

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



ITEM: 3.24  
(ID # 20365)

**MEETING DATE:**

Tuesday, November 29, 2022

**FROM :** HOUSING AND WORKFORCE SOLUTIONS:


**SUBJECT:** HOUSING AND WORKFORCE SOLUTIONS (HWS): Approve the Form of the Loan Agreement for the Use of PLHA Program Funds for Vine Creek Apartments and All Attachments Thereto, in the City of Temecula and Authorize the Director of HWS to Execute a Form of the PLHA Loan Agreement, Covenant Agreement and Subsequent Subordination Agreement; District 3. [\$2,940,000 - 100% Permanent Local Housing Allocation (PLHA) Funds] (Clerk of the Board to File the Notice of Determination) [Making Findings as the Responsible Agency Pursuant to CEQA]

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

1. Find, in its independent judgment and analysis as a Responsible Agency under CEQA in issuing certain limited approvals, after it reviewed and considered the information in the previously adopted Mitigated Negative Declaration (MND), Initial Study and Environmental Analysis under Planning Application Numbers PA18-0081, PA18-1230, PA18-0497 and PA18-0692 for the City of Temecula, as lead agency, adopted on February 20, 2019 for the Vine Creek Affordable Housing Project (Project), that as to those potential environmental impacts within the County's powers and authorities as responsible agency concerning the Loan Agreement for the Use of Permanent Local Housing Allocation (PLHA) Program Funds and approvals associated therewith, any potentially significant environmental effects have been adequately analyzed and nothing further is required under CEQA;

Continued on page 2

**ACTION:Policy**

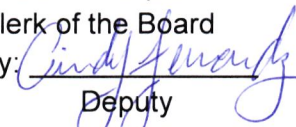
  
Heidi Marshall, Director 10/26/2022

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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, Hewitt, and Perez  
Nays: None  
Absent: None  
Date: November 29, 2022  
xc: HWS, Recorder

Kecia R. Harper  
Clerk of the Board  
By:   
Deputy

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

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

2. Approve the attached form of Loan Agreement for the Use of PLHA Program Funds, including all attachments thereto, (PLHA Loan Agreement), between the County and Temecula Pacific Associates (Partnership), providing a loan derived from the PLHA Program in the amount of \$2,800,000 (PLHA 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 Temecula;
3. Approve the attached forms of PLHA Loan Deed of Trust, Security Instrument and Fixture Filing with Assignment of Rents (PLHA Loan Deed of Trust), PLHA Loan Promissory Note, Environmental Indemnity and PLHA Covenant Agreement;
4. Approve the allocation of \$140,000 for direct staff costs associated with management of the Vine Creek Affordable Housing Project by Housing and Workforce Solutions (HWS) staff;
5. Authorize the Director of the Housing and Workforce Solutions (HWS), or designee, to execute the PLHA Loan Agreement and PLHA Covenant Agreement conforming in form and substance to the attached PLHA Loan Agreement and PLHA Covenant Agreement, subject to approval as to form by County Counsel;
6. Authorize the Director of the HWS, or designee, to negotiate and execute a Subordination Agreement subordinating the PLHA Loan Deed of Trust to a Deed of Trust for the benefit of Pacific Western Bank, a California state-chartered bank, senior lender securing a loan for the Project for a not to exceed amount of \$18,600,000, subject to approval as to form by County Counsel;
7. Authorize the Director of the HWS, or designee, to take all necessary steps to implement the PLHA Loan Agreement and Subordination Agreement, including but not limited to, signing subsequent necessary and relevant documents, subject to approval as to form by County Counsel; and
8. Direct the Clerk of the Board to file the Notice of Determination with the County Clerk within 5 business days.

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<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>	\$2,940,000	\$ 0	\$2,940,000	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> Permanent Local Housing Allocation Funds (100%)			<b>Budget Adjustment:</b>	No
			<b>For Fiscal Year:</b>	22/23

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

**BACKGROUND:**

**Summary**

On January 11, 2022 (Agenda Item 3.17), in connection with Vine Creek Apartments Affordable Housing Project, 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 Temecula (Project), the County of Riverside Board of Supervisors approved Resolution No. 2022-010, which allocated \$2,800,000 in Permanent Local Housing Allocation (PLHA) funds allocated from the California Department of Housing and Community Development PLHA Program (HCD PLHA Program), subject to the satisfaction of certain conditions contained therein, and supported the submission of a low income housing tax credit application by Temecula Pacific Associates, 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. 2022-210 have been satisfied, staff recommends that the Board approve the Loan Agreement for the Use of PLHA Program Funds, including exhibits (PLHA Loan Agreement) between the County and Partnership. The loan of \$2,800,000 derived from HCD PLHA Program funds will be used to pay a portion of the development and construction costs for the Project. The PLHA 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 PLHA funds will not be disbursed.

The Project will be located at the northwest corner of Main Street and Pujol Street, within the City of Temecula, on 2.27 acres of vacant land identified as Assessor's Parcel Numbers 922-053-047-6, 922-053-021-2 and 922-053-048-7 (Project Site). The Project will provide 59 new affordable housing units within two residential buildings. Exterior design elements were incorporated with the design style of Andalusian Spanish Architecture to conform with the City of Temecula design standards and the Temecula Old Town Specific Plan. The Project will consist of 7 one-bedroom units (approximately 660 square feet), 32 two-bedroom units (approximately 880 square feet) and 21 three-bedroom units (approximately 1,050 square feet), for a total of 60 apartment units. All units will include standard features such as refrigerators, exhaust fans, dishwashers, disposals, and ranges with ovens. All units feature an outdoor balcony or patio with storage space. The community room (approximately 1,600 square feet) will include an office for management, fitness room and community kitchen overlooking the pool deck courtyard

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and Old Town Temecula to the northeast. Along Pujol Street, a residential contains a 440 square foot satellite community room to be used for mail collection and resident gatherings.

At least approximately forty nine percent (49%) or 28 of the units will be designated as PLHA Affordable Units for households whose income does not exceed 80% of the area median income, adjusted for actual family size. At least twenty percent (20%) of the Affordable Units or six Affordable Units shall be restricted to occupancy by Very Low-Income Households (whose incomes do not exceed 50% of the area median income for the County of Riverside adjusted for family size appropriate to the unit). The PLHA Affordable Units will be restricted for a period of at least 55 years from the recordation of the Notice of Completion.

Staff recommends approval of PLHA 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 5% of PLHA funds approved for the Project as follows:

Vine Creek Apartments	\$2,800,000	PLHA Project Funding
<u>Vine Creek Apartments</u>	<u>\$140,000</u>	PLHA Direct Staffing (5%)
<b>Total</b>	<b>\$2,940,000</b>	

<b>Construction Sources</b>	
Tax Exempt Bonds	\$ 18,600,000
City of Temecula Land Loan	\$ 710,000
City Impact Fee Loan	\$ 698,281
County of Riverside PLHA Loan	\$ 2,800,000
WRCOG waiver	\$ 388,220
Deferred Costs	\$ 298,256
Deferred Developer Fee	\$ 3,842,200
Taxable Bonds	\$ 8,135,669
Tax Credit Equity	\$ 1,094,940
<b>Total</b>	<b>\$ 36,567,566</b>

<b>Permanent Sources</b>	
Tax-Exempt Bonds	\$ 6,350,000
City of Temecula (Land, Capital, Impact Fee)	\$ 6,710,000
County of Riverside PLHA Loan	\$ 2,800,000
Deferred Developer Fee	\$ 1,342,200
WRCOG TUMF fee waiver	\$ 388,220
Tax Credit Equity	\$ 18,977,146
<b>Total</b>	<b>\$ 36,567,566</b>

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The County PLHA Covenant Agreement will be in a lien position junior to grant deed, the Bond Regulatory Agreement, the City of Temecula Regulatory Agreement, the City of Temecula Covenants (Density Bonus Agreement), the City of Temecula Notice of Affordability Restrictions on Transfer of Property and senior to all other security instruments. Pacific West Bank as construction lender and permanent lender, and City of Temecula as land and development lender (collectively, Senior Lenders) are senior to the County's PLHA Loan. Only Pacific West Bank requires as a condition precedent to the funding of their respective loan that the County's PLHA Loan is subordinate to the bank's liens. Subordination of the PLHA 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, deed of trust lien priority during the construction phase shall be as follows: 1st priority Pacific West Bank Construction Loan, 2nd priority City of Temecula Loan, 3rd priority County PLHA Loan, and 4th priority Riverside Charitable Corporation Loan. Upon Project completion, lien priority will be as follows: 1st priority Pacific Western Bank Permanent Loan, 2nd priority City of Temecula Loan, 3rd priority County PLHA Loan, and 4th priority Riverside Charitable Corporation.

Any potential significant effects of the Project have been addressed by the City of Temecula, as Lead Agency in its Mitigated Negative Declaration (MND), Initial Study and Environmental Analysis for Vine Creek Apartments Housing Project (Planning Application Numbers PA18-0081, PA18-1230, PA18-0497 and PA18-0692), adopted by the City of Temecula on February 20, 2019 and filed with the Riverside County Clerk's Office on February 21, 2019. Acting as the Responsible Agency, the County of Riverside Board of Supervisors will adopt the Notice of Determination. Entering into the PLHA Loan Agreement will not result in any new significant environmental effects; the actions will not substantially increase the severity of the environmental effects; no considerably different mitigation measures have been identified; and no mitigation measures found infeasible have become feasible. As a result, no further environmental documentation is required for California Environmental Quality Act purposes.

Staff recommends that the Board of Supervisors approve the attached form of PLHA Loan Agreement, including all exhibits, including, but not limited to the forms of the PLHA Loan Deed of Trust, Security Instrument and Fixture Filing with Assignment of Rents (PLHA Loan Deed of Trust), PLHA Loan Promissory Note, Environmental Indemnity and PLHA Covenant Agreement. Staff further recommends that the Board of Supervisors authorize the Director of the Housing and Workforce Solutions (HWS), or designee, to negotiate and execute a subordination agreement, as required conditions to the senior lender financing, subordinating the PLHA Loan Deed of Trust to the deed of trust securing the senior lender loan as discussed herein, subject to approval as to form by County Counsel.

**Impact on Residents and Businesses**

The development of Vine Creek Apartments Housing Project in the City of Temecula 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 PLHA funds allocated from the California Department of Housing and Community Development PLHA Program.

**ATTACHMENTS:**

- Form of Loan Agreement for the Use of PLHA Program Funds, including all exhibits
  - Form of PLHA Loan Deed of Trust
  - Form of PLHA Loan Promissory Note
  - Form of Environmental Indemnity
  - Form of PLHA Covenant Agreement
- Form of the Subordination Agreement
- Notice of Determination

  
Brianna Lontajo, Principal Management Analyst 11/22/2022

  
Kristine Bell-Valdez, Supervising Deputy County Counsel 11/15/2022



Original Negative Declaration/Notice of Determination was routed to County Clerks for posting on 11/30/2022 CJ  
Date Initial

### Notice of Determination

**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 for the Use of PLHA Program Funds

Project Location (include county): Northwest corner of Main Street and Pujol Street in the City of Temecula, Riverside County identified as Assessor's Parcel Numbers 922-053-047-6, 922-053-021-2 and 922-053-048-7

**Project Description:**

On January 11, 2022, in connection with Vine Creek Apartments Affordable Housing Project, 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 Temecula (Project), the County of Riverside Board of Supervisors approved Resolution No. 2022-010, which allocated \$2,800,000 in Permanent Local Housing Allocation (PLHA) funds allocated from the California Department of Housing and Community Development PLHA Program (HCD PLHA Program), subject to the satisfaction of certain conditions contained therein, and supported the submission of a low income housing tax credit application by Temecula Pacific Associates, 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. 2022-210 have been satisfied, staff recommends that the Board approve the Loan Agreement for the Use of PLHA Program Funds, including exhibits (PLHA Loan Agreement) between the County and Partnership. The loan of \$2,800,000 derived from HCD PLHA Program funds will be used to pay a portion of the development and construction costs for the Project. The PLHA 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 PLHA funds will not be disbursed.

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Project Sponsor: County of Riverside Department of Housing & Workforce Solutions

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

Lead agency or  Responsible Agency

November 29, 2022

(tentative date)

and has made the following determinations regarding the above-described project:

In its independent judgment and analysis as a Responsible Agency under CEQA in issuing limited approvals, the County of Riverside, after it reviewed and considered the information in the previously adopted Mitigated Negative Declaration (MND), Initial Study and Environmental Analysis under Planning Application Numbers PA18-0081, PA18-1230, PA 18-0497 and PA 18-0692 for the City of Temecula, as lead agency, adopted on February 20, 2019 for the Vine Creek Affordable Housing Project, that as to those potential environmental impacts within the County's powers and authorities as Responsible Agency concerning the Loan Agreement for the Use of PLHA Program Funds and approvals associated therewith, any potentially significant environmental effects have been adequately analyzed and nothing further is required under CEQA. The City of Temecula, as the Lead Agency, filed its Notice of Determination on February 21, 2019.

Signature: (Public Agency)

  
Juan Garcia

Title: Development Manager

Date:

11/01/22

Date received for filing at OPR: \_\_\_\_\_





FILED / POSTED

County of Riverside  
Peter Aldana  
Assessor-County Clerk-Recorder

E-202201209  
12/01/2022 05:00 PM Fee: \$ 2598.00  
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Removed: \_\_\_\_\_ By: \_\_\_\_\_ Deputy  


## Notice of Determination

<b>To:</b>	<b>From:</b>
<input type="checkbox"/> Office of Planning and Research	Public
<i>For U.S Mail:</i>	<i>Agency:</i> <u>County of Riverside</u>
P.O. Box 3044	<i>Address:</i> <u>4080 Lemon Street, Suite 400</u>
Sacramento, CA 95812-3044	<u>Riverside, CA 92501</u>
<i>Street Address:</i>	<i>Contact:</i> <u>Mervyn Manalo</u>
1400 Tenth St.	<i>Phone:</i> <u>(951) 955-0774</u>
Sacramento, CA 95814	
<input checked="" type="checkbox"/> County Clerk	<i>Lead Agency (if different from above):</i>
County of: <u>Riverside</u>	<i>Address:</i> _____
2724 Gateway Drive	
P.O. Box 751	<i>Contact:</i> _____
<i>Address:</i> <u>Riverside, CA 92502-0751</u>	<i>Phone:</i> _____

**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): \_\_\_\_\_

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Project Sponsor: County of Riverside Department of Housing & Workforce Solutions

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

Lead agency or  Responsible Agency

November 29, 2022 and has made the following determinations regarding the above-described project:  
(tentative date)

In its independent judgment and analysis as a Responsible Agency under CEQA in issuing limited approvals, the County of Riverside, after it reviewed and considered the information in the previously adopted Mitigated Negative Declaration (MND), Initial Study and Environmental Analysis under Planning Application Numbers PA18-0081, PA18-1230, PA 18-0497 and PA 18-0692 for the City of Temecula, as lead agency, adopted on February 20, 2019 for the Vine Creek Affordable Housing Project, that as to those potential environmental impacts within the County's powers and authorities as Responsible Agency concerning the Loan Agreement for the Use of PLHA Program Funds and approvals associated therewith, any potentially significant environmental effects have been adequately analyzed and nothing further is required under CEQA. The City of Temecula, as the Lead Agency, filed its Notice of Determination on February 21, 2019.

Signature: (Public Agency)

  
Juan Garcia

Title: Development Manager

Date:

11/01/22

Date received for filing at OPR: \_\_\_\_\_



**HWS** HOUSING AND  
WORKFORCE  
SOLUTIONS  
ENGAGE. ENCOURAGE. EQUIP.

Board Date: November 29, 2022

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

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

**Subject: Notice of Determination (NOD) – Loan Agreement for the Use of PLHA Funds  
for Vine Creek Apartments, in the City of Temecula; District 3**

The Department of Housing 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 #1261  
Attention: Juan Garcia, Development Manager  
Department of Housing 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 AND WORKFORCE SOLUTIONS (HWS)

Authorization # \_\_\_\_\_  
Date: 11/29/2022  
Agency/Division: County of Riverside HWS - Attn: Tristan Chen  
Accounting String: FUND DEPT ID ACCT  
(Interfund) 537080-21340-5502000000 project code: ED1900550  
(Non-Interfund)

**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 <sup>Determination</sup> Notice of ~~Exemption~~ (PLHA Agmt Vine Creek Apts)  
Authorized by: Juan Garcia, Development Manager  
Presented by: Mervyn Manalo, Supervising Development Specialist



### 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 27383

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

6 RECORDING REQUESTED BY AND  
7 WHEN RECORDED MAIL TO:

8 County of Riverside  
9 3403 Tenth Street, Suite #300  
10 Riverside, CA 92501  
11 Attn: \_\_\_\_\_

12 SPACE ABOVE THIS LINE FOR RECORDERS USE

13 LOAN AGREEMENT FOR THE USE OF PLHA PROGRAM FUNDS  
14 (Northwest Corner of Main Street and Pujol Street, Temecula, CA)

15 This LOAN AGREEMENT FOR THE USE OF PLHA PROGRAM FUNDS  
16 (“Agreement”) is made and entered into this \_\_\_\_ day of December, 2022 by and between the  
17 COUNTY OF RIVERSIDE, a political subdivision of the State of California (“COUNTY” or  
18 “County”), and TEMECULA PACIFIC ASSOCIATES, A CALIFORNIA LIMITED  
19 PARTNERSHIP, 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 RECITALS:

23 WHEREAS, Chapter 364, Statutes of 2017 (Senate Bill (SB) 2, Atkins), as  
24 authorized by Health and Safety Code (HSC) Section 50470, established the Building Homes  
25 and Jobs Trust Fund (Fund) and the Permanent Local Housing Allocation (“PLHA”) Program  
26 which was designed to provide a permanent source of funding to all local governments in  
27 California to help cities and counties implement plans to increase affordable housing stock;

28 WHEREAS, the State of California (the “State”), Department of Housing and  
Community Development (“HCD”) issued a Notice of Funding Availability (“NOFA”), dated  
February 26, 2020, to provide approximately \$195,000,000 under the PLHA Program through  
its Entitlement and Non-entitlement Local Government Formula Component from the Fund for  
assistance to local governments pursuant to HSC section 50470 et seq. and SB 2 (Chapter 364,

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1 Statutes of 2017) (the “PLHA Statutes”);

2 WHEREAS, to implement the PLHA Program, HCD adopted and issued the  
3 HCD 2019 PLHA Final Guidelines (“Guidelines” or “PLHA Guidelines”);

4 WHEREAS, the County is an eligible local government for the program to  
5 administer one or more eligible activities, including on behalf of other local governments that  
6 have delegated County to submit an application and administer their PLHA formula  
7 allocations;

8 WHEREAS, HSC Section 50470 authorizes the HCD to allocate moneys  
9 collected and deposited in the Fund for the PLHA Program, with 90 percent of PLHA funds to  
10 local governments, and to adopt Guidelines to implement the PLHA Program;

11 WHEREAS, pursuant to Section 300(c) of the HCD Guidelines, a local  
12 government may delegate another local government to submit an application and administer  
13 the formula component of PLHA funds on its behalf, provided the local governments enter into  
14 an agreement and the funds are expended for eligible activities consistent with program  
15 requirements;

16 WHEREAS, consistent with HCD guidelines, City of Temecula (“City”)  
17 delegated to County the responsibility for submitting an application for administering its  
18 formula component for Allocation Years 2019-2023 (“City’s Allocations”) in the estimated  
19 funding amount of \$1,640,358;

20 WHEREAS, pursuant to the PLHA Program, the County and HCD entered into  
21 that certain Standard Agreement dated June 17<sup>th</sup>, 2021, including Exhibits A, B, D and E  
22 (collectively, the “PLHA Standard Agreement”), which allocates PLHA funding to the County  
23 for use in the City;

24 WHEREAS, in connection therewith, City and County entered in that certain  
25 Agreement for the Permanent Local Housing Allocation (PLHA) Program under the California  
26 Department of Housing and Community Development (HCD) for Allocation Years 2019-2023  
27 (the “City PLHA Agreement”), which provides for the use of PLHA Funds by the County  
28 within the City to increase the affordable housing stock within the City;

1           WHEREAS, the PLHA Statutes, Guidelines, NOFA, PLHA Standard  
2 Agreement, City Standard Agreement and all applicable rules and regulations imposed by  
3 HCD on PLHA funding recipients shall collectively be referred to herein as the “PLHA  
4 Program”;

5           WHEREAS, BORROWER is an experienced developer of affordable housing  
6 that has among its purposes the provision of decent housing that is affordable to low income  
7 persons;

8           WHEREAS, BORROWER desires to perform the following in the City,  
9 collectively referred to herein as the “Project”: (i) acquire that certain real property known as  
10 the northwest corner of Main Street and Pujol Street, Temecula, CA, identified as Assessor’s  
11 Parcel Numbers 922-053-047-6, 922-053-021-2 and 922-053-048-7, as more specifically  
12 described in the legal description and depicted on the site map attached hereto as **Exhibit A**  
13 and incorporated herein by this reference (“Property”) and (ii) construct and operate thereon an  
14 approximately 2.27 acre multi-family apartment complex and related amenities consisting of  
15 7 one-bedroom units, 32 two-bedroom units and 21 three-bedroom units (including one  
16 manager’s unit), for a total of 60 apartment units (each, a “Unit,” collectively, the “Units”);

17           WHEREAS, the purpose of this Agreement is, among other things, for COUNTY  
18 to provide a loan of PLHA funds (consisting of PLHA funds allocated for use in the City  
19 pursuant to the PLHA Standard Agreement, as well as other PLHA funds available to the  
20 COUNTY for the purposes set forth herein) to BORROWER in the maximum amount of  
21 \$2,800,000 to pay a portion of the construction and operation costs related to the Project, as  
22 more fully described herein;

23           WHEREAS, in consideration of the loan of PLHA funds, BORROWER has  
24 agreed to restrict the “PLHA Units” (as defined in **Section 1** below) to rental to and occupancy  
25 by qualified Low and Very Low Income Households consistent with the PLHA Program  
26 requirements and as defined more specifically herein;

27           WHEREAS, the development of the Project as described herein increases the  
28 available affordable housing stock within the City and the County and complies with the

1 objectives set forth in the PLHA Program.

