the Project fiscal year commencing on April 1st of the first full calendar year following the recordation of the Notice of Completion. All outstanding principal along with accrued interest shall be due upon the maturity date of the HOME Note and the expiration of the HOME Loan Term as set forth in Section 4(a). The first payment from BORROWER to COUNTY shall be due on July 1st in the first full calendar year following the date of the recordation of the Notice of Completion, to the extent of available Residual Receipts, as set forth herein. Subsequent payments shall be made on July 1st thereafter to the extent of available Residual Receipts until the earlier of full repayment of the HOME Loan or the HOME Loan maturity date as set forth above. The term "Project Residual Receipts" used herein shall mean the gross rental income from all residential and non-residential components of the Project, proceeds from loss of rent insurance, and any other income to the Developer derived from the ownership, operation and management of the Property, not including interest on required reserve accounts, including but not limited to the following operating expenses:
- a) auditing and accounting fees;
  - b) a reasonable property management fee not to exceed \$60 per unit per month, increased annually by an amount equal to the increase in the Consumer Price Index for Los Angeles-Riverside-Orange County, CA area ("CPI"), provided, however, that in the event of a decrease in the CPI, the property management fee shall remain the same as the immediate preceding year;
  - c) Operating Expenses (any expense reasonably and normally incurred in carrying out the Project's day-to-day activities, which shall include administration, on-site management, utilities, on-site staff payroll, payroll taxes, and maintenance);
  - d) replacement reserves, established in a separate account from operating reserves, limited to \$600 per unit per year for all units in the Project, as defined in Exhibit A;
  - e) Operating Reserves replenishment;
  - f) deferred developer's fee in the amount of approximately \$1,459,518;
  - g) general partner asset management annual fees which shall be no more than \$25,000, increased by no more than 3% annually which fees may be accrued and paid in any year in which sufficient funds are available;
  - h) an annual limited partner asset management fee not to exceed \$5,000 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 County's Director of Department of Housing, Homelessness Prevention and Workforce Solutions in his/her discretion;

- i) payments of principal and interest on amortized loans and indebtedness senior to the HOME Loan, which have been approved by COUNTY (collectively, the "Senior Debt"); and
- j) COUNTY's Annual Monitoring Fee in the total annual amount of \$4,000 for the County HOME Loan..

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

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 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 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 HHPWS, or designee, (iii) Borrower has demonstrated to Authority, in writing, that the requested loan is the only available means of relieving such deficit, (iv) the County's Director HHPWS, or designee, approves the loan terms, including, but not limited to the loan amount, interest rate, and maturity date. The County's Director HHPWS, or designee, shall retain the right, in its discretion, to defer such approval to the County's Board of Supervisors. Failure by the County's Director 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.

- (6) The HOME Loan evidenced by this Note is secured by that certain HOME Deed of Trust 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").
- (7) This Note may be prepaid in whole or in part by the undersigned at any time without prepayment penalty or premium, provided however notwithstanding such prepayment, Borrower shall be required to adhere to the affordability restrictions contained in the Covenants until the expiration of the term contained therein.
- (8) Subject to the provisions and limitations of this Paragraph 8, the obligation to repay the Note Amount is a nonrecourse obligation of Borrower and its partners. Neither Borrower nor its partners shall have any personal liability for repayment of the Note Amount, except as provided in this Paragraph 8. The sole recourse of the County shall be the exercise of its rights against the Property (or any portion thereof) and any related security for the HOME Loan; provided, however, that the foregoing shall not (i) constitute a waiver of any other obligation evidenced by this Note or the Deed of Trust; (ii) limit the right of the COUNTY to name Borrower as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Borrower; (iii) release or impair either this Note or the Deed of Trust; (iv) prevent or in any way hinder the COUNTY from exercising, or constitute a defense, an



affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing this Note or as prescribed by law or in equity in case of default; (v) prevent or in any way hinder the COUNTY from exercising, or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing this Note; or (vi) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by this Note and the Deed of Trust. Notwithstanding the first sentence of this Section 8, the COUNTY may recover directly from Borrower or, unless otherwise prohibited by any applicable law, from any other party: (a) any damages, costs and expenses incurred by the COUNTY as a result of fraud, misrepresentation or any criminal act or acts of Borrower or any general partner, shareholder, officer, director or employee of Borrower, or of any member or general partner of Borrower, or of any general partner of such member or general partner; (b) any damages, costs and expenses incurred by the COUNTY as a result of any misappropriation of funds provided to pay costs as described in the HOME Loan Agreement, rents and revenues from the operation of the Project, or proceeds of insurance policies or condemnation proceeds; (c) any misappropriation of rental proceeds resulting in the failure to pay taxes, assessments, or other charges that could create statutory liens on the Project and that are payable or applicable prior to any foreclosure under the Deed of Trust; (d) the fair market value of any personal property or fixtures removed or disposed of by the Borrower other than in accordance with the Deed of Trust; (e) any and all amounts owing by Borrower pursuant to any indemnity set forth in the HOME Loan Agreement and/or Deed of Trust or the indemnification regarding Hazardous Substances pursuant to the HOME Loan Agreement and/or Deed of Trust, and (f) all court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions.

- (9) 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 Flagstar Bank, FSB securing a construction loan in a principal amount up to \$25,000,000, (ii) that certain Deed of Trust for the benefit of California Community Reinvestment Corporation, the permanent Senior Loan in a principal amount up to \$[5,252,000], (iii) that certain Deed of Trust for the benefit of the City in a principal amount of \$2,640,000 and (iv) 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, 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 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 repeated breach by Borrower or Borrower's agents of any material obligations on the Project imposed by any other agreement with respect to the financing, development, or operation of the Project; whether or not COUNTY is a party to such agreement.

- (10) COUNTY shall give written notice of default to Borrower, specifying the default complained of by the COUNTY. Borrower shall have twenty (20) calendar days from the mailing of the notice for a monetary default, by which such action to cure must be taken. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.
- (11) 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.
- (12) If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid. In the event that any provision or clause of this Note conflicts with applicable law, such conflict will not affect other provisions of this Note which can be given effect without the conflicting provision, and to this end the provisions of the Note are declared to be severable.
- (13) Borrower hereby waives diligence, presentment, protest and demand, notice of protest, dishonor and nonpayment of this Note, and expressly agrees that, without in any way affecting the liability of Borrower hereunder, the COUNTY may extend any maturity date or the time for payment of any installment due hereunder, accept additional security, release any party liable hereunder and release any security now or hereafter securing this Note. Borrower further waives, to the full extent permitted by law, the right to plead any and all statutes of limitations as a defense to any demand on this Note, or on any deed of trust, security agreement, guaranty or other agreement now or hereafter securing this Note.
- (14) Should default be made in payment of principal and interest when due and such default shall continue beyond the applicable notice and cure period provided in the 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 reasonable attorney's fees.

- (15) This Note has been negotiated and entered in the State of California, and shall be governed by, construed and enforced in accordance with the internal laws of the State of California, applied to contracts made in California by California domiciliaries to be wholly performed in California. Any action at law or in equity arising under this Note or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Note shall be filed in the Superior Court of Riverside County, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.
- (16) No modification, rescission, waiver, release or amendment of any provision of this Note shall be made except by a written agreement executed by Borrower and the duly authorized representative of the COUNTY.
- (17) 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.
- (18) 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.
- (19) Except as to the permitted deeds of trust identified herein or in the HOME Loan Agreement, 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.
- (20) 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.
- (21) (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 3403 Tenth Street, # 300, Riverside, CA 92501, Attention: Director HHPWS. The facsimile number for the COUNTY's receipt of notices is (951) 955-8126.

(c) The address of Borrower for purposes of receiving notices pursuant to this Note is 5030 Business Center Drive, Suite 260, Fairfield, CA 94534, Attention: Asset Management, with a copy to Borrower's limited partner, NEF Assignment Corporation, as nominee, 10 South Riverside Plaza, Suite 1700, Chicago, IL 60606, Attention: General Counsel.

- (22) The captions and headings in this Note are for convenience only and are not to be used to interpret or define the provisions hereof.
- (23) The undersigned, if comprising more than one person or entity, shall be jointly and severally liable hereunder.
- (24) This Note shall be binding upon Borrower and its heirs, successors and assigns, and shall benefit the COUNTY and its successors and assigns.

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[SIGNATURES ON FOLLOWING PAGE]



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

TRUSTOR:

Monarch PS LP,  
a California limited partnership

By: SCHOC I LLC  
a California limited liability company  
Its: General Partner

By: Community Housing Opportunities  
Corporation, a California nonprofit public  
benefit corporation, its sole member and  
manager

By: \_\_\_\_\_  
Manuela Silva, Chief Executive Officer

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

**EXHIBIT "D"**

**RIVERSIDE COUNTY**

**SECTION 3**

**24 CFR PART 75**

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

**CONTRACT REQUIREMENTS**

## RIVERSIDE COUNTY

### Section 75.1 Purpose

This part establishes the requirements to be followed to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

### Section 75.3 Applicability

(a) General applicability. Section 3 applies to public housing financial assistance and Section 3 projects, as follows:

(1) Public housing financial assistance. Public housing financial assistance means:

(i) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);

(ii) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;

(iii) Development, modernization, and management assistance provided pursuant to section 9(d) of the 1937 Act; and

(iv) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in paragraphs (a)(1)(i) through (iii) of this section.

**(2) Section 3 projects. (i) Section 3 projects means housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4801 et seq.); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.**



(ii) The Secretary must update the thresholds provided in paragraph (a)(2)(i) of this section not less than once every 5 years based on a national construction cost inflation factor through Federal Register notice not subject to public comment. When the Secretary finds it is warranted to ensure compliance with Section 3, the Secretary may adjust, regardless of the national construction cost factor, such thresholds through Federal Register notice, subject to public comment.

(iii) The requirements in this part apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

(b) Contracts for materials. Section 3 requirements do not apply to material supply contracts.

(c) Indian and Tribal preferences. Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of this part.

(d) Other HUD assistance and other Federal assistance. Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

#### **Section 75.5 Definitions.**

The terms HUD, Public housing, and Public Housing Agency (PHA) are defined in 24 CFR part 5. The following definitions also apply to this part:

**1937 Act** means the United States Housing Act of 1937, 42 U.S.C. 1437 et seq.

**Contractor** means any entity entering into a contract with:

- (1) A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or
- (2) A subrecipient for work in connection with a Section 3 project.

**Labor hours** means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

**Low-income person** means a person as defined in Section 3(b)(2) of the 1937 Act.

**Material supply contracts** means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

**Professional services** means non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial

consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

**Public housing financial assistance** means assistance as defined in §75.3(a)(1).

**Public housing project** is defined in 24 CFR 905.108.

**Recipient** means any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

**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:

(1) A business concern meeting at least one of the following criteria, documented within the last six-month period:

(i) It is at least 51 percent owned and controlled by low- or very low-income persons;

(ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or

(iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

(2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

(3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

**Section 3 project** means a project defined in §75.3(a)(2).

**Section 3 worker** means:

(1) Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

(i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.

(ii) The worker is employed by a Section 3 business concern.

(iii) The worker is a YouthBuild participant.

(2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

(3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

**Section 8-assisted housing** refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

**Service area or the neighborhood of the project** means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

**Small PHA** means a public housing authority that manages or operates fewer than 250 public housing units.

**Subcontractor** means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

**Subrecipient** has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

**Targeted Section 3 worker** has the meanings provided in §§75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.

**Very low-income person** means the definition for this term set forth in section 3(b)(2) of the 1937 Act.

**YouthBuild programs** refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

## **Subpart C—Additional Provisions for Housing and Community Development Financial Assistance**

### **§75.19 Requirements.**

(a) *Employment and training.* (1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located.