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

5 1. PURPOSE. The aforementioned Recitals are incorporated herein by this  
6 reference. COUNTY has agreed to lend up to \$2,800,000 in PLHA funds (“PLHA Loan”) to  
7 BORROWER upon the satisfaction of the conditions precedent to distribution of PLHA Loan  
8 funds set forth in **Section 12** below. Subject to **Sections 49** and **50** below, BORROWER shall  
9 undertake and complete the Project in accordance with all entitlements and the Scope of Work  
10 and Project Description set forth in **Exhibit B**, and shall utilize the PLHA Loan funds as  
11 required herein and in strict compliance with the PLHA Program. Once the Project is  
12 completed, during the Affordability Period (as defined in **Section 15** below), at least  
13 approximately forty nine percent (49%) of the Units not occupied by a manager or twenty-  
14 eight (28) of the Units constructed on the Property shall be restricted to rental to and  
15 occupancy by qualified Low and Very Low Income Households (collectively, “PLHA Units”)  
16 at an Affordable Rent (as hereinafter defined). At least twenty percent (20%) of the PLHA  
17 Units or six (6) PLHA Units shall be restricted to occupancy by Very Low Income  
18 Households. Twenty-two (22) PLHA Units shall be rented to and occupied by Low Income  
19 Households: XX one-bedroom units, XX two-bedroom units and XX three-bedroom units. Six  
20 (6) PLHA Units shall be rented to and occupied by Very Low Income Households: XX one-  
21 bedroom units, XX two-bedroom units and XX three-bedroom units. One-bedroom units shall  
22 be approximately 660 square feet each, two-bedroom units shall be approximately 880 square  
23 feet each, and three-bedroom units shall be approximately 1,050 square feet each.

24 For purposes hereof:

- 25 a. a “Household” is one or more persons occupying an Affordable Unit.  
26 b. “Low Income” has the meaning set forth in HSC Section 50079.5,  
27 which is a Household whose income does not exceed 80% of the area  
28 median income, adjusted for actual family size.



- 1 c. "Very Low Income" has the meaning set forth in HSC Section  
2 50105, which is a Household whose income does not exceed 50% of  
3 the area median income, adjusted for actual family size.
- 4 d. "area median income" shall refer to the most recent area median  
5 family income published by HCD for Riverside County, available at  
6 the following link:
- 7 e. "Qualified Household" means a Low Income Household or a Very  
8 Low Income Household.

9 The PLHA Units shall be rented to and occupied by Very Low and Low  
10 Income Households at an "Affordable Rent" in compliance with the Multifamily Housing  
11 Program guidelines Section 7312 and the Section 7301 definition of "Affordable Rent" and the  
12 PLHA Program. COUNTY shall review and approve proposed rents prior to entry into leases  
13 for occupancy of the PLHA Units by BORROWER. BORROWER shall ensure the PLHA  
14 Units are rented to qualified applicants at the rent levels required herein during the Affordability  
15 Period. The maximum monthly allowances for utilities and services (excluding telephone) shall  
16 not exceed the utility allowance permitted by a Covenant Agreement entered into by COUNTY  
17 and BORROWER substantially in the form attached as **Exhibit H** hereto upon Closing (as  
18 defined in **Section 12**).

19 Income and Affordable Rent limitations for Very Low Income  
20 Households and Low Income Households must be calculated in accordance with the  
21 Multifamily Housing Program (MHP), as required by the PLHA Program. BORROWER shall  
22 utilize the most recently available "MHP Income and Rent Calculator" published by HCD,  
23 available on the following web page:

24 Notwithstanding anything contained herein to the contrary, if the Project  
25 has received low income housing tax credits, then California Tax Credit Allocation Committee  
26 ("CTCAC") rent and income-setting requirements shall control for the term of the CTCAC  
27 extended use agreement.

28 This PLHA Loan Agreement, a Promissory Note for the benefit of

1 COUNTY and given by BORROWER upon Closing, substantially in the form attached as  
2 **Exhibit F** hereto (the “PLHA Note”), a Deed of Trust for the benefit of COUNTY and given by  
3 BORROWER upon Closing, substantially in the form attached as **Exhibit E** hereto (the “PLHA  
4 Deed of Trust”), a Covenant Agreement for the benefit of COUNTY and given by  
5 BORROWER upon Closing, substantially in the form attached as **Exhibit H** hereto (the  
6 “Covenant Agreement”), an Environmental Indemnity for the benefit of COUNTY and given by  
7 BORROWER upon Closing, substantially in the form attached as **Exhibit J** hereto (the  
8 “Environmental Indemnity”) and any other agreement entered into by COUNTY and  
9 BORROWER in connection with the PLHA Loan for the Project shall collectively be referred  
10 to herein as the “PLHA Loan Documents.” BORROWER shall comply with the terms and  
11 conditions of the PLHA Loan Documents, any other agreements entered into in connection with  
12 the development and/or financing for the Project, and any instrument secured against the  
13 Property. BORROWER shall strictly comply with all requirements of the PLHA Program.

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

- 17 a. Satisfy the conditions precedent to distribution of PLHA Loan funds  
18 set forth in **Section 12** below.
- 19 b. Acquire fee title to the Property and assemble any necessary  
20 permanent and construction financing no later than the date set forth  
21 in **Exhibit D**, including any County approved extensions thereto.
- 22 c. Develop the Project in accordance with the timeline set forth in  
23 **Exhibit D**.
- 24 d. Operate the Project in such a manner so that it will remain affordable  
25 to Qualified Households for the Affordability Period as defined in  
26 **Section 15** herein without regard to (i) the term of the PLHA Note, or  
27 (ii) transfer of ownership.
- 28 e. Maintain the Project in compliance with applicable local, state,

1 federal laws, codes and regulations as further described in **Section 17**  
2 below until the expiration of the Term of this Agreement set forth in  
3 **Section 7** below, and the Affordability Period set forth in **Section 15**  
4 below.

5 3. COUNTY'S OBLIGATIONS. COUNTY hereby agrees to undertake and  
6 complete the following activities, subject to its receipt of PLHA funds from HCD and  
7 BORROWER's satisfactory completion of the conditions precedent to disbursement of PLHA  
8 funds set forth in this Agreement:

- 9 a. Provide the PLHA Loan to BORROWER in the amount identified in  
10 **Section 1**, to be used to pay a portion of the acquisition and eligible  
11 rehabilitation/construction costs for the Project in accordance with the  
12 PLHA Program; and  
13 b. Comply with all of its obligations under the PLHA Standard  
14 Agreement, City Standard Agreement and all other applicable  
15 requirements of the PLHA Program.

16 4. PLHA Loan. Subject to the satisfaction of the conditions precedent to  
17 disbursement of the PLHA Loan set forth in **Section 12** below, COUNTY shall provide  
18 financing to Borrower in the form of a loan in the amount of the PLHA Loan, pursuant to the  
19 following terms and conditions:

- 20 a. Term of PLHA Loan. . The maturity date of the PLHA Loan shall be  
21 the later to occur of (i) July 1, 2079 or (ii) fifty-five (55) years from  
22 the recordation of the Notice of Completion in the Official Records  
23 for the building for which rehabilitation is completed for the Project  
24 (the "PLHA Loan Term"). The term, "Official Records" used herein  
25 shall mean the Official Records of the Recorder's Office of the  
26 County of Riverside.  
27 b. Principal. The total amount of the PLHA Loan shall not exceed  
28 \$2,800,000, and shall be evidenced by the PLHA Note, which note

1 shall be secured by the PLHA Deed of Trust.

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

4 d. Repayment. The terms of the PLHA Note shall be as follows:

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

13 (2) The PLHA Note shall be repaid by BORROWER to COUNTY as  
14 follows:

15 i) Fifty percent (50%) of the Project's Residual  
16 Receipts shall be paid to COUNTY and the City of  
17 Temecula (pro rata with respect to the amounts of  
18 their respective loans for the Project) annually in  
19 accordance with the terms set forth herein. Such  
20 payment of the pro rata share of fifty percent  
21 (50%) of the Project's Residual Receipts to  
22 COUNTY shall continue annually until the PLHA  
23 Note is repaid in full; and

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

26 (3) The Project's Residual Receipts shall be determined based on an  
27 annual review of certified financial statements for the Project.  
28 Annual audited financial statements shall be submitted by

1 BORROWER to COUNTY within one hundred twenty (120) days  
2 following the close of the Project fiscal year commencing on  
3 April 1<sup>st</sup> of the first full calendar year following the recordation of  
4 the Notice of Completion. All outstanding principal along with  
5 accrued interest shall be due upon the maturity date of the PLHA  
6 Note and the expiration of the PLHA Loan Term as set forth in  
7 **Section 4.a.** The first payment from BORROWER to COUNTY  
8 shall be due on July 1<sup>st</sup> in the first full calendar year following the  
9 date of the recordation of the Notice of Completion, to the extent  
10 of available Residual Receipts, calculated in accordance with the  
11 PLHA Note. Subsequent payments shall be made on each July 1<sup>st</sup>  
12 thereafter to the extent of available Residual Receipts until the  
13 earlier of full repayment of the PLHA Loan or the PLHA Loan  
14 maturity date as set forth above.

15 (4) The term "Project Residual Receipts" used herein shall mean the  
16 gross rental and other income from all residential and non-  
17 residential components of the Project, including, without  
18 limitation, proceeds from loss of rent insurance, and any other  
19 income to the BORROWER derived from the ownership,  
20 operation and management of the Project and the Property, but  
21 excluding interest on required reserve accounts, less the following  
22 operating expenses:

- 23 i) auditing and accounting fees;
- 24 ii) a reasonable property management fee not to  
25 exceed \$62.66 per unit per month, increased  
26 annually by an amount not to exceed the greater of  
27 (i) three and a half percent (3.5%) or (ii) the  
28 increase in the Consumer Price Index for

1 Riverside-San Bernardino-Ontario, CA area  
2 (“CPI”);

3 iii) operating expenses (any expense reasonably and  
4 normally incurred in carrying out the Project’s  
5 day-to-day activities, which shall include  
6 administration, on-site management costs, utilities,  
7 on-site staff payroll, payroll taxes, and  
8 maintenance);

9 iv) required deposits into replacement reserves,  
10 established in a separate account from operating  
11 reserves, limited to \$250 per unit per year for all  
12 units in the Project, increased annually by an  
13 amount not to exceed the greater of (i) three  
14 percent (3%) or (ii) the increase in CPI;

15 v) required operating reserve replenishments in an  
16 amount up to \$[156,381] per year; [TO BE  
17 CONFIRMED PRIOR TO CLOSING]

18 vi) required payments of principal and interest on  
19 amortized loans and indebtedness senior to the  
20 PLHA Loan, which have been approved by  
21 COUNTY (collectively, the “Senior Debt”);

22 vii) COUNTY’s Monitoring Fee in the total annual  
23 amount of \$6,000, increased annually by an  
24 amount equal to the increase in CPI, as more  
25 specifically discussed in **Section 30**;

26 viii) repayment of any operating deficit loans made by a  
27 partner to the BORROWER and payment of  
28 unpaid tax credit adjustment payments owed to a

1 limited partner of BORROWER;

2 ix) partnership management fees up to \$6,000  
3 annually payable to a partner of BORROWER, and  
4 asset management fees up to \$6,000 annually  
5 (increasingly annually by three (3%)) payable to a  
6 partner of BORROWER, and any accrued and  
7 unpaid fees from prior years; and

8 x) payment of deferred developer fees pursuant to  
9 BORROWER'S limited partnership agreement.

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

12 e. Security. The PLHA Note shall be secured by the PLHA Deed of Trust.  
13 The PLHA Deed of Trust and this Agreement shall be recorded in a lien  
14 position junior to the Covenant Agreement and any deed of trust securing  
15 a third party, commercial bank construction or permanent loan or another  
16 mutually acceptable senior lender as agreed to by the Parties in writing  
17 (the "Senior Loan").

18 f. Prepayment. Prepayment of principal and/or interest under the PLHA  
19 Note may occur at any time without penalty; provided, however (i) the  
20 requirements of **Section 17**, Compliance with Laws and Regulations,  
21 shall remain in full force and effect for the term of this Agreement  
22 specified in **Section 7** below; and (ii) the affordability requirements set  
23 forth in the Covenant Agreement shall remain in effect until the  
24 expiration of the Affordability Period.

25 5. PRIOR COUNTY APPROVAL. Except as otherwise expressly provided  
26 in this Agreement, approvals required of the COUNTY shall be deemed granted by the written  
27 approval of the Director. Notwithstanding the foregoing, the Director may, in his or her sole  
28 discretion, refer to the governing body of the COUNTY any item requiring COUNTY

1 approval; otherwise, "COUNTY approval" means and refers to approval by the Director or  
2 designee.

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

6 7. TERM OF AGREEMENT. This Agreement shall become effective upon  
7 the Effective Date, as defined in **Section 56** below, and unless terminated earlier pursuant to  
8 the terms hereof, shall continue in full force and effect until the later to occur of (i) July 1,  
9 2079 or (ii) fifty-five (55) years from the recordation of the Notice of Completion in the  
10 Official Records for the last building for which rehabilitation is completed for the Project  
11 ("Term of Agreement").

12 8. BORROWER'S REPRESENTATIONS. BORROWER represents and  
13 warrants to COUNTY as follows:

14 a. Authority. BORROWER is a duly organized limited partnership,  
15 validly existing and in good standing under the laws of the State  
16 of California. The copies of the documents evidencing the  
17 organization of BORROWER, which have been delivered to  
18 COUNTY, are true and complete copies of the originals, as  
19 amended to the date of this Agreement. BORROWER, and the  
20 persons executing and delivering the PLHA Loan Documents on  
21 its behalf, have full right, power and lawful authority to enter into  
22 this Agreement and accept the PLHA Loan funds and undertake  
23 development of the Project and all obligations as provided in the  
24 PLHA Loan Documents. The execution, performance and  
25 delivery of this Agreement by BORROWER has been fully  
26 authorized by all requisite actions on the part of BORROWER.

27 b. No Conflict. To the best of BORROWER's knowledge,  
28 BORROWER's execution, delivery and performance of its



1 obligations under this Agreement will not constitute a default or a  
2 breach under contract, agreement or order to which BORROWER  
3 is a party or by which it is bound.

4 c. No Bankruptcy. BORROWER is not the subject of a bankruptcy  
5 proceeding.

6 d. General. BORROWER has access to professional advice and  
7 support to the extent necessary to enable BORROWER to fully  
8 comply with the terms of this Agreement, and to otherwise carry  
9 out the Project. Neither BORROWER nor any of its principals is  
10 presently debarred, suspended, proposed for debarment, declared  
11 ineligible, or voluntarily excluded from participation in  
12 connection with the transaction contemplated by this Agreement.

13 e. Use of PLHA Funds. Borrower represents and warrants that it will  
14 use all PLHA funds in a manner consistent and in compliance  
15 with all applicable state and federal statutes, rules, regulations,  
16 and laws, including without limitation, all rules and laws  
17 regarding the PLHA Program, as well as any contracts for the  
18 PLHA funds entered into between City and County and any  
19 contracts County may have with HCD.

20 f. Prior to Closing. BORROWER shall, upon learning of any fact or  
21 condition which would cause any of the warranties and  
22 representations in this **Section 8** not to be true as of Closing,  
23 immediately give written notice of such fact or condition to  
24 COUNTY. Such exception(s) to a representation shall not be  
25 deemed a breach by BORROWER hereunder, but shall constitute  
26 an exception which COUNTY shall have the right to approve or  
27 disapprove if such exception would have an effect on the value  
28 and/or operation of the Project Site.

1 g. Applicable Requirements. BORROWER represents and warrants  
2 that after Closing, the Property and all improvements located  
3 thereon, including any portion thereof, shall comply with all  
4 applicable Governmental Requirements (as defined in **Section**  
5 **18.b**) and all covenants or restrictions of record (together, the  
6 “**Applicable Requirements**”). If the Property and all  
7 improvements located thereon do not comply with said  
8 Applicable Requirements, BORROWER shall promptly rectify  
9 the same at BORROWER’s expense.

10 h. CEQA. BORROWER represents and warrants that the Project  
11 will be developed in full compliance with all applicable  
12 requirements of the California Environmental Quality Act  
13 (“CEQA”). concerning this Agreement, including without  
14 limitation any challenge to CEQA compliance.

15 i. Labor Laws. BORROWER represent and warrants that it shall  
16 comply with any applicable labor regulations and all other  
17 applicable State laws, including, without limitation, California  
18 prevailing wage law, as set forth in Labor Code Section 1720 et  
19 seq. and shall pay prevailing wages in accordance with California  
20 law in connection with the construction of the improvements  
21 which compromise the Project.

22 9. COMPLETION SCHEDULE. From and after the Effective Date,  
23 BORROWER shall proceed consistent with the Schedule of Performance (“Schedule of  
24 Performance”) set forth in **Exhibit D**, (as such schedule may be amended pursuant to **Section**  
25 **12**), subject to Force Majeure Delays, as defined in **Section 10**.

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

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

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

22 11. EXTENSION OF TIME. COUNTY may grant an extension to the  
23 Schedule of Performance set forth in **Exhibit D** for the purpose of completing BORROWER's  
24 activities which cannot be completed as outlined in **Exhibit D** despite commercially reasonable  
25 efforts to do so. BORROWER shall request said extension in writing, stating the reasons  
26 therefore, which extension must be first approved in writing by the COUNTY in its reasonable  
27 discretion. The Director or designee, on behalf of the COUNTY and without referring such  
28 matter to the County's Board of Supervisors may extend all pending deadlines in the Schedule

1 of Performance on two (2) or fewer occasions, so long as the aggregate duration of such  
2 administrative time extensions is no greater than one hundred twenty (120) days. Every term,  
3 condition, covenant, and requirement of this Agreement shall continue in full force and effect  
4 during the period of any such extension.

5 12. CONDITIONS PRECEDENT TO DISBURSEMENT OF PLHA LOAN

6 FUNDS. The date upon which the PLHA Deed of Trust is recorded in the official records of  
7 Riverside County shall be referred to herein as the "Closing." COUNTY shall disburse PLHA  
8 Loan funds in accordance with this Agreement to BORROWER subject to the Closing having  
9 occurred and Borrower's satisfaction of the conditions precedent set forth below. COUNTY  
10 shall not be obligated to effect the Closing until the following conditions precedent have been  
11 satisfied:

- 12 a. BORROWER executes this Agreement and delivers to COUNTY for  
13 recordation in the Official Records;
- 14 b. Borrower submits written evidence to COUNTY that Borrower has  
15 obtained sufficient financing commitments necessary to undertake the  
16 construction and operation of the Project as required herein;
- 17 c. BORROWER provides COUNTY with evidence of insurance as  
18 required herein;
- 19 d. BORROWER executes the PLHA Deed of Trust, in recordable form,  
20 and delivers such document to COUNTY for recordation in the  
21 Official Records;
- 22 e. BORROWER executes the PLHA Note, and delivers it to COUNTY;
- 23 f. BORROWER executes the Covenant Agreement, in recordable form,  
24 and delivers to the COUNTY for recordation in the Official Records;
- 25 g. COUNTY executes and records a Request for Notice of Default for  
26 any Senior Loan conforming in form and substance to **Exhibit I**  
27 attached hereto;
- 28 h. BORROWER executes the Environmental Indemnity, and delivers it

1 to COUNTY;

2 i. BORROWER has caused the Property to be divided or reconfigured  
3 at BORROWER's cost in such a manner that the Project may be  
4 financed and obtain title insurance;

5 j. BORROWER causes a title company, reasonably acceptable to  
6 COUNTY, at BORROWER'S expense, to issue or be irrevocably  
7 committed to issue an ALTA lender's policy in favor of COUNTY,  
8 insuring the PLHA Deed of Trust as a subordinate priority monetary  
9 lien against the Property junior to the deed of trust securing the Senior  
10 Loan and such other financing as has been approved as senior by the  
11 COUNTY for the development of the Project;

12 k. BORROWER provides satisfactory evidence that Senior Loan and  
13 any other financing obtained for the Project will close concurrently  
14 with the Closing;

15 l. BORROWER provides a financial pro forma or similar satisfactory  
16 evidence that the Senior Loan, permanent financing and any other  
17 financing obtained for the Project, when combined with the PLHA  
18 Loan, will result in the development and operation of the Project  
19 being financially feasible;

20 m. BORROWER is not in default under the terms of this Agreement or  
21 any other agreement related to the financing of the Project;

22 n. BORROWER provides satisfactory evidence that it has secured any  
23 and all necessary land use entitlements, permits, and approvals which  
24 may be required for construction of the Project pursuant to the  
25 applicable rules and regulations of City, COUNTY, and any other  
26 governmental agency with jurisdiction over such construction work.  
27 BORROWER shall have secured, without limitation, the following in  
28 connection with the Project: all entitlements, changes of zoning, lot

1 line adjustments, any and all necessary studies required including but  
2 not limited to archaeological, cultural, and environmental, and traffic  
3 studies and lead-based paint surveys. BORROWER shall have paid  
4 all costs, charges and fees associated therewith;

5 o. BORROWER provides duly executed documents and instruments  
6 evidencing that BORROWER owns fee title to the Property;

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

11 q. BORROWER provides satisfactory evidence to COUNTY, if  
12 applicable, that it has hired a qualified professional firm to review and  
13 monitor prevailing wage compliance for all submission of  
14 contractors' certified payrolls to COUNTY.

15 13. OUTSIDE CLOSING DATE. If the Closing fails to occur by  
16 \_\_\_\_\_, 202\_\_ (the "Outside Closing Date"), then this Agreement shall  
17 automatically terminate and be of no further force and effect and Borrower shall be released  
18 and discharged from any obligations under this Agreement, except as to those obligations  
19 which by their terms survive termination of this Agreement. The PLHA Loan funds allocated,  
20 reserved, or placed in a PLHA account pursuant to this Agreement may be reallocated by  
21 COUNTY.

22 Notwithstanding the foregoing, the Parties hereto acknowledge that many of the  
23 potential sources of financing for the Project are subject to competitive awards, and that it is  
24 difficult to identify with certainty the period of time needed to obtain financing and  
25 entitlements necessary for construction of a Phase. In light of the foregoing, the Outside  
26 Closing Date (i) if applicable, may be automatically extended to such closing date as required  
27 by the Tax Credit Allocation Committee pursuant to an award of Low Income Housing Tax  
28 Credits for the Project made prior to the Outside Closing Date, or (ii) shall be subject to written

1 extension with the consent of the Director or his or her designee through December 31, 2022.  
2 The Director shall reasonably consider any request for extensions to the Outside Closing Date  
3 based on BORROWER's updates on progress toward obtaining financing and entitlements.  
4 Any extension of the Outside Closing Date past December 31, 2022 shall require the consent  
5 of the Board of Supervisors.

6 14. DISBURSEMENT OF FUNDS; RETENTION. Upon and after the  
7 Closing, COUNTY shall disburse the PLHA Loan Funds in accordance herewith.  
8 Disbursement of PLHA Loan funds shall occur upon the receipt of copies of invoices and  
9 conditional (upon receipt of payment) lien releases for construction costs to be paid with the  
10 proceeds of the PLHA Loan. Any disbursement of funds is expressly conditioned upon the  
11 satisfaction of conditions set forth above. COUNTY shall disburse to BORROWER the PLHA  
12 Loan funds above on a "cost-as-incurred" basis for all eligible approved costs under itemized  
13 schedule shown in **Exhibit C** as follows:

- 14 a. Up to fifty percent (50%) of the PLHA Loan may be disbursed at  
15 Closing.
- 16 b. Up to ninety percent (90%) of the PLHA Loan upon fifty-one  
17 percent (51%) completion of Project, as certified and documented  
18 by the project architect/engineer.
- 19 c. COUNTY shall release final draw down of ten percent (10%) of  
20 the PLHA Loan following receipt of all of the items listed below,  
21 in such form as is satisfactory to COUNTY:
- 22 1) Conditional lien release from general contractor;
  - 23 2) recorded Notice of Completion;
  - 24 3) Permanent Certificate of Occupancy;
  - 25 4) architect certification identifying units that are accessible to  
26 individuals with mobility impairments and units that are  
27 accessible to individuals with sensory impairments in  
28 compliance with Applicable California law;

- 1 5) if applicable, submission of documentation that shows
- 2 compliance with the Uniform Relocation Assistance and
- 3 Real Property Acquisition Policies Act of 1970 and 24 CFR
- 4 Part 42;
- 5 6) submission of a Project completion report including Tenant
- 6 Checklist which is attached hereto and by this reference
- 7 incorporated herein;
- 8 7) Tenant Selection Policy;
- 9 8) Management Plan;
- 10 9) Certified statement of final development costs; and
- 11 10) Certified statement of final sources and uses of funds for the
- 12 Project.

13 15. TERMS OF AFFORDABILITY. The PLHA Units in the Project shall  
14 remain occupied and rented by Qualified Households for an Affordable Rent as set forth herein  
15 and in the Covenant Agreement until the later of (i) fifty-five (55) years from the recordation  
16 of the Notice of Completion in the Official Records for the last building for which construction  
17 is completed for the Project, or (ii) July 1, 2079 (the "Affordability Period").

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

- 25 a. Builder's All Risk (Course of Construction) Insurance.
- 26 BORROWER shall provide a policy of Builder's All Risk
- 27 (Course of Construction) insurance coverage including (if the
- 28 work is located in an earthquake or flood zone or if required on



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

1                   b.     Worker's Compensation.

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

11                  c.     Commercial General Liability Insurance.

12                  Commercial General Liability insurance coverage, including but  
13                  not limited to, premises liability, unmodified contractual liability,  
14                  products and completed operations liability, personal and  
15                  advertising injury, and cross liability coverage, covering claims  
16                  which may arise from or out of BORROWER'S performance of  
17                  its obligations hereunder. Policy shall name the COUNTY as  
18                  Additional Insured. Policy's limit of liability shall not be less than  
19                  \$2,000,000 per occurrence combined single limit. If such  
20                  insurance contains a general aggregate limit, it shall apply  
21                  separately to this agreement or be no less than two (2) times the  
22                  occurrence limit. Policy shall name the COUNTY as Additional  
23                  Insureds.

24                  d.     Vehicle Liability Insurance.

25                  If vehicles or mobile equipment are used in the performance of  
26                  the obligations under this Agreement, then BORROWER shall  
27                  maintain liability insurance for all owned, non-owned or hired  
28                  vehicles so used in an amount not less than \$1,000,000 per

1 occurrence combined single limit. If such insurance contains a  
2 general aggregate limit, it shall apply separately to this agreement  
3 or be no less than two (2) times the occurrence limit. Policy shall  
4 name the COUNTY as Additional Insureds.

5 e. General Insurance Provisions – All Lines.

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

13 2) The BORROWER must declare its insurance self-  
14 insured retention for each coverage required herein. If any such  
15 self-insured retention exceed \$500,000 per occurrence each such  
16 retention shall have the prior written consent of the County Risk  
17 Manager before the commencement of operations under this  
18 Agreement. Upon notification of self-insured retention  
19 unacceptable to the COUNTY, and at the election of the County's  
20 Risk Manager, BORROWER'S carriers shall either; 1) reduce or  
21 eliminate such self-insured retention as respects this Agreement  
22 with the COUNTY, or 2) procure a bond which guarantees  
23 payment of losses and related investigations, claims  
24 administration, and defense costs and expenses.

25 3) BORROWER shall cause BORROWER'S  
26 insurance carrier(s) to furnish the County of Riverside with either  
27 1) a properly executed original Certificate(s) of Insurance and  
28 certified original copies of Endorsements effecting coverage as

1 required herein, and 2) if requested to do so orally or in writing by  
2 the County Risk Manager, provide original Certified copies of  
3 policies including all Endorsements and all attachments thereto,  
4 showing such insurance is in full force and effect. Further, said  
5 Certificate(s) and policies of insurance shall contain the covenant  
6 of the insurance carrier(s) that a minimum of thirty (30) days  
7 written notice shall be given to the County of Riverside prior to  
8 any material modification, cancellation, expiration or reduction in  
9 coverage of such insurance. If BORROWER insurance carrier(s)  
10 policies does not meet the minimum notice requirement found  
11 herein, BORROWER shall cause BORROWER'S insurance  
12 carrier(s) to furnish a 30 day Notice of Cancellation Endorsement.

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

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

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

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

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

22                  9)     BORROWER agrees to notify COUNTY of any  
23                  claim by a third party or any incident or event that may give rise  
24                  to a claim arising from the performance of this Agreement

25                  17.     FINANCIAL AND PROJECT RECORDS. BORROWER shall maintain  
26                  financial, programmatic, statistical, and other supporting records of its operations and financial  
27                  activities in accordance with the requirements of any financing secured by the Project and any  
28                  applicable Governmental Requirements, which records shall be open to inspection and audit by

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

13 18. COMPLIANCE WITH LAWS AND REGULATIONS;  
14 INDEMNIFICATION. By executing this Agreement, BORROWER hereby certifies that it  
15 will adhere to and comply with all applicable federal, state and local laws, regulations and  
16 ordinances. BORROWER agrees to indemnify, defend, and hold the Indemnified Parties (as  
17 defined in Section 38) harmless from and against any and all liabilities, costs or fees  
18 (including, but not limited to, attorneys' costs and fees) arising out of, in connection with or  
19 related to BORROWER's failure to comply with any and all applicable federal, state and local  
20 laws, regulations and ordinances in connection with the development of the Project. Without  
21 limitation, BORROWER shall comply with the following as they may be applicable to  
22 BORROWER in connection with the use of PLHA Loan funds and/or development of the  
23 Project on the Property:

- 24 a. PLHA Program. BORROWER shall comply with all requirements  
25 set forth in a Notice of Funding Availability ("NOFA"), dated  
26 February 26, 2020, issued by HCD to provide approximately  
27 \$195,000,000 under the Permanent Local Housing Allocation  
28 ("PLHA") Program through its Entitlement and Non-entitlement

1 Local Government Formula Component from the Building Homes  
2 and Jobs Trust Fund for assistance to Local Governments  
3 pursuant to Health and Safety Code section 50470 et seq. and  
4 Senate Bill (SB) 2 (Chapter 364, Statutes of 2017), the HCD 2019  
5 PLHA Final Guidelines (“Guidelines” or “PLHA Guidelines”)  
6 adopted and issued to implement the PLHA Program, any  
7 Standard Agreement for the PLHA funds applicable to COUNTY  
8 or City, and all applicable rules and regulations imposed by HCD  
9 on PLHA funding recipients.

10 b. Governmental Requirements. BORROWER shall carry out  
11 development, construction and operation of the Project in  
12 conformity with all applicable Governmental Requirements. For  
13 purposes of this Agreement, “Governmental Requirements”  
14 means all laws, ordinances, statutes, codes, rules, resolutions,  
15 regulations, policy statements, orders, and decrees (including,  
16 without limitation, those relating to land use, subdivision, zoning,  
17 environmental, labor relations, prevailing wage, and building and  
18 fire codes) of the United States, the State of California, the  
19 County or any other political subdivision in which the Property is  
20 located or which exercises jurisdiction over BORROWER or the  
21 construction, maintenance, management, use, or operation of the  
22 Project

23 c. CEQA. Prior to Closing, BORROWER shall have performed all  
24 necessary final actions and obtained the final approvals required  
25 by CEQA for the development and construction of the Project  
26 within the time frames set forth herein. Such final actions and  
27 approvals may include, but are not limited to the following: (i)  
28 completing requisite activities to comply with CEQA, (ii) all final

1 action and approvals for environmental and land use permits by  
2 any governmental authorities having jurisdiction over the  
3 Property, and (iii) resolution or final adjudication of any legal  
4 challenges, including such challenges based on CEQA. This  
5 Agreement does not restrict the lead agency from considering any  
6 feasible mitigation measures and alternatives, including the “no  
7 project” alternative and does not bind the lead agency to any  
8 definite course of action prior to CEQA compliance.

9 The commencement of any development and construction  
10 identified herein is contingent upon BORROWER obtaining all  
11 required environmental and land use permits, including CEQA  
12 compliance with any applicable public agencies. In the event any  
13 action is brought challenging the legality of compliance with  
14 CEQA or any other law applicable to the Project, including any  
15 actions related to any of the proposed uses of the Property or this  
16 Agreement, BORROWER shall indemnify, defend (with counsel  
17 reasonably acceptable to COUNTY), and hold harmless the  
18 Indemnified Parties (as defined in **Section 38**), at its sole cost and  
19 expense for, from and against any and all claims, actions,  
20 proceedings, demands, liabilities, costs, expenses, including  
21 reasonable attorney’s fees and costs, damages and losses, cause or  
22 causes or action and suit or suits (collectively, “Claims”) arising  
23 from or in connection with the failure to comply with such  
24 applicable law, or any action to attack, set aside, void, or annul  
25 any approvals of the City, County, any other Governmental  
26 Authority with jurisdiction over the Project or the Property, or  
27 COUNTY, its advisory agencies, or legislative body.

28 d. Displacement, relocation, and acquisition. The relocation



1 requirements of the California Relocation Assistance Act,  
2 California Government Code § 7260 et seq. and the implementing  
3 regulations thereto in 25 California Code of Regulations § 6000 et  
4 seq., the Uniform Relocation Assistance and Real Property  
5 Acquisition Policies Act of 1970 (42 U.S.C. 4201-4655) and  
6 implementing regulations at 49 CFR Part 24, and any other local,  
7 state, or federal laws or regulations governing the Project and the  
8 provision and administration of Relocation Payments and  
9 advisory assistance. BORROWER must ensure that it has taken  
10 all reasonable steps to comply with the foregoing and minimize  
11 the displacement of persons as a result of this project assisted with  
12 PLHA Funds.

13 BORROWER shall comply and stay current with all applicable  
14 local, state and federal building codes and laws as from time to  
15 time amended, including, but not limited to, the Americans with  
16 Disabilities Act requirements. BORROWER shall cause all  
17 improvements to be completed at BORROWER's cost in a  
18 workmanlike manner and in compliance with all applicable law.

- 19 e. Permits and Entitlements. BORROWER shall be responsible for  
20 obtaining all permits, entitlements and land use approvals required  
21 by the County or City for the development, construction and  
22 operation of the Project, ensuring that the use of the Property for  
23 the purposes described in this Agreement complies with the  
24 zoning and other City and County land use regulations (including  
25 any applicable exemptions and/or exceptions) applicable to the  
26 Project. Before commencement of demolition, construction or  
27 development of any buildings, structures or other work of  
28 improvement upon any portion of the Property, BORROWER

1 shall, at its own expense, secure or cause to be secured, any and  
2 all permits which may be required by the City, COUNTY or any  
3 other Governmental Authority affected by such construction,  
4 development or work.

5 f. Hazardous Materials. BORROWER shall develop, construct and  
6 use the Project and the Property (i) in compliance with all  
7 applicable environmental laws; and (ii) will not permit the  
8 presence of any Hazardous Substance on the Property.

9 “Hazardous Materials” or “Hazardous Substances” shall include,  
10 but not be limited to, oil, flammable explosives, asbestos, urea  
11 formaldehyde insulation, radioactive materials, hazardous wastes,  
12 toxic or contaminated substances or similar materials, including,  
13 without limitation, any substances defined as “extremely  
14 hazardous substances,” “hazardous substances,” “hazardous  
15 materials,” “hazardous waste” or “toxic substances” in the  
16 Comprehensive Environmental Response, Compensation and  
17 Liability Act of 1980, as amended, including the Superfund  
18 Amendments and Reauthorization Act of 1986, 42 U.S.C. §§  
19 9601 et seq. (“CERCLA”); the Hazardous Materials  
20 Transportation Act, 49 U.S.C. §§ 1801, et seq.; the Resource  
21 Conservation and Recovery Act of 1976, as amended, 42 U.S.C.  
22 §§ 6901, et seq.; the Toxic Substances Control Act, as amended,  
23 15 U.S.C. §§ 2601 et seq.; the Clean Air Act, as amended, 42  
24 U.S.C. §§ 7401 et seq.; the Federal Water Pollution Control Act,  
25 as amended, 33 U.S.C. §§ 1251 et seq.; the Occupational Safety  
26 and Health Act, as amended, 29 U.S.C. §§ 651; the Emergency  
27 Planning and Community Right-to-Know Act of 1986, 42 U.S.C.  
28 §§ 11001 et seq.; the Mine Safety and Health Act of 1977, as

1 amended, 30 U.S.C. §§ 801 et seq.; the Safe Drinking Water Act,  
2 as amended, 42 U.S.C. §§ 300f et seq.; and those substances  
3 defined as “hazardous waste” in § 25117 of the California Health  
4 and Safety Code, as “infectious waste” in § 25117.5 of the  
5 California Health and Safety Code, or as “hazardous substances”  
6 in § 25316 of the California Health and Safety Code, or  
7 “hazardous materials” as defined in § 353 of the California  
8 Vehicle Code; waste that exhibits the characteristics set forth in §  
9 25141 (b) of the California Health and Safety Code; and in the  
10 regulations adopted and orders and publications promulgated  
11 pursuant to said laws. Hazardous Materials shall expressly  
12 exclude substances typically used in the construction,  
13 development, operation and maintenance of an apartment  
14 complex provided such substances are used in accordance with all  
15 applicable laws.

16 19. INCOME TARGETING REQUIREMENTS. Pursuant to **Section 1**  
17 above, BORROWER hereby agrees to restrict the PLHA Units, which shall be at least forty  
18 nine percent (49%) of the Units not occupied by a manager constructed on the Property to  
19 rental to and occupancy by qualified Low and Very Low Income Households (collectively,  
20 “PLHA Units” or “Restricted Units”) in accordance herewith.