(2) Where feasible, priority for opportunities and training described in paragraph (a)(1) of this section should be given to:



(i) Section 3 workers residing within the service area or the neighborhood of the project,  
and

(ii) Participants in YouthBuild programs.

(b) *Contracting.* (1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

(2) Where feasible, priority for contracting opportunities described in paragraph (b)(1) of this section should be given to:

(i) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and

(ii) YouthBuild programs.

**§75.21 Targeted Section 3 worker for housing and community development financial assistance.**

(a) *Targeted Section 3 worker.* A Targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:

(1) A worker employed by a Section 3 business concern; or

(2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:

(i) Living within the service area or the neighborhood of the project, as defined in §75.5; or

(ii) A YouthBuild participant.

(b) [Reserved]

**§75.23 Section 3 safe harbor.**

(a) *General.* Recipients will be considered to have complied with requirements in this part, in the absence of evidence to the contrary if they:

(1) Certify that they have followed the prioritization of effort in §75.19; and

(2) Meet or exceed the applicable Section 3 benchmark as described in paragraph (b) of this section.

(b) *Establishing benchmarks.* (1) HUD will establish Section 3 benchmarks for Section 3 workers or Targeted Section 3 workers or both through a document published in the FEDERAL REGISTER. HUD may establish a single nationwide benchmark for Section 3 workers and a single

nationwide benchmark for Targeted Section 3 workers, or may establish multiple benchmarks based on geography, the nature of the Section 3 project, or other variables. HUD will update the benchmarks through a document published in the FEDERAL REGISTER, subject to public comment, not less frequently than once every 3 years. Such notice shall include aggregate data on labor hours and the proportion of recipients meeting benchmarks, as well as other metrics reported pursuant to §75.25 as deemed appropriate by HUD, for the 3 most recent reporting years.

(2) In establishing the Section 3 benchmarks, HUD may consider the industry averages for labor hours worked by specific categories of workers or in different localities or regions; averages for labor hours worked by Section 3 workers and Targeted Section 3 workers as reported by recipients pursuant to this section; and any other factors HUD deems important. In establishing the Section 3 benchmarks, HUD will exclude professional services from the total number of labor hours as such hours are excluded from the total number of labor hours to be reported per §75.25(a)(4).

(3) Section 3 benchmarks will consist of the following two ratios:

(i) The number of labor hours worked by Section 3 workers divided by the total number of labor hours worked by all workers on a Section 3 project in the recipient's program year.

(ii) The number of labor hours worked by Targeted Section 3 workers as defined in §75.21(a), divided by the total number of labor hours worked by all workers on a Section 3 project in the recipient's program year.

#### **§75.25 Reporting.**

(a) *Reporting of labor hours.* (1) For Section 3 projects, recipients must report in a manner prescribed by HUD:

(i) The total number of labor hours worked;

(ii) The total number of labor hours worked by Section 3 workers; and

(iii) The total number of labor hours worked by Targeted Section 3 workers.

(2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to §75.31.

(3) The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked on a Section 3 project, including labor hours worked by any subrecipients, contractors and subcontractors that the recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.

(4) Recipients reporting under this section, as well as subrecipients, contractors and subcontractors who report to recipients, may report labor hours by Section 3 workers, under paragraph (a)(1)(ii) of this section, and labor hours by Targeted Section 3 workers, under paragraph (a)(1)(iii) of this section, from professional services without including labor hours

from professional services in the total number of labor hours worked under paragraph (a)(1)(i) of this section. If a contract covers both professional services and other work and the recipient or contractor or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

(5) Recipients may report their own labor hours or that of a subrecipient, contractor, or subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

(b) *Additional reporting if Section 3 benchmarks are not met.* If the recipient's reporting under paragraph (a) of this section indicates that the recipient has not met the Section 3 benchmarks described in §75.23, the recipient must report in a form prescribed by HUD on the qualitative nature of its activities and those its contractors and subcontractors pursued. Such qualitative efforts may, for example, include but are not limited to the following:

(1) Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.

(2) Provided training or apprenticeship opportunities.

(3) Provided technical assistance to help Section 3 workers compete for jobs (*e.g.*, resume assistance, coaching).

(4) Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.

(5) Held one or more job fairs.

(6) Provided or referred Section 3 workers to services supporting work readiness and retention (*e.g.*, work readiness activities, interview clothing, test fees, transportation, child care).

(7) Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.

(8) Assisted Section 3 workers to obtain financial literacy training and/or coaching.

(9) Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.

(10) Provided technical assistance to help Section 3 business concerns understand and bid on contracts.

(11) Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.



(12) Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.

(13) Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.

(14) Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

(c) *Reporting frequency.* Unless otherwise provided, recipients must report annually to HUD under paragraph (a) of this section, and, where required, under paragraph (b) of this section, on all projects completed within the reporting year in a manner consistent with reporting requirements for the applicable HUD program.

#### **§75.27 Contract provisions.**

(a) Recipients must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project.

(b) Recipients of Section 3 funding must require subrecipients, contractors, and subcontractors to meet the requirements of §75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

### **Subpart D—Provisions for Multiple Funding Sources, Recordkeeping, and Compliance**

#### **§75.29 Multiple funding sources.**

(a) If a housing rehabilitation, housing construction or other public construction project is subject to Section 3 pursuant to §75.3(a)(1) and (2), the recipient must follow subpart B of this part for the public housing financial assistance and may follow either subpart B or C of this part for the housing and community development financial assistance. For such a project, the following applies:

(1) For housing and community development financial assistance, a Targeted Section 3 worker is any worker who meets the definition of a Targeted Section 3 worker in either subpart B or C of this part; and

(2) The recipients of both sources of funding shall report on the housing rehabilitation, housing construction, or other public construction project as a whole and shall identify the multiple associated recipients. PHAs and other recipients must report the following information:

(i) The total number of labor hours worked on the project;

(ii) The total number of labor hours worked by Section 3 workers on the project; and

(iii) The total number of labor hours worked by Targeted Section 3 workers on the project.