21 20. RENT LIMITATIONS. The PLHA Units shall be rented to and occupied  
22 by Very Low and Low Income Households at an Affordable Rent in compliance with the  
23 Multifamily Housing Program (“MHP”) guidelines Section 7312 and the Section 7301  
24 definition of “Affordable Rent.” Maximum income and Affordable Rent shall be determined  
25 in accordance with subsection d) below. COUNTY shall review and approve proposed rents  
26 prior to entry into leases for occupancy of the PLHA Units by BORROWER. BORROWER  
27 shall ensure the PLHA Units are rented to qualified applicants at the described rent levels  
28 herein during the Affordability Period. The maximum monthly allowances for utilities and

1 services (excluding telephone) shall not exceed the utility allowance as described in c. below.

2 a. Initial Occupancy of Vacant Units: All PLHA Units shall be  
3 occupied by and rented to Qualified Households for an Affordable Rent within the time period  
4 set forth in the Schedule of Performance attached to this Agreement (“Lease Deadline”) for the  
5 newly constructed buildings of the Project. If an Affordable Unit remains unoccupied or not  
6 leased to an eligible tenant for longer than ninety (90) consecutive days, BORROWER must  
7 provide to COUNTY information about current marketing efforts and an enhanced plan for  
8 marketing the unit so that it is leased promptly.

9 BORROWER may request from COUNTY an extension of the Lease Deadline if  
10 BORROWER can provide to COUNTY written evidence showing efforts of commercially  
11 reasonable marketing efforts and proof that the circumstances that led to the failure to lease the  
12 Affordable Unit(s) by the Lease Deadline were beyond the BORROWER’s control. The  
13 extension and duration of such extension is subject to COUNTY’s approval in its reasonable  
14 discretion and not guaranteed. The Director, or designee, has the authority, at their discretion,  
15 to consent to an extension of the Lease Deadline.

16 b. Rent Limitations: In order to calculate net rent to be charged, an  
17 applicable utility allowance must be subtracted from the gross rents permitted by the PLHA  
18 Program.

19 c. Utility Allowances: For Projects not receiving financing from tax  
20 credits, BORROWER shall use the Utility Allowances published by the Housing Authority of  
21 the County of Riverside to establish maximum monthly allowances for utilities and services to  
22 be used by the BORROWER in calculating Affordable Rents. Projects assisted with tax credits  
23 shall use the California Utility Allowance Calculator (CUAC) published annually by the  
24 Treasurer of the State of California. The CUAC and use instructions can be found at:  
25 <https://www.treasurer.ca.gov/ctcac/cuac/index.asp>.

26 d. Approval: The BORROWER shall submit to the COUNTY for  
27 review and written approval, proposed rents for all of the PLHA Units prior to lease-up.

28 21. TENANT PROTECTIONS. During the Affordability Period,

1 BORROWER shall adhere to all applicable tenant protections and selection standards set forth  
2 in applicable Governmental Requirements, as may be amended from time to time, and the  
3 following requirements:

4 a. Lease Agreement. Provide a written lease agreement for not less than  
5 one year, unless by mutual agreement between the tenant and  
6 BORROWER. COUNTY shall review the initial form of the lease  
7 agreement prior to BORROWER executing any leases and, provided  
8 that BORROWER uses the approved lease form, BORROWER shall  
9 be permitted to enter into residential leases without COUNTY's prior  
10 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  
14 sued, to admit guilt or to a judgment in favor of  
15 BORROWER in a lawsuit brought in connection with the  
16 lease.

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

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

1 whether intentional or negligent.

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

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

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

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

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

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

25 c. Violence Against Women Reauthorization Act of 2013. (Pub. L.  
26 113-4, 127 Stat. 54) ("VAWA 2013"). VAWA 2013 reauthorizes  
27 and amends the Violence Against Women Act of 1994, as previously  
28 amended, (title IV, sec. 40001-40703 of Pub. L. 103-322, 42 U.S.C.

1 13925 et seq.) VAWA 2013, among other things, bars eviction and  
2 termination due to a tenant's status as a victim of domestic violence,  
3 dating violence, or stalking, and requires landlords to maintain  
4 survivor-tenant confidentiality. VAWA 2013 prohibits a tenant who  
5 is a survivor of domestic violence, dating violence, sexual assault,  
6 and stalking from being denied assistance, tenancy, or occupancy  
7 rights based solely on criminal activity related to an act of violence  
8 committed against them. It extends housing protections to survivors  
9 of sexual assault, and adds "intimate partner" to the list of eligible  
10 relationships in the domestic violence definition. Protections also  
11 now cover an "affiliated individual," which includes any lawful  
12 occupant living in the survivor's household, or related to the survivor  
13 by blood or marriage including the survivor's spouse, parent,  
14 brother, sister, child, or any person to whom the survivor stands in  
15 loco parentis. VAWA 2013 allows a lease bifurcation so a tenant or  
16 lawful occupant who engages in criminal activity directly relating to  
17 domestic violence, dating violence, sexual assault, or stalking against  
18 an affiliated individual or other individual, or others may be evicted  
19 or removed without evicting or removing or otherwise penalizing a  
20 victim who is a tenant or lawful occupant. If victim cannot establish  
21 eligibility, BORROWER must give a reasonable amount of time to  
22 find new housing or establish eligibility under another covered  
23 housing program. A Notice of Rights under VAWA 2013 for tenants  
24 must be provided at the time a person applies for housing, when a  
25 person is admitted as a tenant of a housing unit, and when a tenant is  
26 threatened with eviction or termination of housing benefits. Tenants  
27 must request an emergency transfer and reasonably believe that they  
28 are threatened with imminent harm from further violence if the

1                   tenant remains in the same unit. The provisions of VAWA 2013 that  
2                   are applicable to HCD programs are found in title VI of VAWA  
3                   2013, which is entitled "Safe Homes for Victims of Domestic  
4                   Violence, Dating Violence, Sexual Assault, and Stalking." Section  
5                   601 of VAWA 2013 amends subtitle N of VAWA (42 U.S.C.  
6                   14043e et seq.) to add a new chapter entitled "Housing Rights."

7                   22.    FEDERAL REQUIREMENTS. BORROWER shall comply with all  
8                   applicable federal regulations and guidelines.

9                   23.    REPAYMENT INCOME. COUNTY must record the receipt and  
10                  expenditure of PLHA repayment income in accordance with the standards specified in the  
11                  PLHA Program.

12                24.    SALE, ASSIGNMENT OR OTHER TRANSFER OF THE PROJECT.  
13                  BORROWER hereby covenants and agrees not to sell, assign, transfer or otherwise dispose of  
14                  the Project or any portion thereof, without obtaining the prior written consent of the COUNTY,  
15                  which consent shall be conditioned upon (a) a County determination that transferee is a  
16                  qualified and experienced operator of low income housing and (b) solely upon receipt by the  
17                  COUNTY of reasonable evidence satisfactory to the COUNTY in its sole discretion, that  
18                  transferee has assumed in writing all of BORROWER'S duties and obligations under this  
19                  Agreement, and is reasonably capable of performing and complying with the BORROWER'S  
20                  duties and obligations under this Agreement. Notwithstanding anything to the contrary  
21                  contained herein, upon written notice to COUNTY, BORROWER may (i) lease for occupancy  
22                  of all or any of the PLHA Units in accordance with this Agreement; (ii) grant easements or  
23                  permits to facilitate the development of the Property in accordance with this Agreement; (iii)  
24                  transfer the BORROWER'S limited partnership interest; (iv) remove and replace the  
25                  BORROWER'S general partner(s) for cause in accordance with BORROWER'S amended and  
26                  restated agreement of limited partnership; and (v) make transfers pursuant to that certain  
27                  Purchase Option and Right of First Refusal Agreement (collectively a "Permitted Transfer").

28                25.    INDEPENDENT CONTRACTOR. BORROWER and its agents, servants



1 and employees shall act at all times in an independent capacity during the term of this  
2 Agreement, and shall not act as, shall not be, nor shall they in any manner be construed to be  
3 agents, officers, or employees of COUNTY.

4           26.    NONDISCRIMINATION. BORROWER shall not discriminate on the  
5 basis of race, gender, religion, national origin, ethnicity, sexual orientation, age or disability in  
6 the solicitation, selection, hiring or treatment of any contractors or consultants, to participate in  
7 subcontracting/subconsulting opportunities. BORROWER understands and agrees that  
8 violation of this clause shall be considered a material breach of this Agreement and may result  
9 in termination, debarment or other sanctions. This language shall be incorporated into all  
10 contracts between BORROWER and any contractor, consultant, subcontractor, subconsultants,  
11 vendors and suppliers. BORROWER shall comply with the provisions of the California Fair  
12 Employment and Housing Act (Government Code Sections 12900 et seq.), the Federal Civil  
13 Rights Act of 1964 (P.L. 88-352), as amended, and all applicable local, state and federal laws  
14 with respect to its use of the Property.

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

26           BORROWER, its successors and assigns, shall refrain from restricting the rental, sale, or  
27 lease of the Property or any portion thereof, on the basis of race, color, creed, religion, sex,  
28 sexual orientation, marital status, national origin, or ancestry of any person. Every deed, lease,

1 and contract entered into with respect to the Property, or any portion thereof, after the date of this  
2 Agreement shall contain or be subject to substantially the following nondiscrimination or  
3 nonsegregation clauses:

4 a) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs,  
5 executors, administrators, and assigns, and all persons claiming under or through them,  
6 that there shall be no discrimination against or segregation of, any person or group of  
7 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  
9 (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the  
10 Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or  
11 enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming  
12 under or through him or her, establish or permit any practice or practices of  
13 discrimination or segregation with reference to the selection, location, number, use or  
14 occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein  
15 conveyed. The foregoing covenants shall run with the land."

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

1 c) In contracts: "There shall be no discrimination against or segregation of any person or  
2 group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955  
3 of the Government Code, as those bases are defined in Sections 12926, 12926.1,  
4 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section  
5 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy,  
6 tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming  
7 under or through him or her, establish or permit any such practice or practices of  
8 discrimination or segregation with reference to the selection, location, number, use, or  
9 occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land."

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

16 27. PROHIBITION AGAINST CONFLICTS OF INTEREST:

17 a. No member, official or employee of COUNTY shall have any  
18 personal interest, direct or indirect, in this Agreement nor shall any  
19 such member, official or employee participate in any decision relating  
20 to the this Agreement which affects his or her personal interests or the  
21 interests of any corporation, partnership or association in which he or  
22 she is, directly or indirectly, interested.

23 b. BORROWER warrants that it has not paid or given, and will not pay  
24 or give, any third party any money or other consideration for  
25 obtaining the PLHA Loan.

26 28. INTENTIONALLY OMITTED.

27 29. PROJECT MONITORING AND EVALUATION.

28 a. Tenant Checklist. BORROWER shall submit a Tenant Checklist

1 Form to COUNTY, as shown in **Exhibit G** which is attached hereto and by this reference is  
2 incorporated herein and may be revised by COUNTY, summarizing the racial/ethnic  
3 composition, number and percentage of Very Low Income and Low Income Households who  
4 are tenants of the COUNTY PLHA Units. The Tenant Checklist Form shall be submitted upon  
5 completion of the construction and thereafter, on an annual basis on or before March 31st and  
6 September 30th. BORROWER shall maintain financial, programmatic, statistical and other  
7 supporting records of its operations and financial activities in accordance with the requirements  
8 of the PLHA Program, including the submission of Tenant Checklist Form. Except as  
9 otherwise provided for in this Agreement, BORROWER shall maintain and submit records to  
10 COUNTY within ten business days of COUNTY's request which clearly documents  
11 BORROWER's performance under each requirement of the PLHA Program. A list of  
12 document submissions and timeline are shown in **Exhibit D** and such list may be amended  
13 from time to time subject to HCD and COUNTY reporting requirements.

14           b. Inspections. During the Affordability Period, COUNTY may perform  
15 annual on-site inspections of COUNTY PLHA-assisted rental housing to determine  
16 compliance with the property standards of the PLHA Program and to verify the information  
17 submitted by the owners in accordance with the requirements of the PLHA Program. If there  
18 are observed deficiencies for any of the inspectable items in the property standards established  
19 by COUNTY, a follow-up on-site inspection to verify that deficiencies are corrected must  
20 occur within 12 months. COUNTY may establish a list of non-hazardous deficiencies for  
21 which correction can be verified by third party documentation (e.g., paid invoice for work  
22 order) rather than re-inspection. Health and safety deficiencies must be corrected immediately.  
23 COUNTY may adopt a more frequent inspection schedule for properties that have been found  
24 to have health and safety deficiencies. The property owner must annually certify to the  
25 COUNTY that each building and all Units in the Project are suitable for occupancy, taking into  
26 account State and local health, safety, and other applicable codes, ordinances, and  
27 requirements, and the ongoing property standards. For projects with one-to-four COUNTY  
28 PLHA Units, COUNTY may inspect 100 percent of the COUNTY PLHA Units and the

1 inspectable items (site, building exterior, building systems, and common areas) for each  
2 building housing COUNTY PLHA Units.

3 c. Income Certification. The income of a tenant must be determined  
4 initially in accordance with California Code of Regulations, Title 25, Section 6924. In  
5 addition, annually thereafter BORROWER must re-examine each tenants annual income to  
6 determine that they remain a Qualified Tenant.

7 30. MONITORING FEE. BORROWER shall pay an annual compliance  
8 monitoring fee to the COUNTY in the total annual amount of \$6,000 (increased annually by an  
9 amount equal to the increase of the Consumer Price Index (CPI) for the San Bernardino-  
10 Riverside-Ontario, CA area, but in no event to exceed 5% annually) ("Monitoring Fee"). The  
11 first Monitoring Fee payment is due on July 1<sup>st</sup> of each year for the monitoring period of July  
12 1<sup>st</sup> to June 30<sup>th</sup> commencing on the July 1 following the issuance of a Certificate of Occupancy  
13 for the Project and may be pro-rated for a partial first year. The Monitoring Fee will be due on  
14 each July 1<sup>st</sup> thereafter and will continue until the expiration of the Affordability Period. The  
15 Monitoring Fee is to be adjusted upwards annually, increased by an amount equal to the  
16 increase in CPI for the San Bernardino-Riverside-Ontario, CA area. In the event of a decrease  
17 in the applicable CPI, the Monitoring Fee currently in effect shall remain the same and shall  
18 not decrease.

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

25 32. EVENTS OF DEFAULT. The occurrence of any of the following events  
26 shall constitute an "Event of Default" under this Agreement:

27 a. Monetary Default. (1) BORROWER's failure to pay when due  
28 any sums payable under this Agreement, the Covenant

1 Agreement, the PLHA Note or any advances made by COUNTY  
2 under this Agreement; (2) BORROWER's or any agent of  
3 BORROWER's use of PLHA funds for costs other than those  
4 costs permitted under this Agreement or for uses inconsistent with  
5 terms and restrictions set forth in this Agreement; (3)  
6 BORROWER's or any agent of BORROWER's failure to make  
7 any other payment of any assessment or tax due under this  
8 Agreement, and /or (4) default under the terms of any Senior  
9 Loan documents or any other instrument or document secured  
10 against the Property following expiration of any applicable notice  
11 and cure periods;

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

27 c. General Performance of Loan Obligations. Any substantial or  
28 continuous or repeated breach by BORROWER or

1 BORROWER's agents of any material obligations of  
2 BORROWER under this Agreement;

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

11 e. Representations and Warranties. A determination by COUNTY  
12 that any of BORROWER's representations or warranties made in  
13 this Agreement, any statements made to COUNTY by  
14 BORROWER, or any certificates, documents, or schedules  
15 supplied to COUNTY by BORROWER were false in any material  
16 respect when made, or that BORROWER concealed or  
17 intentionally failed to disclose a material fact to COUNTY.

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

23 g. Bankruptcy, Dissolution and Insolvency. BORROWER's or  
24 general partner and co-general partner of BORROWER's (1)  
25 filing for bankruptcy, dissolution, or reorganization, or failure to  
26 obtain a full dismissal of any such involuntary filing brought by  
27 another party before the earlier of final relief or ninety (90) days  
28 after such filing; (2) making a general assignment for the benefit

1 of creditors; (3) applying for the appointment of a receiver,  
2 trustee, custodian, or liquidator, or failure to obtain a full  
3 dismissal of any such involuntary application brought by another  
4 party before the earlier of final relief or ninety (90) days after  
5 such filing; (4) insolvency; or (5) failure, inability or admission in  
6 writing of its inability to pay its debts as they become due.

7 33. NOTICE OF DEFAULT AND OPPORTUNITY TO CURE. Formal  
8 notices, demands and communications between the COUNTY and the BORROWER shall be  
9 sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt  
10 requested, or as set forth below, to the principal offices of the COUNTY and the  
11 BORROWER, as designated below. Such written notices, demands and communications may  
12 be sent in the same manner to such other addresses as either party may from time to time  
13 designate by mail as provided in this **Section 33**. Any notice that is transmitted by electronic  
14 facsimile transmission followed by delivery of a “hard” copy, shall be deemed delivered upon  
15 its transmission; any notice that is personally delivered (including by means of professional  
16 messenger service, courier service such as United Parcel Service or Federal Express, or by  
17 U.S. Postal Service), shall be deemed received on the documented date of receipt by the  
18 recipient; and any notice that is sent by registered or certified mail, postage prepaid, return  
19 receipt required shall be deemed received on the date of delivery thereof.

20 a. Subject to the Force Majeure Delay, failure or delay by BORROWER to  
21 perform any term or provision of this Agreement constitutes a default under this Agreement.  
22 BORROWER must immediately commence to cure, correct or remedy such failure or delay  
23 and shall complete such cure, correction or remedy with reasonable diligence.

24 b. COUNTY shall give written notice of default to BORROWER,  
25 specifying the default complained of by COUNTY. Failure or delay in giving such notice  
26 shall not constitute a waiver of any default, nor shall it change the time of default. Except as  
27 otherwise expressly provided in this Agreement, any failures or delays by COUNTY in  
28 asserting any of its rights and remedies as to any default shall not operate as a waiver of any



1 default or of any such rights or remedies. Delays by COUNTY in asserting any of its rights  
2 and remedies shall not deprive COUNTY of its right to institute and maintain any actions or  
3 proceedings which it may deem necessary to protect, assert or enforce any such rights or  
4 remedies.

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

9 d. If a non-monetary event of default occurs, prior to exercising any  
10 remedies hereunder, COUNTY shall give BORROWER written notice of such default. If the  
11 default is reasonably capable of being cured within thirty (30) days, BORROWER shall have  
12 such period to effect a cure prior to exercise of remedies by COUNTY. If the default is such  
13 that it is not reasonably capable of being cured within thirty (30) days, and BORROWER (i)  
14 initiates corrective action within said period, and (ii) diligently, continually, and in good faith  
15 works to effect a cure as soon as possible, then BORROWER shall have such additional time  
16 as is reasonably necessary to cure the default prior to exercise of any remedies by the injured  
17 party, but in no event no more than one hundred twenty (120) days from the date of the notice  
18 of default. In no event shall COUNTY be precluded from exercising remedies following the  
19 initial thirty (30) day cure period if its security becomes or is about to become materially  
20 jeopardized by any failure to cure a default or the default is not cured within one hundred  
21 twenty (120) days after the first notice of default is given.

22 e. Notwithstanding anything to the contrary contained in the PLHA Loan  
23 Documents, COUNTY hereby agrees that BORROWER'S limited partner shall have the right,  
24 but not obligation, to cure any defaults of the BORROWER hereunder and under any of the  
25 PLHA Loan Documents, and the COUNTY agrees to accept cures tendered by the  
26 BORROWER'S limited partner on behalf of the BORROWER within the applicable cure  
27 periods set forth therein. Copies of all notices which are sent to BORROWER under the terms  
28 of the PLHA Loan Documents shall also be sent to the BORROWER'S limited partner at: c/o

1 Red Stone Equity Partners, LLC, 1100 Superior Avenue, Suite 1640, Cleveland, OH 44114,  
2 Attention: General Counsel.

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

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

1 person, by agent, or by a receiver appointed by a court, and collect  
2 rents and other amounts specified in the assignment of rents in the  
3 Deed of Trust and apply them to operate the Project or to pay off  
4 the PLHA Loan or any advances made under this Agreement, as  
5 provided for by the PLHA Deed of Trust.

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

7 35. LIMITATION ON LIABILITY. Notwithstanding anything to the  
8 contrary contained herein, neither BORROWER nor COUNTY shall in any event be entitled  
9 to, and each hereby waives, any right to seek loss of profits, or any special, incidental or  
10 consequential damages of any kind or nature, however caused, from the other Party arising  
11 out of or in connection with the PLHA Loan Documents, even if the other Party has been  
12 advised of the possibility of the damages, and in connection with such waiver each Party is  
13 familiar with and hereby waives the provision of § 1542 of the California Civil Code which  
14 provides as follows:

15 “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT  
16 THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR  
17 SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF  
18 EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR  
19 HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER  
20 SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

21 36. HOLD HARMLESS AND INDEMNIFICATION. BORROWER shall  
22 indemnify and hold harmless the County of Riverside, its Agencies, Boards, Districts, Special  
23 Districts and Departments, and their respective directors, officers, members, elected and  
24 appointed officials, employees, agents and representatives (individually and collectively, the  
25 “Indemnified Parties”) from any claim or liability, costs or fees (including, but not limited to,  
26 attorneys’ costs and fees), resulting from any act or failure to act of BORROWER, its officers,  
27 employees, subcontractors, agents or representatives, in connection with, arising out of, or in  
28 any way relating to this Agreement, the PLHA Loan Documents, the Property or the Project,

1 including but not limited to property damage, bodily injury, or death or any other element of  
2 any kind or nature whatsoever. BORROWER shall defend the Indemnified Parties, at its sole  
3 expense, in any claim or action based upon such alleged acts or omissions. The indemnification  
4 obligations of BORROWER set forth in this Agreement shall survive the repayment of the  
5 PLHA Loan and the expiration or earlier termination of this Agreement.

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

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

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

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

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

23 37. TERMINATION.

24 a. BORROWER. BORROWER may terminate this Agreement upon written  
25 notice of such termination prior to disbursement of any PLHA Loan funds by COUNTY.

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

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

13 c. Upon expiration or earlier termination of this Agreement, BORROWER  
14 shall transfer to COUNTY any unexpended PLHA funds in its possession at the time of  
15 expiration of the Agreement.

16 38. AFFORDABILITY RESTRICTIONS. COUNTY and BORROWER, on  
17 behalf of its successors and assigns, hereby declare their express intent that the restrictions set  
18 forth in this Agreement shall continue in full force and effect for the duration of the  
19 Affordability Period (as defined in **Section 15** above). Each and every contract, deed or other  
20 instrument hereafter executed covering and conveying the Property or any portion thereof shall  
21 be held conclusively to have been executed, delivered and accepted subject to such restrictions,  
22 regardless of whether such restrictions are set forth in such contract, deed or other instrument.  
23 Borrower shall execute and record as a lien against the Property, the Covenant Agreement  
24 setting forth the affordability use and income restriction required in this Agreement. The  
25 Covenant Agreement shall be in a lien position senior to this PLHA Loan Agreement.

26 39. RESERVED.

27 40. MECHANICS LIENS AND STOP NOTICES. If any claim of mechanics  
28 lien is filed against the Project or a stop notice affecting the Project is served on COUNTY,

1 BORROWER must, within twenty (20) calendar days of such filing or service, either pay and  
2 fully discharge the lien or stop notice, obtain a release of the lien or stop notice by delivering to  
3 COUNTY a surety bond in sufficient form and amount, or provide COUNTY with other  
4 assurance reasonably satisfactory to COUNTY that the lien or stop notice will be paid or  
5 discharged.

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

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

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

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

27 45. JURISDICTION AND VENUE. Any action at law or in equity arising  
28 under this Agreement or brought by a party hereto for the purpose of enforcing, construing or

1 determining the validity of any provision of this Agreement shall be filed in the Superior Courts  
2 of Riverside County, State of California, and the parties hereto waive all provisions of law  
3 providing for the filing, removal or change of venue to any other court or jurisdiction.

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

8 47. MINISTERIAL ACTS. COUNTY's Director of HWS, or designee(s), are  
9 authorized to take such ministerial actions as may be necessary or appropriate to implement the  
10 terms, provisions, and conditions of this Agreement as it may be amended from time to time by  
11 both parties.

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

22 49. SCHEDULE OF PERFORMANCE. BORROWER shall use  
23 commercially reasonable efforts to satisfy the obligations set forth herein and in the Schedule of  
24 Performance in a timely manner and by the dates set forth herein and therein. The Project shall  
25 be completed and a Notice of Completion shall have been recorded in the Official Records no  
26 later than the date set forth in the Schedule of Performance (the "Completion Deadline").  
27 Provided that all construction and permanent financing remains committed to the Project,  
28 BORROWER may request an extension of the Completion Deadline from COUNTY

1 (“Extension”), which may be granted if the BORROWER can provide proof that all  
2 construction and permanent financing remains committed to the Project and that the  
3 circumstances that led to the failure to complete the Project by the Completion Deadline were  
4 beyond the BORROWER’s control. Extension is subject to COUNTY’s reasonable approval,  
5 and not guaranteed. The Assistant County Executive Officer/EDA, or designee, has the  
6 authority, at his or her discretion, to consent to such Extension.

7           50. PROJECT FINANCING CONTINGENCY. This Agreement is expressly  
8 conditioned upon BORROWER's delivery to COUNTY, on or prior to the date set forth in the  
9 Schedule of Performance of written documentation of such binding loan commitments required  
10 to fully finance the development, construction and operation of the Project (less the PLHA  
11 Loan), on terms and conditions acceptable to BORROWER and COUNTY, including, but not  
12 limited any conventional construction and/or permanent financing. Either COUNTY or  
13 BORROWER may elect to terminate this Agreement with ten (10) days prior written notice to  
14 the other party if BORROWER fails to acquire the project financing as required by this **Section**  
15 **50**. Upon such termination, this Agreement shall be null and void, and:

- 16                   a. If BORROWER elects to terminate this Agreement,  
17                   BORROWER shall be released and discharged by COUNTY  
18                   from its obligations under this Agreement; or  
19                   b. If COUNTY elects to terminate this Agreement, COUNTY shall  
20                   be released and discharged by BORROWER from its  
21                   obligations under this Agreement.

22           At that time all costs incurred by each party on the Project will be borne by the  
23 Party incurring such costs, and each party shall be released from all liability under this  
24 Agreement, except those obligations which by their terms survive termination.

25           51. EXHIBITS AND ATTACHMENTS. Each of the attachments and  
26 exhibits attached hereto is incorporated herein by this reference. To the extent BORROWER is  
27 required to execute and deliver to COUNTY an agreement substantially in the form attached  
28 hereto, execution and delivery of such agreement constitutes consideration given to COUNTY



1 for the PLHA Loan funds and other obligations of COUNTY hereunder.

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

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

15 COUNTY

16 Director, Housing  
17 Housing and Workforce Solutions  
18 3403 Tenth Street, Suite #300  
19 Riverside, CA 92501

20 BORROWER

21 Temecula Pacific Associates, a California Limited Partnership  
22 c/o Pacific West Communities, Inc.  
23 430 East State Street, Suite 100  
24 Eagle, Idaho 83616  
25 Attention: Caleb Roope, President and CEO

26 with copies to:

27 McReynolds & McCormack, PLLC  
28 430 East State Street, Suite 140  
Eagle, Idaho 83616  
Attention: Clayton McReynolds & Sarah McCormack

and

Katten Muchin Rosenman LLP

1 2029 Century Park East  
2 Suite 2600  
3 Los Angeles, California 90067-3012  
4 Attention: David P. Cohen

5 and

6 RCC MGP LLC  
7 c/o Riverside Charitable Corporation  
8 14131 Yorba Street  
9 Tustin, California 92780  
10 Attention: Recinda Shafer, Deputy Executive Director

11 and

12 [limited partner]

13 and

14 [limited partner's counsel]

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

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

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

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

1 on any obligations under the terms of this Agreement.

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

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

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

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

**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 Closing. GC –At Closing, but in no event later than the start of construction. Copies of Certificates must be filed and up-to-date throughout the course of the Project with COUNTY additionally insured.
3. Project Site Photos	Bimonthly, due by the 5 <sup>th</sup> of each month
4. The filing of the Notice of Completion	End of Construction
5. Certificate of Occupancy	End of Construction
6. Tenant Checklist Reporting	Close of Project; and Semi-Annually– <b>Sept 30th &amp; March 31<sup>st</sup></b>
7. Conditional/Unconditional Release for Final from GC, and if applicable, Sub-contractors	Close of Project
8. Project Completion Report	Close of Project
9. Final Development Cost - Sources and Uses	Close of Project
10. Final Cost Certification by CPA	Close of Project and Audits Completed
11. Final 15/30 Year Cash Flow Projection	Close of Project
12. Affirmative Fair Housing Marketing Plan, HCD form 935.2A	Marketing Stage
13. Management Plan	Marketing Stage
14. Tenant Selection Policy	Marketing Stage
15. Copy of Lease Agreement	Marketing Stage
16. Flyers, Community Contacts, Outreach, Press Releases, Grand Opening info	Marketing Stage
17. Project Operating Budget	Annual submission
18. Audited Yearly Income Expense Report for the Project	Annual submission

	the Project (as shown on the Final Construction Drawings upon which Borrower's building permit is based).	
10.	<u>Leasing.</u> Borrower shall have entered into leases with Qualified Tenants for the PLHA Units.	By March 31, 2024.
11.	<u>Submission of Final actual project costs and Sources and Uses of Funds</u>	Within eleven (11) months from Notice of Completion.
12.	<u>Submission of Initial Tenant Checklist report (Exhibit G)</u>	Within 3 months from Notice of Completion.

**EXHIBIT D****SCHEDULE OF PERFORMANCE**

1.	<u>Financing.</u> Borrower shall timely submit applications for financing for the Project.	Completed.
2.	<u>Additional Financing.</u> If necessary, Borrower shall re-apply for financing for the Project or apply for additional financing.	Following COUNTY approval and execution of the Agreement, but in no event later than December 31, 2022.
3.	<u>Project Budget and Plans.</u> Borrower shall submit to COUNTY the Project Budget and Plans.	A draft Project Budget and Plans shall be submitted not later than 120 days prior to the date proposed for Closing, with a final Project Budget delivered prior to Closing.
4.	<u>Financing Commitments and Documents.</u> Borrower shall submit to COUNTY financing commitments and draft legal agreements for all construction and permanent financing for the Project.	As soon as reasonably practical, but in no event later than 90 days prior to the Closing Date.
5.	<u>Escrow – Purchase of the Property.</u> If applicable, BORROWER shall open Escrow for the purchase of the Property.	At least 90 days prior to the date proposed for Closing but in no event later than 90 days prior to the Outside Closing Date.
6.	<u>Conditions Precedent to the Closing.</u> BORROWER shall satisfy all conditions precedent to Closing.	Not later than the later to occur of (i) the Outside Closing Date, or (ii) such date as required by TCAC pursuant to an award of LIHTCs made prior to the Outside Closing Date.
7.	<u>Closing Date.</u> The Deed of Trust and all liens required for construction financing for the Project shall be recorded in the Official Records of Riverside County provided all conditions precedent in Section 12 of Agreement remain satisfied.	Not later than the later to occur of (i) the Outside Closing Date, or (ii) such date as required by TCAC pursuant to an award of LIHTCs for the First Phase made prior to the Outside Closing Date.
8.	<u>Construction Commencement.</u> Borrower shall commence construction of the Project.	Within 90 days of the Closing Date.
9.	<u>Construction Completion.</u> Borrower shall complete construction of the Improvements for	Within 24 months of the Closing Date.

**Exhibit C  
Sources and Uses of Funds; Operations Budget**

[County will consider Borrowers standard form of financial pro forma]

**Construction and Permanent Sources and Uses:**

Sources		
County of Riverside PLHA Loan	\$	_____
_____ Bank Loan	\$	_____
[insert name(s) of other finance sources]	\$	_____
<b>Total Sources</b>	<b>\$</b>	<b>=====</b>

Uses:		
Acquisition	\$	_____
[Rehabilitation] [construction costs]	\$	_____
Soft Costs (Permits, Architectural Fees, etc.) and Reserves	\$	_____
Contingency	\$	_____
Developer's Fee	\$	_____
<b>Total Uses</b>	<b>\$</b>	<b>_____</b>

30 year projected Operations/Cash Flow:

[insert operations budget for first 30 years]

**EXHIBIT "B"****Scope of Work and Project Description**

**Borrower:** Temecula Pacific Associates, a California Limited Partnership  
**Address:** 430 E. State Street, Suite 100, Eagle, Idaho, 83616  
**Project Title:** Vine Creek Apartments  
**Location:** Identified as Assessor's Parcel Numbers 922-053-047-6, 922-053-021-2 and 922-053-048-7

**Project Description:**

Temecula Pacific Associates, a California limited partnership, will utilize \$2,800,000 in PLHA funds for the development and construction of a new multifamily affordable housing project and related amenities located at the northwest corner of Main Street and Pujol Street in the City of Temecula, Riverside County, also identified as Assessor's Parcel Numbers 922-053-047-6, 922-053-021-2 and 922-053-048-7. When complete, the Project will consist of 7 one-bedroom units (approximately 660 square feet), 32 two-bedroom units (approximately 880 square feet) and 21 three-bedroom units (approximately 1,050 square feet).

At least approximately forty nine percent (49%) of the Units not occupied by a manager or twenty-eight (28) of the Units constructed on the Property shall be restricted to rental to and occupancy by qualified Low and Very Low Income Households (collectively, "PLHA Units") at an Affordable Rent (as hereinafter defined). At least twenty percent (20%) of the PLHA Units or six (6) PLHA Units shall be restricted to occupancy by Very Low Income Households. Twenty-two (22) PLHA Units shall be rented to and occupied by Low Income Households: XX one-bedroom units, XX two-bedroom units and XX three-bedroom units. Six (6) PLHA Units shall be rented to and occupied by Very Low Income Households: XX one-bedroom units, XX two-bedroom units and XX three-bedroom units. One-bedroom units shall be approximately 660 square feet each, two-bedroom units shall be approximately 880 square feet each, and three-bedroom units shall be approximately 1,050 square feet each.

The **Scope of Work** shall comply with all entitlements for the Project and include construction of a multi-family apartment complex and related amenities consisting of 7 one-bedroom units, 32 two-bedroom units and 21 three-bedroom units (including one manager's unit), for a total of 60 apartment units.



PARCEL B: APN 922-053-021, APN 922-053-048

PARCELS 1 AND 2 OF PARCEL MAP 9839, IN THE CITY OF TEMECULA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 61, PAGE 14 OF PARCEL MAPS, RECORDS OF SAID COUNTY, CALIFORNIA.

EXCEPT THEREFROM THAT PORTION OF PARCEL 1 CONVEYED TO THE RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, A BODY POLITIC, BY DOCUMENT RECORDED JANUARY 14, 2015 AS INSTRUMENT NO. 2015-0016730 OF OFFICIAL RECORDS.

APNs: 922-053-047-6, 922-053-021-2 and 922-053-048-7

**EXHIBIT A**

**Property Legal Description**

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

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

PARCEL A: APN 922-053-047

THE NORTHWESTERLY 255 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

THE NORTHWESTERLY ONE-HALF OF THAT TRACT OF LAND FORMERLY USED AS RAILROAD RIGHT OF WAY AND STATION GROUND OF THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY, CONVEYED TO N.R. VAIL, ET AL., BY DEED RECORDED JUNE 11, 1940 IN BOOK 464, PAGE 505 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, SAID PROPERTY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 1, BLOCK 27 OF THE TOWN OF TEMECULA, IN THE CITY OF TEMECULA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SHOWN BY MAP ON FILE IN BOOK 15, PAGE 726 OF MAPS, RECORDS OF SAN DIEGO COUNTY, CALIFORNIA; THENCE SOUTHWESTERLY IN A STRAIGHT LINE TO THE MOST EASTERLY CORNER OF LOT 1, BLOCK 36, AS SHOWN BY SAID MAP; THENCE NORTHWESTERLY IN A STRAIGHT LINE TO THE MOST NORTHERLY CORNER OF LOT 10, BLOCK 37, AS SHOWN BY SAID MAP; THENCE NORTHEASTERLY ON A STRAIGHT LINE TO THE MOST WESTERLY CORNER OF LOT 22, BLOCK 25 ON SAID MAP; THENCE SOUTHEASTERLY IN A STRAIGHT LINE TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE NORTHWESTERLY 595 FEET THEREOF.

ALSO EXCEPT THEREFROM THOSE PORTIONS INCLUDED IN RIVER AND PUJOL STREETS AS SHOWN ON SAID MAP.

ALSO EXCEPT THEREFROM THAT PORTION OF SAID LAND CONDEMNED BY THE RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT AS SET FORTH AND DESCRIBED IN THAT CERTAIN DOCUMENT RECORDED OCTOBER 5, 2010 AS INSTRUMENT NO. 2010-477535 OF OFFICIAL RECORDS.

STATE OF IDAHO )  
 ) SS  
COUNTY OF ADA )

ON THIS \_\_\_ DAY OF [ \_\_\_\_\_ ], IN THE YEAR OF 20\_\_, BEFORE ME, \_\_\_\_\_, A NOTARY PUBLIC, PERSONALLY APPEARED CALEB ROOPE, KNOWN OR IDENTIFIED TO ME TO BE [PRESIDENT AND CEO] OF [PACIFIC WEST COMMUNITIES, INC., AN IDAHO CORPORATION], PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

[SEAL]

NOTARY PUBLIC  
MY COMMISSION EXPIRES:

**<INSERT CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT HERE>**

**BORROWER:**

TEMECULA PACIFIC ASSOCIATES, A CALIFORNIA LIMITED PARTNERSHIP,  
a California limited partnership

By: TPC HOLDINGS IX, LLC,  
an Idaho limited liability company

Its: Administrative General Partner

By: Pacific West Communities, Inc.,  
an Idaho corporation

Its: Manager

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

Name: Caleb Roope

Its: President and CEO

Date: \_\_\_\_\_, 2022

By: RCC MGP LLC  
a California limited liability company

Its: Managing General Partner

By: RIVERSIDE CHARITABLE CORPORATION  
a California Nonprofit Public Benefit Corporation

Its: Sole Member and Manager

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

Name: Recinda Shafer

Its: Deputy Executive Director

Date: \_\_\_\_\_, 2022

**(Signatures need to be notarized)**

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


COUNTY:

County of Riverside, a political  
subdivision of the State of California

By: form - do not sign  
Heidi Marshall, Director  
Housing and Workforce Solutions

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

APPROVED AS TO FORM:  
MINH C. TRAN, County Counsel

By:   
Amrit R. Dhillon, Deputy County Counsel

**(Signatures need to be notarized)**

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(SIGNATURES ON THE NEXT PAGE)

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1 import) means, refer to, and include the covenants, obligations, and undertakings existing  
2 pursuant to this instrument and any riders, exhibits, addenda, and attachments or other  
3 documents affixed to or expressly incorporated by reference in this instrument.

4 d. As used in this Agreement, and as the context may require, the  
5 singular includes the plural and vice versa, and the masculine gender includes the feminine and  
6 vice versa.

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

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

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

16 62. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS.