(b) If a housing rehabilitation, housing construction, or other public construction project is subject to Section 3 because the project is assisted with funding from multiple sources of housing and community development assistance that exceed the thresholds in §75.3(a)(2), the recipient or recipients must follow subpart C of this part, and must report to the applicable HUD program office, as prescribed by HUD.

**§75.31 Recordkeeping.**

(a) HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD program by which the Section 3 project is governed, or the public housing financial assistance is provided or otherwise made available to the recipient, subrecipient, contractor, or subcontractor.

(b) Recipients must maintain documentation, or ensure that a subrecipient, contractor, or subcontractor that employs the worker maintains documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:

(1) For a worker to qualify as a Section 3 worker, one of the following must be maintained:

(i) A worker's self-certification that their income is below the income limit from the prior calendar year;

(ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;

(iii) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;

(iv) An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or

(v) An employer's certification that the worker is employed by a Section 3 business concern.

(2) For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:

(i) For a worker to qualify as a Targeted Section 3 worker under subpart B of this part:

(A) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;

(B) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;

(C) An employer's certification that the worker is employed by a Section 3 business concern; or

(D) A worker's certification that the worker is a YouthBuild participant.

(ii) For a worker to qualify as a Targeted Section 3 worker under subpart C of this part:

(A) An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;

(B) An employer's certification that the worker is employed by a Section 3 business concern; or

(C) A worker's self-certification that the worker is a YouthBuild participant.

(c) The documentation described in paragraph (b) of this section must be maintained for the time period required for record retentions in accordance with applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR part 200.

(d) A PHA or recipient may report on Section 3 workers and Targeted Section 3 workers for five years from when their certification as a Section 3 worker or Targeted Section 3 worker is established.

### **§75.33 Compliance.**

(a) *Records of compliance.* Each recipient shall maintain adequate records demonstrating compliance with this part, consistent with other recordkeeping requirements in 2 CFR part 200.

(b) *Complaints.* Complaints alleging failure of compliance with this part may be reported to the HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office.

(c) *Monitoring.* HUD will monitor compliance with the requirements of this part. The applicable HUD program office will determine appropriate methods by which to oversee Section 3 compliance. HUD may impose appropriate remedies and sanctions in accordance with the laws and regulations for the program under which the violation was found.



**RIVERSIDE COUNTY**  
**SECTION 3 BUSINESS CONCERN CERTIFICATION FOR CONTRACTING**

**Instructions:** Enter the following information and select the criteria that applies to certify your business' Section 3 Business Concern status.

**Business Information**

Name of Business \_\_\_\_\_

Address of Business \_\_\_\_\_

Name of Business Owner \_\_\_\_\_

Phone Number of Business Owner \_\_\_\_\_

Email Address of Business Owner \_\_\_\_\_

**Preferred Contact Information**

Same as above

Name of Preferred Contact \_\_\_\_\_

Phone Number of Preferred Contact \_\_\_\_\_

**Type of Business (select from the following options):**

Corporation       Partnership       Sole Proprietorship       Joint Venture

**Select from ONE of the following three options below that applies:**

At least 51 percent of the business is owned and controlled by low- or very low-income persons (*Refer to income guidelines on page 2*).

At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers (*Refer to definition on page 2*).

**Business Concern Affirmation**

I affirm that the above statements (on the frontside of this form) are true, complete, and correct to the best of my knowledge and belief. I understand that businesses who misrepresent themselves as Section 3 business concerns and report false information to [insert name of recipient/grantee] may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Print Name: \_\_\_\_\_

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

\*Certification expires within six months of the date of signature.

Information regarding Section 3 Business Concerns can be found at 24 CFR 75.5

**FOR ADMINISTRATIVE USE ONLY**

Is the business a Section 3 business concern based upon their certification?     YES     NO  
**EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR FIVE YEARS.**

## Riverside County Section 3 Income Limits

2021 HOME -effective June 1, 2021 HUD RIVERSIDE-SAN BERNARDINO CA MSA								
HOME INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30% Limits	16600	19000	21350	23700	25600	27500	29400	31300
50% Limits Very Low-Inc	27650	31600	35550	39500	42700	45850	49000	52150
60% Limits	33180	37920	42660	47400	51240	55020	58800	62580
80% Limits Low-Inc	44250	50600	56900	63200	68300	73350	78400	83450

### Section 3 Worker Definition:

- i. A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
- ii. Employed by a Section 3 business concern; or
- iii. A YouthBuild participant.

### Targeted Section 3 Worker Definition:

- iv. Employed by a Section 3 business concern or
- v. Currently meets or when hired met at least one of the following categories as documented within the past five years:
  - o A resident of public housing; or
  - o A resident of other public housing projects or Section 8-assisted housing; or
  - o A YouthBuild participant.

## EXHIBIT E

### Prohibition Against Conflicts of Interest

#### § 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 & 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  
9 Housing, Homelessness Prevention &  
10 Workforce Solutions  
11 5555 Arlington Avenue  
12 Riverside, CA 92504  
13 Attn. Mervyn Manalo

SPACE ABOVE THIS LINE FOR RECORDERS USE

14 **COVENANT AGREEMENT**  
15 **(Monarch Apartment Homes)**

16 This Covenant Agreement (Monarch Apartment Homes) (“Covenant”) is made and entered  
17 into as of the day of \_\_\_\_\_, 2021 by and between the COUNTY OF  
18 RIVERSIDE, a political subdivision of the State of California (“COUNTY”), and MONARCH PS  
19 LP, a California limited partnership (“OWNER”).