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

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

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



**Exhibit E**

**PLHA DEED OF TRUST**

**[attached]**

EXEMPT RECORDING FEE  
Government Code Section 27383

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

County of Riverside  
3403 Tenth Street, Suite #300  
Riverside, CA 92501  
Attn. \_\_\_\_\_

SPACE ABOVE THIS LINE FOR RECORDER'S USE

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

This DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING WITH ASSIGNMENT OF RENTS (“Deed of Trust”) is made this \_\_\_\_ day of \_\_\_\_\_, 2022 by TEMECULA PACIFIC ASSOCIATES, a California limited partnership, (hereinafter referred to as “Trustor”), whose address is 430 E. State Street, Suite 100, Eagle, Idaho, 83616. The trustee is COMMONWEALTH LAND TITLE COMPANY, a California corporation (“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 fee interest in the real property located at the northwest corner of Main Street and Pujol Street in the City of Temecula, County of Riverside, State of California, also identified as Assessor’s Parcel Numbers 922-053-047-6, 922-053-021-2 and 922-053-048-7, and more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference (such interest in real property is hereafter referred to as the “Subject Property”);

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

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

(D) All rents, issues, income, revenues, royalties and profits now or in the future payable with respect to or otherwise derived from the Trust Estate or the Trustorship, use,

management, operation leasing or occupancy of the Trust Estate, including those past due and unpaid (the "Rents");

(E) all present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code (the "UCC"), and whether existing now or in the future) now or in the future located at, upon or about, or affixed or attached to or installed in, the Real Property, or used or to be used in connection with or otherwise relating to the Real Property or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property, including furniture, furnishings, theater equipment, seating, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property, but not including personal property that is donated to Trustor (the "Goods," and together with the Real Property, the "Property"); and

(F) all present and future right, title and interest of Trustor in and to all accounts, general intangibles, chattel paper, deposit accounts, money, instruments and documents (as those terms are defined in the UCC) and all other agreements, obligations, rights and written material (in each case whether existing now or in the future) now or in the future relating to or otherwise arising in connection with or derived from the Real 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 Real Property or any other part of the Trust Estate, including (to the extent applicable to the Real 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 Real 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 Secured by Deed of Trust (PLHA Loan Funds) in favor of the Beneficiary ("County" therein) executed by Trustor ("Borrower" therein) of even date herewith (the "Note") in the principal amount of \$2,800,000;
  - (b) that certain Loan Agreement for the Use of PLHA Program Funds dated \_\_\_\_\_ and recorded in the Official Records of the County of Riverside ("Official Records") concurrently herewith, between Trustor ("Borrower" therein) and Beneficiary ("County" therein) (the "PLHA Loan Agreement"); and
  - (c) that certain Covenant Agreement (PLHA Loan Funds) dated on or about the date hereof and recorded concurrently herewith in the Official Records, between Trustor ("Borrower" therein) and Beneficiary ("County" therein) ("Covenant Agreement").
- (ii) payment of indebtedness of the Trustor to the Beneficiary in the original principal amount of **Two Million Eight Hundred Thousand and 0/100 Dollars (\$2,800,000)** (the "PLHA Loan"), together with any interest or other amounts due according to the terms of the Note and/or the PLHA Loan Agreement.

Said Note, PLHA Loan Agreement and Covenant Agreement (collectively, referred to as the "Secured Obligations") and all of their terms are incorporated herein by reference and this Deed of Trust 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, PLHA Loan Agreement and Covenant Agreement as used herein shall mean, refer to and include the Note, PLHA 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 PLHA Loan Agreement.

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

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

1. That Trustor shall pay the Note at the time and in the manner provided therein, and perform the obligations of the Trustor as set forth in the PLHA 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 PLHA Loan Agreement and Covenant Agreement.

3. That the Secured Obligations are incorporated in and made a part of this Deed of Trust. Upon default of any obligation under 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 PLHA 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 Trust Estate described herein and operate the Real Property 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 Real Property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Deed of Trust.

a. Should Trustor fail to make any payment or to do any act herein provided, then Beneficiary or Trustee, but without obligation so to do and upon written notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in

exercising any such powers, pay necessary expenses, employ counsel and pay his or her reasonable fees.

7. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Beneficiary under **Section 5** shall be applied: first, to interest due; second, to principal due; and last, to any late charges due under the Note.

8. **Prior Deeds of Trust; Charge; Liens.** Trustor shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Deed of Trust, and leasehold payments or ground rents, if any, subject to applicable cure periods directly to the person owed payment. Trustor shall pay these obligations in the manner provided in **Section 6**. Trustor shall promptly furnish to Beneficiary all notices of amounts to be paid under this Section. If Trustor makes these payments directly, Trustor shall promptly furnish to Beneficiary receipts evidencing the payments.

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) bonds 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. **Subordinate Priority Position.** This Deed of Trust shall be recorded in a subordinate priority position junior in priority to the Covenant Agreement and the Deed of Trust executed by Borrower for the benefit of Pacific West Bank, a California state-chartered bank ("Senior Lender" or "Senior Lien Holder") securing a construction loan in a principal amount up to \$18,600,000 ("Senior Loan").

10. **Hazard or Property Insurance.** Trustor shall keep the improvements now existing or hereafter erected on the Property insured against loss of fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Beneficiary requires insurance. This insurance shall be maintained in the amounts and for the periods as required in the PLHA 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 PLHA Loan Agreement. Trustor shall promptly give to Beneficiary certificates of

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

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

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

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

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

The Trustor acknowledges that the Real 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 activities that comply with the PLHA Program (as defined in the PLHA Loan Agreement). 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 applicable 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.

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 Real 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 Real 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 Real Property in which the fair market value of the Real 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 Real Property immediately before the taking. Any balance shall be paid to Trustor. In the event of a partial taking of the Real Property in which the fair market value of the Real Property immediately before the taking is less than the amount of the sums secured immediately before the taking,



unless Trustor and Beneficiary otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Deed of Trust whether or not the sums are then due. Notwithstanding the foregoing, so long as the value of Beneficiary's lien is not impaired, any condemnation proceeds may be used by Trustor for repair and/or restoration of the project.

b. If the Real 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 Real 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 any party requested by Trustor in writing, including any the investment limited

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

20. **Governing Law; Severability.** This Deed of Trust and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California. Each paragraph and provision of this Deed of Trust is severable from each other provision, and if any provision or part thereof is declared invalid, the remaining provisions shall nevertheless remain in full force and effect. To this end the provisions of this Deed of Trust and the Note are declared to be severable. Any action at law or in equity arising under this Deed of Trust or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed in the Superior Courts of Riverside County, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.

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

22. **Transfer of the Property or a Beneficial Interest in Trustor.** Except as otherwise allowed under the PLHA Loan Agreement, if all or any part of the Real 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 Real Property for activities that comply with the PLHA Loan Agreement) 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 applicable law as of the date of this Deed of Trust. Nothing in this Deed of Trust shall be deemed to require Beneficiary's approval of a conveyance of an easement interest in the Property for utility purposes.

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

b. Reserved.

23. **Trustor's Right to Reinstate.** If Trustor meets certain conditions, Trustor shall have the right to have enforcement of this Deed of Trust discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Deed of Trust; or (b) entry of a judgment enforcing this Deed of Trust. Those conditions are that Trustor: (a) pays

Beneficiary all sums which then would be due under this Deed of Trust and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Deed of Trust, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Beneficiary may reasonably require to assure that the lien of this Deed of Trust, Beneficiary's rights in the Real Property and Trustor's obligation to pay the sums secured by this Deed of Trust shall continue unchanged. Upon reinstatement by Trustor, this Deed of Trust and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under **Section 22**.

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

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

26. **Hazardous Substances.** Trustor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Real Property. Trustor shall not do, nor allow anyone else to do, anything affecting the Real 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 Real 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 Real Property is necessary, Trustor shall promptly take all necessary remedial actions in accordance with Environmental Law.

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

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

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

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

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

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

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

31. **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.

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

**[Remainder of Page Blank]**

**[Signatures on Following Page]**

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

TRUSTOR:

TEMECULA PACIFIC ASSOCIATES, A CALIFORNIA LIMITED PARTNERSHIP,  
a California limited partnership

By: TPC HOLDINGS IX, LLC,  
an Idaho limited liability company

Its: Administrative General Partner

By: Pacific West Communities, Inc.,  
an Idaho corporation

Its: Manager

By: \_\_\_\_\_  
Name: Caleb Roope  
Its: President and CEO  
Date: \_\_\_\_\_, 2022

By: RCC MGP LLC  
a California limited liability company

Its: Managing General Partner

By: RIVERSIDE CHARITABLE CORPORATION  
a California Nonprofit Public Benefit Corporation

Its: Sole Member and Manager

By: \_\_\_\_\_  
Name: Recinda Shafer  
Its: Deputy Executive Director  
Date: \_\_\_\_\_, 2022

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

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

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary

(Affix seal here)

## **EXHIBIT "A"**

### LEGAL DESCRIPTION OF PROPERTY

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

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

PARCEL A: APN 922-053-047

THE NORTHWESTERLY 255 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

THE NORTHWESTERLY ONE-HALF OF THAT TRACT OF LAND FORMERLY USED AS RAILROAD RIGHT OF WAY AND STATION GROUND OF THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY, CONVEYED TO N.R. VAIL, ET AL., BY DEED RECORDED JUNE 11, 1940 IN BOOK 464, PAGE 505 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, SAID PROPERTY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 1, BLOCK 27 OF THE TOWN OF TEMECULA, IN THE CITY OF TEMECULA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SHOWN BY MAP ON FILE IN BOOK 15, PAGE 726 OF MAPS, RECORDS OF SAN DIEGO COUNTY, CALIFORNIA; THENCE SOUTHWESTERLY IN A STRAIGHT LINE TO THE MOST EASTERLY CORNER OF LOT 1, BLOCK 36, AS SHOWN BY SAID MAP; THENCE NORTHWESTERLY IN A STRAIGHT LINE TO THE MOST NORTHERLY CORNER OF LOT 10, BLOCK 37, AS SHOWN BY SAID MAP; THENCE NORTHEASTERLY ON A STRAIGHT LINE TO THE MOST WESTERLY CORNER OF LOT 22, BLOCK 25 ON SAID MAP; THENCE SOUTHEASTERLY IN A STRAIGHT LINE TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE NORTHWESTERLY 595 FEET THEREOF.

ALSO EXCEPT THEREFROM THOSE PORTIONS INCLUDED IN RIVER AND PUJOL STREETS AS SHOWN ON SAID MAP.

ALSO EXCEPT THEREFROM THAT PORTION OF SAID LAND CONDEMNED BY THE RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT AS SET FORTH AND DESCRIBED IN THAT CERTAIN DOCUMENT RECORDED OCTOBER 5, 2010 AS INSTRUMENT NO. 2010-477535 OF OFFICIAL RECORDS.

PARCEL B: APN 922-053-021, APN 922-053-048



PARCELS 1 AND 2 OF PARCEL MAP 9839, IN THE CITY OF TEMECULA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 61, PAGE 14 OF PARCEL MAPS, RECORDS OF SAID COUNTY, CALIFORNIA.

EXCEPT THEREFROM THAT PORTION OF PARCEL 1 CONVEYED TO THE RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, A BODY POLITIC, BY DOCUMENT RECORDED JANUARY 14, 2015 AS INSTRUMENT NO. 2015-0016730 OF OFFICIAL RECORDS.

**Exhibit F**

**PLHA NOTE**

[attached]

**PROMISSORY NOTE SECURED BY DEED OF TRUST**

**PLHA LOAN FUNDS**

\$2,800,000 (“**Loan Amount**”)

December \_\_\_\_, 2022 (“**Note Date**”)

FOR VALUE RECEIVED, TEMECULA PACIFIC ASSOCIATES, A CALIFORNIA LIMITED PARTNERSHIP (“**BORROWER**”), a California limited partnership, promises to pay the COUNTY OF RIVERSIDE, a political subdivision of the State of California (“**COUNTY**”), at 3403 Tenth Street, Suite #300, Riverside, CA 92501, or order, the sum of Two Million Eight Hundred Thousand and 0/100 Dollars (\$2,800,000 USD) (the “**PLHA Loan**” or “**Note Amount**”) which at the time of payment is due in funds lawful for the payment of public and private debts.

This Promissory Note Secured by Deed of Trust – PLHA Loan Funds (this “**Note**”) is given in accordance with that certain Loan Agreement for the Use of PLHA Program Funds executed by COUNTY and BORROWER, dated as of December \_\_, 2022 and recorded in the Official Records of the County of Riverside (“**Official Records**”) on or about the date hereof (the “**PLHA 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 PLHA Loan Agreement. The Note is secured by a Deed of Trust, Security Agreement and Fixture Filing with Assignment of Rents executed by BORROWER for the benefit of the COUNTY dated December \_\_\_\_, 2022 and recorded on or about the date hereof in the Official Records (the “**PLHA Deed of Trust**” or “**Deed of Trust**”). This Note, the PLHA Loan Agreement, the Deed of Trust, the Covenant (as hereinafter defined) and all agreements entered into in connection with the foregoing, and any amendments or modifications thereto, shall collectively be referred to herein as the “**PLHA Loan Documents**.”

The rights and obligations of the BORROWER and COUNTY under this Note shall be governed by the PLHA Loan Documents and the following terms:

1. The PLHA Loan evidenced by this Note and secured by the Deed of Trust are being made pursuant to the Permanent Local Housing Allocation (“**PLHA**”) Program Statutes, Final Guidelines, Notice Of Funding Availability, a Standard Agreement and applicable rules and regulations imposed by the Department of Housing and Community Development (“**HCD**”) on PLHA funding recipients (collectively, the “**PLHA 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 PLHA Program regulations, the PLHA Loan Documents and that certain Covenant Agreement dated on or about the date hereof and recorded on or about the date hereof in the Official Records between BORROWER and COUNTY (“**Covenant**”).
2. That the PLHA 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 paid to COUNTY and the City of Temecula (pro rata with respect to the amounts of their respective loans for the Project) annually in accordance with the terms set forth herein. Such payment of the pro rata share of fifty percent (50%) of the Project's Residual Receipts to COUNTY shall continue until the PLHA Note is repaid in full.
4. The Project's Residual Receipts shall be determined based on an annual review of audited 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 for the Project. All outstanding principal along with accrued interest shall be due upon the later to occur of (i) July 1, 2079 or (ii) fifty-five (55) years from and after the recordation of the Notice of Completion (the "Maturity Date"). The first payment shall be due on July 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 the sooner of full repayment of the PLHA Loan or the Maturity Date as set forth above.
5. The Project's Residual Receipts shall be determined based on an annual review of audited 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. The term "Project Residual Receipts" as used herein shall mean the gross rental income from all residential and non-residential components of the Project, proceeds from loss of rent insurance, and any other income to the BORROWER derived from the ownership, operation and management of the Project, not including interest on required reserve accounts, less the following operating expenses:
  - i) auditing and accounting fees;
  - ii) a reasonable property management fee not to exceed \$62.66 per unit per month, increased annually by an amount not to exceed the greater of (i) three and a half percent (3.5%) or (ii) the increase in the Consumer Price Index for San Bernardino – Riverside – Ontario, CA area ("CPI");
  - iii) operating expenses (any expense reasonably and normally incurred in carrying out the Project's day-to-day activities, which shall include administration, on-site management, utilities, on-site staff payroll, payroll taxes, and maintenance);
  - iv) required deposits into replacement reserves in such amount as approved by COUNTY for the Project, established in a separate account from operating reserves, limited to \$250 per unit per year for all Units in the Project, increased annually by an amount not to exceed the greater of (i) three percent (3%) or (ii) the increase in CPI;

v) Operating Reserves replenishment in such amount as approved by COUNTY for the Project, up to \$[156,381][TO BE CONFIRMED PRIOR TO CLOSING];

vi) payments of principal and interest on amortized loans and indebtedness senior to the PLHA Loan, which have been approved by COUNTY (collectively, the "Senior Debt");

vii) COUNTY's Annual Monitoring Fee in the total annual amount of \$6,000, increased annually by an amount equal to the increase in CPI (but in no event to exceed 5% per annum);

viii) repayment of any operating deficit loans made by a partner to the BORROWER and payment of any unpaid tax credit adjustment payments owed to a limited partner of BORROWER;

ix) partnership management fees up to \$6,000 annually payable to a partner of BORROWER, and asset management fees up to \$6,000 annually (increasingly annually by three (3%)) payable to a partner of BORROWER, and any accrued and unpaid fees from prior years; and

x) payment of deferred developer fees pursuant to BORROWER's limited partnership agreement.

6. The PLHA Loan evidenced by this Note is secured by that certain PLHA Deed of Trust executed by BORROWER for the benefit of COUNTY, dated on or about the date hereof and recorded in the Official Records.
7. This Note may be prepaid in whole or in part by the undersigned at any time without prepayment penalty or premium, provided however notwithstanding such prepayment, BORROWER shall be required to adhere to the affordability restrictions contained in the Covenants until the expiration of the Term contained therein.
8. Subject to the provisions and limitations of this **Section 8**, the obligation to repay the Note Amount is a nonrecourse obligation of BORROWER. Neither BORROWER nor its shareholders, members or partners shall have any personal liability for repayment of the Note Amount, except as provided in this **Section 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 PLHA 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 actual 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, member, shareholder, officer, director or employee 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 PLHA 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 PLHA Loan Agreement and/or Deed of Trust or the indemnification regarding Hazardous Substances pursuant to the PLHA 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 PLHA Loan Agreement:

a. Monetary Default. (1) BORROWER's failure to pay when due any sums payable under this Note or any advances made by COUNTY under the PLHA Loan Agreement, (2) BORROWER'S or any agent of BORROWER'S use of PLHA funds for costs other than those costs permitted under the PLHA Loan Agreement or for uses inconsistent with terms and restrictions set forth therein, (3) BORROWER'S or any agent of BORROWER'S failure to make any other payment of any assessment or tax due under the PLHA Loan Agreement, and /or (4) default past any applicable notice and cure period under the terms of (i) any Deed of Trust executed by BORROWER in connection with any Senior Debt, and (ii) any other instrument or document secured against the Property;

b. Non-Monetary Default - Operation. (1) Discrimination by BORROWER or BORROWER'S agent on the basis of characteristics prohibited by the PLHA Loan Documents 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 PLHA Deed of Trust, (3) BORROWER's failure to obtain and maintain the insurance coverage required under the PLHA Loan Agreement, (4) any material default under the PLHA Loan Documents, or any document executed by the COUNTY in connection with the PLHA Program, and/or (5) default past any applicable notice and

cure period under the terms of any Deed of Trust executed by BORROWER in connection with any Senior Debt and any other instrument or document secured against the Property;

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

d. General Performance of Other Obligations. Any substantial or continuous or repeated breach by BORROWER or BORROWER'S agents of any material obligations imposed on the Project 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 ten (10) calendar days from the mailing of the notice for a monetary default, by which such action to cure must be taken. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default. Notwithstanding anything to the contrary contained in the PLHA Loan Documents, COUNTY hereby agrees that BORROWER'S limited partner shall have the right, but not the obligation, to cure any defaults of the BORROWER hereunder and under any of the PHLA Loan Documents, and the COUNTY agrees to accept cures tendered by BORROWER'S limited partner on behalf of the BORROWER within the applicable cure periods set forth therein. Copies of all notices which are sent to the BORROWER under the terms of the PHLA Loan Documents shall also be sent to the BORROWER'S limited partner at: c/o Red Stone Equity Partners, LLC, 1100 Superior Avenue, Suite 1640, Cleveland, OH 44114, Attention: General Counsel.
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 this 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 PLHA Loan Agreement, the whole sum of principal and interest shall become immediately due at the option of the holder of this Note. Principal and interest are payable in lawful money of the United States. If action be instituted on this Note, the undersigned promises to pay such sums as the Court may fix as attorney's fees.
15. This Note has been negotiated and entered in the State of California, and shall be governed by, construed and enforced in accordance with the internal laws of the State of California, applied to contracts made in California by California domiciliaries to be wholly performed in California. Any action at law or in equity arising under this Note or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Note shall be filed in the Superior Courts of Riverside County, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.
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. Except as otherwise permitted in the PLHA Loan Documents, 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 PLHA 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, 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, Suite #300, Riverside, California 92501, Attention: Assistant Director of Housing. The facsimile number for the COUNTY’s receipt of notices is (951) 352-4852.

(c) The address of BORROWER for purposes of receiving notices pursuant to this Note is Temecula Pacific Associates, a California Limited Partnership, c/o Pacific West Communities, Inc., 430 East State Street, Suite 100, Eagle, Idaho 83616, Attention: Caleb Roope, President and CEO, with copies to:

McReynolds & McCormack, PLLC  
430 East State Street, Suite 140  
Eagle, Idaho 83616  
Attention: Clayton McReynolds & Sarah McCormack

and

Katten Muchin Rosenman LLP  
2029 Century Park East  
Suite 2600  
Los Angeles, California 90067-3012  
Attention: David P. Cohen

and

RCC MGP LLC  
c/o Riverside Charitable Corporation  
14131 Yorba Street  
Tustin, California 92780  
Attention: Recinda Shafer, Deputy Executive Director

and

[limited partner]

and

[limited partner's 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.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

[SIGNATURES ON FOLLOWING PAGE]

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

BORROWER:

TEMECULA PACIFIC ASSOCIATES, A CALIFORNIA LIMITED PARTNERSHIP,  
a California limited partnership

By: TPC HOLDINGS IX, LLC,  
an Idaho limited liability company  
Its: Administrative General Partner

By: Pacific West Communities, Inc.,  
an Idaho corporation  
Its: Manager

By: \_\_\_\_\_  
Name: Caleb Roope  
Its: President and CEO

By: RCC MGP LLC,  
a California limited liability company  
Its: Managing General Partner

By: RIVERSIDE CHARITABLE CORPORATION,  
a California Nonprofit Public Benefit Corporation  
Its: Sole Member and Manager

By: \_\_\_\_\_  
Name: Recinda Shafer  
Its: Deputy Executive Director

[insert date], File No: \_\_\_\_\_  
 [insert street address], [insert city]

**Exhibit G: Sample Tenant Checklist**

Insert a check mark for each item that is relevant to the family below

Project Name:  
 Address:

Unit No.	Tenant Name	Move In Date	Move Out Date	Rent Amount	Family Size	No. of BRs	Utility Allowance	Tenant Portion	Section 8 Subsidy	Recert. Date	Tenant Income	% of Median	Non-Hisp.	Hisp.	Am. Ind (AIAN)	Asn	Blk	N.Haw Pc Islan	WHT	AIAN & WHT	ASN & WHT	BLK & WHT	AIAN & BLK	Two or more Races	

Prepared by:

Title:

Phone Number:

Problems or questions please call Mervyn Manalo at (951) 343-5495

If you would like this form prepared on Microsoft Excel e-mailed to you, please contact [mmanalo@rivco.org](mailto:mmanalo@rivco.org)

**Exhibit H**

**COVENANT AGREEMENT**

[attached]

1 NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE SECTION 6103

2 Order No.  
Escrow No.

3 RECORDING REQUESTED BY AND  
4 WHEN RECORDED MAIL TO:

5 County of Riverside  
6 Housing and Workforce Solutions  
7 3403 Tenth Street, Suite #300  
Riverside, CA 92501  
Attn: Mervyn Manalo

8 SPACE ABOVE THIS LINE FOR RECORDERS USE

9  
10 **Permanent Local Housing Allocation (PLHA) PROGRAM**  
11 **COVENANT AGREEMENT**  
12 **(Vine Creek Apartments)**

13 This PLHA Program Covenant Agreement (Vine Creek Apartments) (this “Covenant” or  
14 “Agreement”) is made and entered into as of the \_\_\_\_ day of December, 2022 by and between  
15 the COUNTY OF RIVERSIDE, a political subdivision of the State of California (“COUNTY”),  
and TEMECULA PACIFIC ASSOCIATES, a California limited partnership (“BORROWER”).

16 **RECITALS**

17 WHEREAS, BORROWER owns that certain real property including any improvements  
18 located thereon, located at the northwest corner of Main Street and Pujol Street, Temecula, CA,  
19 Assessor’s Parcel Numbers 922-053-047-6, 922-053-021-2 and 922-053-048-7, described in the  
20 legal description attached hereto as **Exhibit A** and incorporated herein by this reference (the  
“Property”);

21 WHEREAS, COUNTY and BORROWER entered into that certain Loan Agreement for  
22 the Use of PLHA Program Funds (Vine Creek Apartments) dated December \_\_, 2022 and recorded  
23 in the Official Records of the County of Riverside (“Official Records”) concurrently herewith (the  
24 “PLHA Loan Agreement” or “Agreement”) which provides for, among other things, new  
25 construction on the Property of an approximately 2.27 acre multi-family apartment complex and

1 related amenities consisting of 7 one-bedroom units, 32 two-bedroom units and 20 three-bedroom  
2 units (and one three-bedroom manager’s unit), for a total of 60 apartment units (each, a “Unit,”  
3 collectively, the “Units”). The construction on the Property of the Units and such other  
4 improvements as specified in the PLHA Loan Agreement shall be referred to herein as the  
5 “Project.” Capitalized terms not defined herein shall have the meaning ascribed to them in the  
6 PLHA Loan Agreement;

7 WHEREAS, the State of California (the “State”), Department of Housing and Community  
8 Development (“HCD”) issued a Notice of Funding Availability (“NOFA”), dated February 26,  
9 2020, to provide approximately \$195,000,000 under the Permanent Local Housing Allocation  
10 (“PLHA”) Program through its Entitlement and Non-entitlement Local Government Formula  
11 Component from the Building Homes and Jobs Trust Fund for assistance to Local Governments  
12 pursuant to Health and Safety Code section 50470 et seq. and Senate Bill (SB) 2 (Chapter 364,  
13 Statutes of 2017);

14 WHEREAS, to implement the PLHA Program, HCD adopted and issued the HCD 2019  
15 PLHA Final Guidelines (“Guidelines” or “PLHA Guidelines”);

16 WHEREAS, the PLHA Program (as hereinafter defined) provides a permanent source of  
17 funding to all local governments in the State of California to help implement plans to increase the  
18 affordable housing stock;

19 WHEREAS, COUNTY is an eligible local government for the program to administer one  
20 or more eligible activities, including on behalf of other local governments that have delegated to  
21 the COUNTY submission of an application and administration of their respective PLHA formula  
22 allocations;

23 WHEREAS, HCD approved a funding allocation to the COUNTY for the PLHA Program,  
24 subject to the terms and conditions of the PLHA Statutes, Guidelines, NOFA, a Standard  
25 Agreement and applicable rules and regulations imposed by HCD on PLHA funding recipients  
(collectively, the “PLHA Program”);

WHEREAS, pursuant to the PLHA Program, the COUNTY and HCD entered into that  
certain Standard Agreement dated June 17, 2021, including Exhibits A, B, D and E (collectively,

1 the “PLHA Standard Agreement”), which allocates PLHA funding to the County for use in the  
2 City of Temecula (“City”), where the Property is located; and

3 WHEREAS, BORROWER is an experienced developer of affordable housing that has  
4 among its purposes the provision of decent housing that is affordable to low income persons; and

5 WHEREAS, in consideration of a loan of PLHA funds, BORROWER has agreed to restrict  
6 at least forty nine percent (49%) of the Units in the Project not occupied by a manager or twenty-  
7 eight (28) PLHA Units to rental to and occupancy by qualified low- and very low-income  
8 households consistent with the PLHA Program requirements and as set forth more specifically  
below.

9 NOW, THEREFORE, in consideration of the PLHA Loan funds and the mutual covenants  
10 and agreements set forth herein and in the PLHA Loan Agreement, and for other good and valuable  
11 consideration, the receipt and sufficiency of which are hereby acknowledged, BORROWER, on  
12 behalf of itself and its successors, assigns, and each successor in interest to the Property or any  
13 part thereof, hereby declares as follows:

14 1) RESTRICTIONS. The recitals set forth above are true and correct and  
15 incorporated herein. This Covenant shall continue in full force and effect for the later of (i)  
16 fifty-five (55) years from the recordation of the Notice of Completion for the last building for  
17 which construction is completed for the Project on the Property, or (ii) \_\_\_\_\_, 2079 (“Term”  
18 or “Affordability Period”). For the duration of the Term, the Property shall be held, sold and  
conveyed, subject to the following covenants, conditions, and restrictions:

19 a) BORROWER hereby covenants and agrees to restrict at least approximately forty  
20 nine percent (49%) of the Units not occupied by a manager or twenty-eight (28) of  
21 the Units constructed on the Property shall be restricted to rental to and occupancy  
22 by qualified Low and Very Low Income Households (collectively, “PLHA Units”)  
23 at an Affordable Rent (as hereinafter defined). At least twenty percent (20%) of the  
24 PLHA Units or six (6) PLHA Units shall be restricted to occupancy by Very Low  
25 Income Households. Twenty-two (22) PLHA Units shall be rented to and occupied  
by Low Income Households: XX one-bedroom units, XX two-bedroom units and



1 XX three-bedroom units. Six (6) PLHA Units shall be rented to and occupied by  
2 Very Low Income Households: XX one-bedroom units, XX two-bedroom units and  
3 XX three-bedroom units. One-bedroom units shall be approximately 660 square  
4 feet each, two-bedroom units shall be approximately 880 square feet each, and  
5 three-bedroom units shall be approximately 1,050 square feet each. For purposes  
6 hereof:

7 (i) "Household" is one or more persons occupying an Affordable Unit.

8 (ii) "Low Income" has the meaning set forth in HSC Section 50079.5, which is  
9 a household whose incomes does not exceed 80% of the area median  
10 income, adjusted for actual family size.

11 (iii) "Very Low Income" has the meaning set forth in HSC Section 50105,  
12 which is a household whose incomes does not exceed 50% of the area  
13 median income, adjusted for actual family size.

14 (iv) "area median income" shall refer to the most recent area median family  
15 income published by HCD for Riverside County, available at the following  
16 link:

17 b) The PLHA Units shall be rented to and occupied by Very Low and Low Income  
18 Households at an Affordable Rent in compliance with the Multifamily Housing  
19 Program ("MHP") guidelines Section 7312 and the Section 7301 definition of  
20 "Affordable Rent" and the PLHA Program. Maximum income and Affordable  
21 Rent shall be determined in accordance with subsection d) below. COUNTY shall  
22 review and approve proposed rents prior to entry into leases for occupancy of the  
23 PLHA Units by BORROWER. BORROWER shall ensure the PLHA Units are  
24 rented to qualified applicants at the described rent levels herein during the  
25 Affordability Period. The maximum monthly allowances for utilities and services  
(excluding telephone) shall not exceed the utility allowance as described in c)  
below.

c) Utility Allowance: For Projects not receiving financing from tax credits,

1 BORROWER shall use the most currently available Utility Allowances published  
2 by the Housing Authority of the County of Riverside to establish maximum  
3 monthly allowances for utilities and services in calculating Affordable Rents.

4 Projects assisted with tax credits shall use the California Utility Allowance  
5 Calculator (CUAC) published annually by the Treasurer of the State of California.  
6 The CUAC and use instructions can be found at:  
7 <https://www.treasurer.ca.gov/ctcac/cuac/index.asp>.

8 d) Income and Affordable Rent limitations for Very Low Income Households and  
9 Low Income Households must be calculated in accordance with the Multifamily  
10 Housing Program (MHP) as required by the PLHA Program. BORROWER shall  
11 utilize the most recently available “MHP Income and Rent Calculator” published  
12 by HCD, available on the following web page:

13 e) PLHA Loan Documents. The PLHA Loan Agreement, PLHA Note, PLHA Deed  
14 of Trust, the Environmental Indemnity and any other agreement entered into by  
15 COUNY and BORROWER in connection with the Project shall collectively be  
16 referred to herein as the “PLHA Loan Documents”. BORROWER shall comply  
17 with the terms and conditions of the PLHA Loan Documents, any other agreements  
18 evidencing financing for the Project, and any instrument secured against the  
19 Property. BORROWER shall strictly comply with all requirements of the PLHA  
20 Program.

21 f) CTCAC. Notwithstanding anything contained herein to the contrary, if the Project has  
22 received low income housing tax credits, then California Tax Credit Allocation  
23 Committee (“CTCAC”) rent- and income-setting requirements shall control for the  
24 term of the CTCAC extended use agreement.

25 2) SENIOR PRIORITY. This Covenant may be recorded in a fifth priority lien  
position junior to the [CMFA – Regulatory Agreement and Declaration of Restriction  
Covenants, City of Temecula Affordability Restrictions and Regulator Agreement (Low-Mod  
Set Aside Funds, City of Temecula Affordability Restrictions and Regulatory Agreement

1 (Density Bonus), and City of Temecula Notice of Affordability Restrictions on Transfer of  
2 Property].

3 3) COMPLIANCE WITH LAWS AND REGULATIONS. During the Term of this  
4 Covenant, BORROWER, for itself and on behalf of its successors and assigns, shall insure that  
5 the Project is constructed in accordance with and operated in compliance with the PLHA  
6 Program and all applicable federal, state and local laws, regulations and ordinances, including,  
7 but not limited to the following: all laws, ordinances, statutes, codes, rules, resolutions,  
8 regulations, policy statements, orders, and decrees (including, without limitation, those relating  
9 to land use, subdivision, zoning, environmental, labor relations and building and fire codes) of  
10 the United States, the State of California, the County or any other political subdivision in which  
11 the Property is located or which exercises jurisdiction over the BORROWER or the  
12 construction, maintenance, management, use, or operation of the Project.

13 4) TENANT PROTECTIONS. BORROWER shall provide protection to the tenants  
14 of the PLHA Units as follows:

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

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

22 (1) *Agreement to be sued*. Agreement by the tenant to be sued, to admit  
23 guilt or to a judgment in favor of BORROWER in a lawsuit brought in  
24 connection with the lease.

25 (2) *Treatment of property*. Agreements by tenant that BORROWER may  
take, hold, or sell personal property of household members without  
notice to the tenant and a court decision on the rights of the parties.

This prohibition, however, does not apply to an agreement by the tenant

1 concerning disposition of personal property remaining in the housing  
2 unit after the tenant has moved out of the unit. BORROWER may  
3 dispose of this personal property in accordance with State law.

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

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

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

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

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

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

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

c) Violence Against Women Reauthorization Act of 2013. (Pub. L.  
113-4, 127 Stat. 54) ("VAWA 2013"). VAWA 2013 reauthorizes and amends the

1 Violence Against Women Act of 1994, as previously amended, (title IV, sec. 40001-  
2 40703 of Pub. L. 103-322, 42 U.S.C. 13925 et seq.) VAWA 2013, among other things,  
3 bars eviction and termination due to a tenant's status as a victim of domestic violence,  
4 dating violence, or stalking, and requires landlords to maintain survivor-tenant  
5 confidentiality. VAWA 2013 prohibits a tenant who is a survivor of domestic  
6 violence, dating violence, sexual assault, and stalking from being denied assistance,  
7 tenancy, or occupancy rights based solely on criminal activity related to an act of  
8 violence committed against them. It extends housing protections to survivors of sexual  
9 assault, and adds "intimate partner" to the list of eligible relationships in the domestic  
10 violence definition. Protections also now cover an "affiliated individual," which  
11 includes any lawful occupant living in the survivor's household, or related to the  
12 survivor by blood or marriage including the survivor's spouse, parent, brother, sister,  
13 child, or any person to whom the survivor stands in loco parentis. VAWA 2013 allows  
14 a lease bifurcation so a tenant or lawful occupant who engages in criminal activity  
15 directly relating to domestic violence, dating violence, sexual assault, or stalking  
16 against an affiliated individual or other individual, or others may be evicted or  
17 removed without evicting or removing or otherwise penalizing a victim who is a tenant  
18 or lawful occupant. If victim cannot establish eligibility, BORROWER must give a  
19 reasonable amount of time to find new housing or establish eligibility under another  
20 covered housing program. A Notice of Rights under VAWA 2013 for tenants must be  
21 provided at the time a person applies for housing, when a person is admitted as a tenant  
22 of a housing unit, and when a tenant is threatened with eviction or termination of  
23 housing benefits. Tenants must request an emergency transfer and reasonably believe  
24 that they are threatened with imminent harm from further violence if the tenant  
25 remains in the same unit. The provisions of VAWA 2013 that are applicable to HCD  
programs are found in title VI of VAWA 2013, which is entitled "Safe Homes for  
Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking."  
Section 601 of VAWA 2013 amends subtitle N of VAWA (42 U.S.C. 14043e et seq.)

1 to add a new chapter entitled "Housing Rights."

2 5) USE OF PROPERTY; CONSTRUCTION OF IMPROVEMENTS. During the  
3 Affordability Period, BORROWER covenants and agrees to use the Property solely for the  
4 construction and operation of the Project in accordance with the PLHA Loan Documents, and  
5 to construct the Project in a timely manner and in accordance with the Schedule of Performance  
6 attached to the PLHA Loan Agreement. The proceeds of the PLHA Loan shall be used solely  
7 for construction of the Units, and not in connection with any non-residential facilities, services  
8 or activities.

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

1 COUNTY or its designee shall have the right but not the obligation to enter the Property upon  
2 reasonable notice to BORROWER, correct any violation, and hold BORROWER, or such  
3 successors or assigns responsible for the cost thereof, and such cost, until paid, shall constitute  
4 a lien on the Property.

5 7) STRUCTURAL MODIFICATIONS. In order to protect and maintain the  
6 architectural and structural integrity of the Project, no structural modification will be made to  
7 the Project without a validly issued building permit in accordance with the requirements of the  
8 County of Riverside Ordinances. Any application for a building permit pursuant to this section  
9 and in connection with a proposed exterior modification to the Project shall be accompanied  
10 by elevations and plans depicting the proposed modifications.

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

20 BORROWER herein covenants by and for itself, its successors and assigns, and all persons  
21 claiming under or through them, that this Covenant is made and accepted upon and subject to the  
22 following conditions: There shall be no discrimination against or segregation of any person or  
23 group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the  
24 Government 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 Code,  
in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall

1 the transferee itself or any person claiming under or through him or her, establish or permit any  
2 such practice or practices of discrimination or segregation with reference to the selection, location,  
3 number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the Property.

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

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

22 b) In leases: "The lessee herein covenants by and for himself or herself, his or  
23 her heirs, executors, administrators, and assigns, and all persons claiming under or through  
24 him or her, and this lease is made and accepted upon and subject to the following  
25 conditions: That there shall be no discrimination against or segregation of any person or  
group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955  
of the Government Code, as those bases are defined in Sections 12926, 12926.1,  
subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2



1 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure,  
2 or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any  
3 person claiming under or through him or her, establish or permit any such practice or  
4 practices of discrimination or segregation with reference to the selection, location, number,  
5 use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises  
6 herein leased.”

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

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

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

a) Builder’s All Risk (Course of Construction) Insurance. BORROWER shall

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

22 b) Worker's Compensation Insurance. If the BORROWER has employees as  
23 defined by the State of California, the BORROWER shall maintain statutory Workers'  
24 Compensation Insurance (Coverage A) as prescribed by the laws of the State of California.  
25 Policy shall include Employers' Liability (Coverage B) including Occupational Disease  
with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed  
to waive subrogation in favor of The County of Riverside. Policy shall name the COUNTY  
as Additional Insureds.

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

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

16           e) General Insurance Provisions – All Lines.

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

22           2) The BORROWER must declare its insurance self-insured retention  
23 for each coverage required herein. If any such self-insured retention exceed \$500,000 per  
24 occurrence each such retention shall have the prior written consent of the County Risk  
25 Manager before the commencement of operations under this Agreement. Upon notification  
of self-insured retention unacceptable to the COUNTY, and at the election of the County's  
Risk Manager, BORROWER'S carriers shall either; 1) reduce or eliminate such self-  
insured retention as respects this Agreement with the COUNTY, or 2) procure a bond

1 which guarantees payment of losses and related investigations, claims administration, and  
2 defense costs and expenses.

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

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

23 5) It is understood and agreed to by the parties hereto that the  
24 BORROWER'S insurance shall be construed as primary insurance, and the COUNTY'S  
25 insurance and/or deductibles and/or self-insured retention's or self-insured programs shall

1 not be construed as contributory.

2 6) If, during the term of this Agreement or any extension thereof, there  
3 is a material 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; or, the term of this Agreement,  
5 including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right  
6 to adjust the types of insurance and the monetary limits of liability required under this  
7 Agreement, if in the County Risk Management's reasonable judgment, the amount or type  
8 of insurance carried by the BORROWER has become inadequate.