20 **RECITALS**

21 WHEREAS, OWNER owns that certain real property located at the northeast corner of  
22 Cottonwood Avenue and Indian Street, in the City of Palm Springs in the County of Riverside,  
23 also identified as APN 501-031-028 as more specifically described in the legal description attached  
24 hereto as **Exhibit A** and incorporated herein by this reference (the “Property”);

25 WHEREAS, on \_\_\_\_\_ COUNTY and OWNER entered into that certain  
26 Loan Agreement for the Use of HOME Program Funds (Monarch Apartment Homes) dated  
27 \_\_\_\_\_, 2021 and recorded in the Official Records (“Official Records”) of the County  
28 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 “Monarch Apartment Homes,” a multi-family affordable housing project consisting of fifty-

1 nine (59) affordable rental housing units and one (1) residential manager's unit, and a total of four  
2 (4) units will be reserved as HOME-Assisted Units ("HOME-Assisted Units") in which three (3)  
3 units will be restricted to households whose incomes do not exceed 60% of the area median income  
4 for the County of Riverside, adjusted by family size at the time of occupancy, and one (1) unit will  
5 be restricted to households whose incomes do not exceed 50% of the area median income for the  
6 County of Riverside, adjusted by family size at the time of occupancy (collectively the "Project").  
7 Capitalized terms not defined herein shall have the meaning ascribed to them in the HOME Loan  
8 Agreement;

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

19 WHEREAS, pursuant to the HOME Loan Agreement, COUNTY loaned to OWNER  
20 \$500,000 derived from HOME funds ("HOME Loan"), to pay a portion of the costs to develop  
21 and construct the Project, as more fully described in the HOME Loan Agreement. The HOME  
22 Loan is evidenced by a Promissory Note executed by OWNER, in favor of the COUNTY dated  
23 on or about the date hereof ("HOME Loan Note") and secured by that certain Deed of Trust and  
24 Assignment of Rents executed by OWNER, for the benefit of COUNTY and recorded in the  
25 Official Records concurrently herewith ("HOME Loan Deed of Trust"); and

26 WHEREAS, pursuant to the HOME Loan Agreement, OWNER has agreed to develop and  
27 construct the Project on the Property and ensure the HOME-Assisted Units are rented to and  
28 occupied by Qualified Households consistent with the HOME Program requirements and as set



1 forth more specifically below.

2 NOW, THEREFORE, in consideration of the mutual covenants and agreements, and for  
3 other good and valuable consideration, the receipt and sufficiency of which are hereby  
4 acknowledged, OWNER, on behalf of itself and its successors, assigns, and each successor in  
5 interest to the Property or any part thereof, hereby declares as follows:

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

12 a) Eleven (11) HOME-Assisted Units consists of 5 one-bedroom units, 3 two-  
13 bedroom units, and 3 three-bedroom units. Eight (8) HOME-Assisted Units (4 one-bedroom units,  
14 2 two-bedroom units, and 2 three-bedroom units) shall be rented at High HOME rent levels as  
15 published by HUD. Three (3) HOME-Assisted Units (1 one-bedroom unit, 1 two-bedroom unit,  
16 and 1 three-bedroom unit) shall be rented at Low HOME rent levels as published by HUD. The  
17 HOME-Assisted Units shall be a “floating” designation on the Property such that the requirements  
18 of this Agreement will be satisfied so long as the total number of HOME-Assisted Units remains  
19 the same throughout the Affordability Period and the substituted HOME Assisted Unit is  
20 comparable in terms of size, features, and number of bedrooms to the originally designates HOME  
21 Assisted Unit;

22 b) OWNER shall comply with the rent limitations set forth under 24 CFR  
23 92.252 of the HOME Investment Partnerships (“HOME”) program, which was enacted under Title  
24 II of the Cranston-Gonzalez National Affordable Housing Act (the “Act”), as amended  
25 (commencing at 42 U.S.C. 12701 et seq.), and the implementing regulations thereto (24 CFR Part  
26 92) (collectively, the “HOME Program”). Effective 2021, HUD published HOME Rent Limits for  
27 the County of Riverside. The Low HOME rent limit for a one-bedroom unit is \$740, two-bedroom  
28 unit is \$888, and three-bedroom unit is \$1027. The High HOME rent limit for a one-bedroom unit

1 is \$943, two-bedroom unit is \$1134, and three-bedroom unit is \$1302. In order to calculate net  
2 rent to be charged, an applicable utility allowance must be subtracted from the gross rents listed.

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

7           i. HUD Utility Schedule Model (HUSM), UA based on HUD's model.

8           ii. Utility Company Estimate, UA based on estimated obtained from a local  
9 utility company for each of the utilities used in the project.

10           iii. LIHTC Agency Estimate, UA approved by the LIHTC agency based on its  
11 actual usage methodology.

12           iv. Energy Consumption Model (Engineer Model), UA based upon on an  
13 energy and water and sewage consumption and analysis model prepared  
14 by a third party licensed engineer or t qualified professional.

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

18           2) SENIOR PRIORITY. Notwithstanding anything to the contrary contained in the  
19 HOME Loan Agreement, including any of its attachments, this Covenant Agreement shall be in a  
20 lien position junior to the City of Palm Springs Covenants (Density Bonus Agreement), the Bond  
21 Regulatory Agreement, the City of Palm Springs Regulatory Agreement and senior to all other  
22 security instruments including but not limited to the following liens: (1) a deed of trust for the  
23 benefit of Flagstar Bank, FSB ("Flagstar Construction Loan") which shall be paid in full upon  
24 Conversion; (2) a deed of trust for the benefit of California Community Reinvestment Corporation  
25 ("CCRC Permanent Loan"); (3) a deed of trust for the benefit of the City of Palm Springs Loan;  
26 (4) a deed of trust for the benefit of the County of Riverside securing the HOME Loan; (5) a deed  
27 of trust for the benefit of CHOC securing the Sponsor State Credit Loan; (6) a deed of trust for the  
28 benefit of CHOC securing the Sponsor/GP Loan; and (7) a deed of trust for the benefit of Column

1 Financial, Inc., securing the CFI Loan.

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

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

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

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

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

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

27 (6) Procedures to be used by OWNER to inform and solicit applications from persons  
28 in the housing market area who are not likely to apply without special outreach (e.g., use of



1 community organizations, employment centers, fair housing groups, or housing counseling  
2 agencies).

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

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

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

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

1 minority business, and women's business enterprises.

- 2 (v) Using the services and assistance of the Small Business  
3 Administration, and the Minority Business Development  
4 Agency of the Department of Commerce.

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

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

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

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

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

25 (3) *Excusing OWNER from responsibility*. Agreement by the tenant  
26 not to hold OWNER or OWNER's agents legally responsible for  
27 any action or failure to act, whether intentional or negligent.

28 (4) *Waiver of notice*. Agreement of the tenant that OWNER may

1 institute a lawsuit without notice to the tenant.

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

7 (6) *Waiver of a jury trial.* Agreement by the tenant to waive any right  
8 to a trial by jury.

9 (7) *Waiver of right to appeal court decision.* Agreement by the tenant  
10 to waive the tenant's right to appeal, or to otherwise challenge in  
11 court, a court decision in connection with the lease.

12 (8) *Tenant chargeable with cost of legal actions regardless of outcome.*  
13 Agreement by the tenant to pay attorneys' fees or other legal costs  
14 even if the tenant wins in a court proceeding by OWNER against  
15 the tenant. The tenant, however, may be obligated to pay costs if  
16 the tenant loses.

17 (9) *Mandatory supportive services.* Agreement by the tenant (other  
18 than a tenant in transitional housing) to accept supportive services  
19 that are offered.

20 11) Violence Against Women Reauthorization Act of 2013. (Pub. L. 113-4, 127 Stat.  
21 54) ("VAWA 2013"). VAWA 2013 reauthorizes and amends the Violence Against Women Act  
22 of 1994, as previously amended, (title IV, sec. 40001-40703 of Pub. L. 103-322, 42 U.S.C. 13925  
23 et seq.) VAWA 2013, among other things, bars eviction and termination due to a tenant's status  
24 as a victim of domestic violence, dating violence, or stalking, and requires landlords to maintain  
25 survivor-tenant confidentiality. VAWA 2013 prohibits a tenant who is a survivor of domestic  
26 violence, dating violence, sexual assault, and stalking from being denied assistance, tenancy, or  
27 occupancy rights based solely on criminal activity related to an act of violence committed against  
28 them. It extends housing protections to survivors of sexual assault, and adds "intimate partner" to



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

19 12) MAINTENANCE OF THE IMPROVEMENTS. OWNER, on behalf of itself and  
20 its successors, assigns, and each successor in interest to the Property and Project or any part  
21 thereof hereby covenants to and shall protect, maintain, and preserve the Property in compliance  
22 with all applicable federal and state law and regulations and local ordinances. In addition,  
23 OWNER, its successors and assigns, shall maintain the improvements on the Property in the same  
24 aesthetic and sound condition (or better) as the condition of the Property at the time of the  
25 recordation of the Notice of Completion for the Project, reasonable wear and tear excepted. This  
26 standard for the quality of maintenance of the Property shall be met whether or not a specific item  
27 of maintenance is listed below. However, representative items of maintenance shall include  
28 frequent and regular inspection for graffiti or damage or deterioration or failure, and immediate

1 repainting or repair or replacement of all surfaces, fencing, walls, equipment, etc., as necessary;  
2 emptying of trash receptacles and removal of litter; sweeping of public sidewalks adjacent to the  
3 Property, on-site walks and paved areas and washing-down as necessary to maintain clean  
4 surfaces; maintenance of all landscaping in a healthy and attractive condition, including trimming,  
5 fertilizing and replacing vegetation as necessary; cleaning windows on a regular basis; painting  
6 the buildings on a regular program and prior to the deterioration of the painted surfaces;  
7 conducting a roof inspection on a regular basis and maintaining the roof in a leak-free and  
8 weather-tight condition; maintaining security devices in good working order. In the event  
9 OWNER, its successors or assigns fails to maintain the Property in accordance with the standard  
10 for the quality of maintenance, the COUNTY or its designee shall have the right but not the  
11 obligation to enter the Property upon reasonable notice to OWNER, correct any violation, and  
12 hold OWNER, or such successors or assigns responsible for the cost thereof, and such cost, until  
13 paid, shall constitute a lien on the Property.

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

25 OWNER herein covenants by and for itself, its successors and assigns, and all persons  
26 claiming under or through them, that this Covenant is made and accepted upon and subject to the  
27 following conditions: There shall be no discrimination against or segregation of any person or  
28 group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the

1 Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and  
2 paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code,  
3 in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall  
4 the transferee itself or any person claiming under or through him or her, establish or permit any  
5 such practice or practices of discrimination or segregation with reference to the selection, location,  
6 number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the Property.

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

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

25 b) In leases: "The lessee herein covenants by and for himself or herself, his or  
26 her heirs, executors, administrators, and assigns, and all persons claiming under or through  
27 him or her, and this lease is made and accepted upon and subject to the following  
28 conditions: That there shall be no discrimination against or segregation of any person or



1 group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955  
2 of the Government Code, as those bases are defined in Sections 12926, 12926.1,  
3 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2  
4 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure,  
5 or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any  
6 person claiming under or through him or her, establish or permit any such practice or  
7 practices of discrimination or segregation with reference to the selection, location, number,  
8 use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises  
9 herein leased.”

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

19 In addition to the obligations and duties of OWNER set forth herein, OWNER shall, upon  
20 notice from COUNTY, promptly pay to COUNTY all fees and costs, including administrative and  
21 attorneys’ fees, incurred by COUNTY in connection with responding to or defending any  
22 discrimination claim brought by any third party and/or local, state or federal government entity,  
23 arising out of or in connection with the Agreement or this Covenant.

24 14) INSURANCE. Without limiting or diminishing OWNER’s obligation to indemnify  
25 or hold COUNTY harmless, OWNER shall procure and maintain or cause to be maintained, at its  
26 sole cost and expense, the following insurance coverage’s during the term of this Covenant.

27 a) Worker’s Compensation Insurance. If OWNER has employees as defined by the State of  
28 California, OWNER shall maintain statutory Workers' Compensation Insurance (Coverage

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

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

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

25 d) General Insurance Provisions – All Lines.

26 i) Any insurance carrier providing insurance coverage hereunder shall be  
27 admitted to the State of California and have an A M BEST rating of not less  
28 than A: VIII (A:8) unless such requirements are waived, in writing, by Risk

1 Manager. If Risk Manager waives a requirement for a particular insurer such  
2 waiver is only valid for that specific insurer and only for one policy term.

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

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

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



1 construed as contributory.

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

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

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

15 15) HOLD HARMLESS/INDEMNIFICATION. OWNER shall indemnify and hold  
16 harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their  
17 respective directors, officers, Board of Supervisors, elected and appointed officials, employees,  
18 agents and representatives (individually and collectively hereinafter referred to as Indemnitees)  
19 from any liability whatsoever, based or asserted upon any services of OWNER, its officers,  
20 employees, subcontractors, agents or representatives arising out of or in any way relating to this  
21 Agreement, including but not limited to property damage, bodily injury, or death or any other  
22 element of any kind or nature whatsoever arising from the performance of OWNER, its officers,  
23 employees, subcontractors, agents or representatives Indemnitors from this Agreement. OWNER  
24 shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost  
25 of investigation, defense and settlements or awards, the Indemnitees in any claim or action based  
26 upon such alleged acts or omissions. Indemnitees, however, shall not be held harmless,  
27 indemnified, or defended for liabilities resulting from their own negligence or misconduct. With  
28 respect to any action or claim subject to indemnification herein by OWNER shall, at their sole

1 cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or  
2 compromise any such action or claim without the prior consent of COUNTY; provided, however,  
3 that any such adjustment, settlement or compromise in no manner whatsoever limits or  
4 circumscribes OWNER's indemnification to Indemnitees as set forth herein. OWNER's  
5 obligation hereunder shall be satisfied when OWNER has provided to COUNTY the appropriate  
6 form of dismissal relieving COUNTY from any liability for the action or claim involved. The  
7 specified insurance limits required in this Agreement shall in no way limit or circumscribe  
8 OWNER's obligations to indemnify and hold harmless the Indemnitees herein from third party  
9 claims. In the event there is conflict between this clause and California Civil Code Section 2782,  
10 this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not  
11 relieve OWNER from indemnifying the Indemnitees to the fullest extent allowed by law. The  
12 indemnification set forth in this paragraph 14 shall survive the expiration and earlier termination  
13 of this Covenant.

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

18 COUNTY  
19 Director HHPWS  
20 County of Riverside  
21 3403 10<sup>th</sup> St #300  
Riverside, CA 92501

OWNER  
Monarch PS , L.P.  
c/o Community Housing Opportunities Corporations  
5030 Business Center Drive,  
Fairfield, CA 94534

22 A copy of all notices sent to Owner shall be sent to OWNER's limited partner:

23 NEF Assignment Corporation, as nominee  
24 10 South Riverside Plaza, Suite 1700  
25 Chicago, IL 60606  
26 Attn: General Counsel  
27

28 17) REMEDIES. COUNTY shall have the right, in the event of any breach of any such

1 agreement or covenant, to exercise all available rights and remedies, and to maintain any actions  
2 at law or suit in equity or other proper proceedings to enforce the curing of such breach of  
3 agreement or covenant.

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

8 19) NOTICE AND CURE. Prior to exercising any remedies hereunder, the COUNTY  
9 shall give OWNER notice of such default pursuant to Section 9 above. Any monetary default shall  
10 be cured within twenty (20) days of delivery of written notice. Except as otherwise set forth herein,  
11 if a non-monetary default is reasonably capable of being cured within thirty (30) days of delivery  
12 of such notice of default, OWNER shall have such period to effect a cure prior to exercise of  
13 remedies by COUNTY. If the non-monetary default is such that it is not reasonably capable of  
14 being cured within thirty (30) days of delivery of such notice of default, and OWNER (a) initiates  
15 corrective action within said period, and (b) diligently, continually, and in good faith works to  
16 effect a cure as soon as possible, then OWNER shall have such additional time as is reasonably  
17 necessary to cure the default prior to exercise of any remedies by the COUNTY; but in no event  
18 no later than sixty (60) days from delivery of such notice of default unless such longer time is  
19 authorized by COUNTY. COUNTY, upon providing OWNER with any notice of default under  
20 this Covenant, shall, within a reasonable time, provide a copy of such default notice to a Permitted  
21 Lender who has given written notice to COUNTY of its interest in the Property and Project. From  
22 and after such notice has been delivered to a Permitted Lender and the Owner's limited partner,  
23 such Permitted Lender shall have the same period for remedying the default complained of as the  
24 cure period provided to OWNER pursuant to this Section 18. COUNTY shall accept performance  
25 by a Permitted Lender or limited partner of Owner as if the same had been done by OWNER.

26 If a violation of any of the covenants or provisions of this Covenant remains uncured after  
27 the respective time period set forth in this **Section 18**, COUNTY and its successors and assigns,  
28 without regard to whether COUNTY or its successors and assigns is an owner of any land or



1 interest therein to which these covenants relate, may institute and prosecute any proceedings at  
2 law or in equity to abate, prevent or enjoin any such violation or attempted violation or to compel  
3 specific performance by OWNER of its obligations hereunder. No delay in enforcing the  
4 provisions hereof as to any breach or violation shall impair, damage or waive the right of any  
5 party entitled to enforce the provisions hereof or to obtain relief against or recover for the  
6 continuation or repetition of such breach or violations or any similar breach or violation hereof at  
7 any later time.

8 Any cure tendered on OWNER's behalf by OWNER's limited partner shall be accepted  
9 or rejected on the same basis as if tendered by OWNER.

10 20) SALE, ASSIGNMENT OR TRANSFER OF THE PROJECT OR PROPERTY.

11 OWNER hereby covenants and agrees not to sell, transfer, assign or otherwise dispose of the  
12 Project, the Property or any portion thereof, without obtaining the prior written consent of  
13 COUNTY, in its sole discretion. Any sale, assignment, or transfer of the Project or Property, shall  
14 be memorialized an assignment and assumption agreement the form and substance of which have  
15 been first approved in writing by the COUNTY in its sole discretion. Such assignment and  
16 assumption agreement shall, among other things, provide that the transferee has assumed in writing  
17 and in full, and is reasonably capable of performing and complying with OWNER's duties and  
18 obligations under the HOME Loan Agreement and this Covenant, provided, however OWNER  
19 shall not be released of all obligations under the HOME Loan Agreement and this Covenant as  
20 such applied to OWNER prior to any transfer.

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

23 22) GOVERNING LAW; VENUE; SEVERABILITY. This Covenant shall be  
24 governed by the laws of the State of California. Any legal action related to the performance or  
25 interpretation of this Covenant shall be filed only in the Superior Court of the State of California  
26 located in Riverside, California, and the parties waive any provision of law providing for a change  
27 of venue to another location. In the event any provision in this Covenant is held by a court of  
28 competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will

1 nevertheless continue in full force without being impaired or invalidated in any way

2 23) BINDING EFFECT. The rights and obligations of this Covenant shall bind and  
3 inure to the benefit of the respective heirs, successors and assigns of the parties.

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

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

16 26) PROJECT MONITORING AND EVALUATION.

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

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

25 27) ACCESS TO PROJECT SITE. Representatives of the COUNTY and HUD shall  
26 have the right of access to the Property, upon 24 hours' written notice to OWNER (except in the  
27 case of an emergency, in which case COUNTY and/or HUD shall provide such notice as may be  
28 practical under the circumstances), without charges or fees, during normal business hours to review



1 the operation of the Project in accordance with this Covenant and the Agreement.

2 28) COUNTERPARTS. This Covenant may be signed by the different parties hereto in  
3 counterparts, each of which shall be an original, but all of which together shall constitute one and  
4 the same agreement.

5 29) Recitals. The Recitals set forth above are true and correct and incorporated herein  
6 by this reference.

7 30) This Covenant and the Agreement set forth and contain the entire understanding  
8 and agreement of the parties hereto. There are no oral or written representations, understandings,  
9 or ancillary covenants, undertakings or agreements, which are not contained or expressly referred  
10 to within this Covenant, and the Agreement, including all amendments and modifications to the  
11 Agreement.

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[remainder of page intentionally blank]

[SIGNATURES ON THE NEXT PAGE]

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**EXHIBIT "A"**

LEGAL DESCRIPTION OF PROPERTY

# **EXHIBIT “H”**

Requests for Notice

NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE SECTION 6103

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

County of Riverside  
Housing, Homelessness Prevention and  
Workforce Solutions  
3403 Tenth Street, Suite # 300  
Riverside, CA 92501  
Attn: Mervyn Manalo

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 XXXXX, L.P., a California limited partnership, as Trustor in which XXXX bank, N.A., a national banking association is named as Beneficiary, and First American Title Company as Trustee, and describing land referred to in this Report is situated in the County of Riverside, City of Palm Springs, State of California, and is described as follows:

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

**XXXXX**

All notices to be mailed to:

Attn: Director HHPWS  
County of Riverside  
Housing Division  
3403 Tenth Street, Suite # 300  
Riverside, California 92501

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.**

COUNTY OF RIVERSIDE DEPARTMENT OF HOUSING,  
HOMELESS PREVENTION AND WORKFORCE  
SOLUTIONS

\_\_\_\_\_  
Heidi Marshall, Director HHPWS



NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE SECTION 6103

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

County of Riverside  
Housing, Homelessness Prevention and  
Workforce Solutions  
3403 Tenth Street, Suite # 300Riverside, CA 92501  
Attn: Mervyn Manalo

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 \_\_\_\_\_, 2021 and recorded concurrently herewith in the Official Records of the County of Riverside, California, executed by XXXXX, L.P., a California limited partnership, as Trustor in which XXXXXXXXXX is named as Beneficiary, and First American Title Company as Trustee, and describing land referred to in this Report is situated in the County of Riverside, City of Palm Springs, State of California, and is described as follows:

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

**XXXXXX**

All notices to be mailed to:

Attn: Director HHPWS  
County of Riverside  
Housing Division  
3403 Tenth Street, Suite # 300  
Riverside, California 92501

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.**

COUNTY OF RIVERSIDE DEPARTMENT OF HOUSING,  
HOMELESS PREVENTION AND WORKFORCE  
SOLUTIONS

\_\_\_\_\_  
Heidi Marshall, Director HHPWS

# 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.

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DEVELOPER SIGNATURE

## Exhibit J

### 2021 HOME Income and Rent Limits

2021 HOME -effective June 1, 2021 HUD RIVERSIDE-SAN BERNARDINO CA MSA								
HOME INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30% Limits	16600	19000	21350	23700	25600	27500	29400	31300
50% Limits Very Low-Inc	27650	31600	35550	39500	42700	45850	49000	52150
60% Limits	33180	37920	42660	47400	51240	55020	58800	62580
80% Limits Low-Inc	44250	50600	56900	63200	68300	73350	78400	83450

HOME RENTS	EFF	1BR	2BR	3BR	4BR	5BR	6BR
LOW HOME RENT LIMIT	691	740	888	1027	1146	1264	1382
HIGH HOME RENT LIMIT	879	943	1134	1302	1433	1562	1691
For Information only:	EFF	1BR	2BR	3BR	4BR	5BR	6BR
FAIR MARKET RENT	955	1106	1390	1917	2369	2724	3080
50% rent limit	691	740	888	1027	1146	1264	1382
65% rent limit	879	943	1134	1302	1433	1562	1691

Number of persons	1	2	3	4	5	6	7	8
Percentage adjustments	70%	80%	90%	Base	108%	116%	124%	132%