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

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

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

16 10) HOLD HARMLESS/INDEMNIFICATION. BORROWER shall indemnify and  
17 hold harmless the County of Riverside, its Agencies, Districts, Boards, Special Districts and  
18 Departments, their respective directors, officers, elected and appointed officials, employees,  
19 agents and representatives (individually and collectively hereinafter referred to as  
20 "Indemnitees") from any claim, liability, costs or fees (including, but not limited to, attorneys'  
21 fees and costs, costs of investigation, defense and settlements or awards), resulting from any  
22 act or failure to act of BORROWER, its officers, employees, subcontractors, agents or  
23 representatives, in connection with, arising out of or in any way relating to this Agreement, the  
24 PLHA Loan Documents or the Project, including, but not limited to, property damage, bodily  
25 injury, death or any other claim or liability of any kind or nature whatsoever. BORROWER  
shall defend the Indemnitees, at BORROWER's sole expense, in any claim or action based  
upon such alleged acts or omissions. With respect to any action or claim subject to  
indemnification herein, BORROWER shall, at its sole cost, have the right to use counsel of its

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

14 11) 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  
18 party:

19 COUNTY  
20 Director  
21 Housing and Workforce Solutions  
22 3403 Tenth Street, Suite #300  
23 Riverside, CA 92501

24 BORROWER  
25 Temecula Pacific Associates, a California Limited Partnership  
c/o Pacific West Communities, Inc.  
430 East State Street, Suite 100  
Eagle, Idaho 83616  
Attention: Caleb Roope, President and CEO

with copies to:

1 McReynolds & McCormack, PLLC  
2 430 East State Street, Suite 140  
3 Eagle, Idaho 83616  
4 Attention: Clayton McReynolds & Sarah McCormack

5 and

6 Katten Muchin Rosenman LLP  
7 2029 Century Park East  
8 Suite 2600  
9 Los Angeles, California 90067-3012  
10 Attention: David P. Cohen

11 and

12 RCC MGP LLC  
13 c/o Riverside Charitable Corporation  
14 14131 Yorba Street  
15 Tustin, California 92780  
16 Attention: Recinda Shafer, Deputy Executive Director

17 and

18 c/o Red Stone Equity Partners, LLC  
19 1100 Superior Avenue, Suite 1640  
20 Cleveland, OH 44114  
21 Attention: General Counsel

22 and

23 [limited partner's counsel]

24 12) REMEDIES. COUNTY shall have the right, in the event of any breach of any of  
25 the terms and conditions of the Covenant, to exercise all available rights and remedies, and to  
maintain any actions at law or suit in equity or other proper proceedings to enforce the curing  
of such breach of agreement or covenant.

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

1           14) NOTICE AND CURE. Prior to exercising any remedies hereunder, the COUNTY  
2 shall give BORROWER notice of such default pursuant to the Notice section above. Any  
3 monetary default shall be cured within ten (10) days of delivery of written notice. Except as  
4 otherwise set forth herein, if a non-monetary default is reasonably capable of being cured  
5 within thirty (30) days of delivery of such notice of default, BORROWER shall have such  
6 period to effect a cure prior to exercise of remedies by COUNTY. If the non-monetary default  
7 is such that it is not reasonably capable of being cured within thirty (30) days of delivery of  
8 such notice of default, and BORROWER (a) initiates corrective action within said period, and  
9 (b) diligently, continually, and in good faith works to effect a cure as soon as possible, then  
10 BORROWER shall have such additional time as is reasonably necessary to cure the default  
11 prior to exercise of any remedies by the COUNTY; but in no event no later than one hundred  
12 twenty (120) days from delivery of such notice of default. COUNTY, upon providing  
13 BORROWER with any notice of default under this Covenant, shall, within a reasonable time,  
14 provide a copy of such default notice to a Permitted Lender (as defined in Section 19 below)  
15 or limited partner, if any, who has given written notice to COUNTY of its interest in the  
16 Property and Project. From and after such notice has been delivered to a Permitted Lender and  
17 BORROWER's limited partner, if any, such Permitted Lender or limited partner shall have the  
18 same period for remedying the default complained of as the cure period provided to  
BORROWER pursuant to this Section 14. COUNTY shall accept performance by a Permitted  
Lender or limited partner as if the same had been done by BORROWER.

19           If a violation of any of the covenants or provisions of this Covenant remains uncured  
20 after the respective time period set forth in this Section 14, COUNTY and its successors and  
21 assigns, without regard to whether COUNTY or its successors and assigns is an owner of any  
22 land or interest therein to which these covenants relate, may institute and prosecute any  
23 proceedings at law or in equity to abate, prevent or enjoin any such violation or attempted  
24 violation or to compel specific performance by BORROWER of its obligations hereunder.  
25 No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage  
or waive the right of any party entitled to enforce the provisions hereof or to obtain relief



1 against or recover for the continuation or repetition of such breach or violations or any similar  
2 breach or violation hereof at any later time.

3 15) SALE, ASSIGNMENT OR TRANSFER OF THE PROJECT OR PROPERTY.

4 BORROWER hereby covenants and agrees not to sell, transfer, assign or otherwise dispose of  
5 the Project, the Property or any portion thereof, without obtaining the prior written consent of  
6 COUNTY, except as otherwise permitted pursuant to the PLHA Loan Documents, which such  
7 consent may be granted or withheld in its discretion. Upon application for and such, sale  
8 transfer or assignment, BORROWER shall demonstrate that the proposed transferee is  
9 reasonably capable of performing and complying with BORROWER's duties and obligations  
10 under the PLHA Loan Documents, including this Covenant. Any sale, assignment, or transfer  
11 of the Project or Property shall be memorialized in an assignment and assumption agreement,  
12 the form and substance of which shall have been first approved in writing by the COUNTY, in  
13 its discretion. Such assignment and assumption agreement shall, among other things, provide  
14 that the transferee has assumed in writing and in full, BORROWER's duties and obligations  
15 under the PLHA Loan Documents, including this Covenant.

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

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

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

19) PERMITTED MORTGAGES. No violation or breach of the covenants,

1 conditions, restrictions, provisions or limitations contained in this Covenant shall defeat or  
2 render invalid or in any way impair the lien or charge of any deed of trust or mortgage permitted  
3 by the PLHA Loan Agreement or the lien or charge of a deed of trust made by BORROWER  
4 for the benefit of any lender first approved in writing by the COUNTY ( each, a “Permitted  
5 Lender”) and nothing herein or in the PLHA Loan Agreement shall prohibit or otherwise limit  
6 the exercise of a Permitted Lender’s rights and remedies thereunder, including a foreclosure or  
7 deed-in-lieu of foreclosure and subsequent transfer thereafter.

8 20) COVENANT RUNS WITH PROPERTY. In accordance with California Civil  
9 Code Section 1461 et seq., all conditions, covenants and restrictions contained in this Covenant  
10 shall be covenants running with the land. The Housing Authority of the County of Riverside  
11 (“Housing Authority”) and COUNTY shall be deemed the beneficiaries of the covenants,  
12 conditions and restrictions of this Covenant both for and in their own rights and for the  
13 purposes of protecting the interests of the community. The covenants, conditions, and  
14 restrictions shall run in favor of the Housing Authority and COUNTY, without regard to  
15 whether the Housing Authority or COUNTY has been, remains, or is an owner of any land or  
16 interest therein in the Property.

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

21 22) MANAGEMENT. BORROWER shall be responsible for the operation of the  
22 Project either by direct management or by contracting its managerial functions to a third party  
23 property manager reasonably acceptable to COUNTY (“Property Manager”). The Property  
24 Manager will be charged with managing the Project on behalf of the BORROWER. COUNTY  
25 shall have the right to review and approve, which approval shall not be unreasonably withheld,  
conditioned or delayed, any such entity and agreement therefor prior to its selection by the  
BORROWER. BORROWER shall include in any such property management agreement a  
provision providing for the termination of the agreement in the event that the Property Manager

1 violates any federal, state or local health and safety laws and regulations which are not cured  
2 within thirty (30) days following the giving of notice of such violations by COUNTY or any  
3 other governmental entity; provided, however, that in the case of a violation that cannot be  
4 cured within such thirty (30) day period, that such cure shall be commenced within thirty (30)  
5 days of notification and shall be diligently prosecuted to completion not later than sixty (60)  
6 days after notification. BORROWER, its successors and assigns, upon notice from COUNTY,  
7 shall indemnify, hold harmless and pay any costs and fees (including administrative and  
8 attorneys' fees) incurred by COUNTY or the Indemnitees in connection with responding to or  
9 defending any discrimination claim brought by any third party and/or local, state or federal  
government entity, arising out of or in connection with the Project and/or this Agreement.

10 23) COMPLIANCE WITH APPLICABLE LAWS. BORROWER shall carry out the  
11 design, construction and operation of the Project in conformity with all applicable federal, state  
12 and local laws, ordinances, statutes, codes, rules, resolutions, regulations, policy statements,  
13 orders, and decrees including without limitation, all applicable labor and employment laws and  
14 standards, laws regarding hazardous substances, laws regarding the acceptance or rejection of  
15 tenants and/or the termination of any tenancy, zoning and development standards, building,  
16 plumbing, mechanical and electrical codes, and all other provisions of the Code of Ordinances  
17 of Riverside County, and all applicable disabled and handicapped access requirements,  
18 including without limitation the Americans With Disabilities Act, 42 U.S.C. § 12101, et seq.,  
19 as currently exists or as may be amended from time to time, Government Code § 4450, et seq.,  
20 as currently exists or as may be amended from time to time, Government Code § 11135, et  
21 seq., as currently exists or as may be amended from time to time, and the California Building  
Standards Code, Health and Safety Code § 18900, et seq. as currently exists or as may be  
amended from time to time.

22 24) PROJECT MONITORING AND EVALUATION.

23 a) Tenant Checklist. BORROWER shall submit a "Tenant Checklist Form"  
24 to COUNTY, in such form as may be required by COUNTY, and may from time to time  
25 be revised by COUNTY, summarizing the racial/ethnic composition, number and

1 percentage of Very Low and Low Income Households who are tenants of the PLHA Units.  
 2 The Tenant Checklist Form shall be submitted upon completion of the construction and  
 3 thereafter, on a semi-annual basis on or before March 31 and September 30. BORROWER  
 4 shall maintain financial, programmatic, statistical and other supporting records of its  
 5 operations and financial activities in accordance with the requirements of the COUNTY  
 6 and the PLHA Program, and shall provide such records to COUNTY at least annually.  
 7 Except as otherwise provided for in this Covenant and in the PLHA Loan Agreement,  
 8 BORROWER shall maintain and submit records to COUNTY within ten (10) business  
 9 days of COUNTY's request which clearly documents BORROWER's performance under  
 each requirement of the PLHA Program.

10 b) Inspections. During the period of affordability, COUNTY may perform  
 11 annual on-site inspections of the rental housing included in the Project to determine  
 12 compliance with applicable State and local health, safety, and other applicable codes,  
 13 ordinances, and requirements, and the ongoing property standards established by the  
 14 participating jurisdiction and to verify the information submitted by the BORROWER.

15 c) Written Selection Policies. BORROWER shall adopt written selection  
 16 policies and criteria that are approved in writing by COUNTY prior to entering into any  
 17 lease for an Affordable Unit in the Project, which selection policies shall be subject to all  
 applicable laws, including, if applicable, Section 42 of the Internal Revenue Code:

18 1) Are consistent with the purpose of providing housing for Very Low  
 19 Income Households and Low Income Households.

20 2) Are reasonably related to program eligibility and the applicants'  
 21 ability to perform the obligations of the lease.

22 3) Provide for:

23 (A) The selection of tenants from a written waiting list in the  
 24 chronological order of their satisfaction of all eligibility requirements,  
 insofar as is practicable; and

25 (B) The prompt written notification to any rejected applicant of

1 the grounds for any rejection;

2 4) To the extent permitted by law, provide first priority in the selection  
3 of otherwise eligible tenants to persons displaced by COUNTY (if any); and

4 5) Carry out the affirmative marketing procedures of COUNTY, to  
5 provide information and otherwise attract eligible persons from all racial, ethnic and  
6 gender groups in the housing market area. BORROWER and COUNTY shall  
7 cooperate to effectuate this provision during the BORROWER's initial lease-up of the  
8 PLHA Units and as vacancies occur.

9 d) Income Requirements and Certification. Prior to leasing an Affordable  
10 Unit and annually thereafter, BORROWER, at its sole expense, shall or shall cause the  
11 Property Manager, if any, engaged to manage the Project to certify the eligibility of each  
12 tenant applicant as a Very Low Income Household or Low Income Household in  
13 accordance with the PLHA Program. The BORROWER shall complete such certification  
14 on forms as may be reasonably required by COUNTY (which may include provision to  
15 COUNTY of any reporting forms required by California Tax Credit Allocation Committee  
16 (CTCAC)). Gross income calculations for prospective (and continuing) tenants shall be  
17 determined in accordance with CTCAC requirements and applicable California law.  
18 BORROWER shall cause the Property Manager to submit such income certification,  
19 verification and such additional information as may reasonably be required by COUNTY,  
20 HCD or, if applicable, CTCAC. Such supporting documentation shall include, for each  
21 member of the household eighteen (18) years old or older, copies of documentation and  
22 verification procedures as required by California law or Section IV of CTCAC's  
23 Compliance Online Reference Manual, as may be amended from time to time by CTCAC  
24 and currently located at -  
25 <https://www.treasurer.ca.gov/ctcac/compliance/manual/manual.pdf>. BORROWER and  
COUNTY agree and acknowledge that COUNTY may require such additional  
information, if any, required to comply with the PLHA Program and/or applicable  
California law regarding affordable housing.

1 e) Submission of Audited Financial Statements. BORROWER shall prepare  
2 and obtain an audited annual financial statement for the Project for each calendar year (the  
3 “Annual Audited Financial Statements”) ending after completion of the development of  
4 the Project. By no later than the April 1st following the year in which final certificate of  
5 occupancy for the Project is issued, BORROWER shall submit such Annual Audited  
6 Financial Statements to COUNTY for the immediately preceding calendar year.  
7 Thereafter, by no later than each April 1st, BORROWER shall submit Annual Audited  
8 Financial Statements to COUNTY for the immediately preceding year.

9 f) Monitoring Fee. BORROWER covenants and agrees to pay a Monitoring  
10 Fee on an annual basis in compliance herewith, and to prepare and submit all reports  
11 required by this Covenant or any other PLHA Loan Document no later than April 1 of  
12 each year during the Affordability Period, commencing on the first April 1 following the  
13 completion of construction of the Project. For purposes hereof, “Monitoring Fee” means  
14 an annual fee in the amount of \$6,000 (increased annually by an amount equal to the  
15 increase of the Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange  
16 County, CA area) constructed in the Project, payable on April 1 of each year during the  
17 Affordability Period commencing on the first April 1 after the construction of the Project  
18 is complete.

19 25) ACCESS TO PROJECT SITE. Representatives of the COUNTY and HCD shall  
20 have the right of access to the Property, upon 24 hours’ written notice to BORROWER (except  
21 in the case of an emergency, in which case COUNTY or HCD shall provide such notice as  
22 may be practical under the circumstances), without charges or fees, during normal business  
23 hours to review the operation of the Project in accordance with this Covenant and the PLHA  
24 Loan Agreement, subject to the rights of tenants.

25 26) COUNTERPARTS. This Covenant 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.

27) RECITALS. The Recitals set forth above are true and correct and incorporated

1 herein by this reference.

2 28) ENTIRE UNDERSTANDING. This Covenant and the PLHA Loan Documents  
3 contain the entire understanding and agreement of the parties hereto. There are no oral or  
4 written representations, understandings, or ancillary covenants, undertakings or agreements,  
5 which are not contained or expressly referred to within this Covenant, and the PLHA Loan  
6 Documents, including all amendments and modifications thereto.

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10 [remainder of page intentionally blank]

11 (SIGNATURES ON THE NEXT PAGE)

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

COUNTY:

County of Riverside, a political  
subdivision of the State of California


By: Form - do not sign  
Heidi Marshall, Director  
Housing & Workforce Solutions

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

ATTEST:  
KECIA R. HARPER  
Clerk of the Board

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

APPROVED AS TO FORM:  
MINH C. TRAN, County Counsel

By:   
Amrit P. Dhillon, Deputy County Counsel

**(Signatures need to be notarized)**



BORROWER:

TEMECULA PACIFIC ASSOCIATES, A CALIFORNIA LIMITED PARTNERSHIP,  
a California limited partnership

By: TPC HOLDINGS IX, LLC,  
an Idaho limited liability company  
Its: Administrative General Partner

By: Pacific West Communities, Inc.,  
an Idaho corporation  
Its: Manager

By: \_\_\_\_\_  
Name: Caleb Roope  
Its: President and CEO  
Date: \_\_\_\_\_, 2022

By: RCC MGP LLC  
a California limited liability company  
Its: Managing General Partner

By: RIVERSIDE CHARITABLE CORPORATION  
a California Nonprofit Public Benefit Corporation  
Its: Sole Member and Manager

By: \_\_\_\_\_  
Name: Recinda Shafer  
Its: Deputy Executive Director  
Date: \_\_\_\_\_, 2022

**(Signatures need to be notarized)**

**<CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT HERE>**

STATE OF IDAHO )

) SS

COUNTY OF ADA )

ON THIS \_\_\_ DAY OF [ \_\_\_\_\_ ], IN THE YEAR OF 20\_\_, BEFORE ME, \_\_\_\_\_, A NOTARY PUBLIC, PERSONALLY APPEARED CALEB ROOPE, KNOWN OR IDENTIFIED TO ME TO BE [PRESIDENT AND CEO] OF [PACIFIC WEST COMMUNITIES, INC., AN IDAHO CORPORATION], PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

[SEAL]

NOTARY PUBLIC

MY COMMISSION EXPIRES:

## **EXHIBIT "A"**

### LEGAL DESCRIPTION OF PROPERTY

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

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

PARCEL A: APN 922-053-047

THE NORTHWESTERLY 255 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

THE NORTHWESTERLY ONE-HALF OF THAT TRACT OF LAND FORMERLY USED AS RAILROAD RIGHT OF WAY AND STATION GROUND OF THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY, CONVEYED TO N.R. VAIL, ET AL., BY DEED RECORDED JUNE 11, 1940 IN BOOK 464, PAGE 505 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, SAID PROPERTY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 1, BLOCK 27 OF THE TOWN OF TEMECULA, IN THE CITY OF TEMECULA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SHOWN BY MAP ON FILE IN BOOK 15, PAGE 726 OF MAPS, RECORDS OF SAN DIEGO COUNTY, CALIFORNIA; THENCE SOUTHWESTERLY IN A STRAIGHT LINE TO THE MOST EASTERLY CORNER OF LOT 1, BLOCK 36, AS SHOWN BY SAID MAP; THENCE NORTHWESTERLY IN A STRAIGHT LINE TO THE MOST NORTHERLY CORNER OF LOT 10, BLOCK 37, AS SHOWN BY SAID MAP; THENCE NORTHEASTERLY ON A STRAIGHT LINE TO THE MOST WESTERLY CORNER OF LOT 22, BLOCK 25 ON SAID MAP; THENCE SOUTHEASTERLY IN A STRAIGHT LINE TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE NORTHWESTERLY 595 FEET THEREOF.

ALSO EXCEPT THEREFROM THOSE PORTIONS INCLUDED IN RIVER AND PUJOL STREETS AS SHOWN ON SAID MAP.

ALSO EXCEPT THEREFROM THAT PORTION OF SAID LAND CONDEMNED BY THE RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT AS SET FORTH AND DESCRIBED IN THAT CERTAIN DOCUMENT RECORDED OCTOBER 5, 2010 AS INSTRUMENT NO. 2010-477535 OF OFFICIAL RECORDS.

PARCEL B: APN 922-053-021, APN 922-053-048

PARCELS 1 AND 2 OF PARCEL MAP 9839, IN THE CITY OF TEMECULA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 61, PAGE 14 OF PARCEL MAPS, RECORDS OF SAID COUNTY, CALIFORNIA.

EXCEPT THEREFROM THAT PORTION OF PARCEL 1 CONVEYED TO THE RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, A BODY POLITIC, BY DOCUMENT RECORDED JANUARY 14, 2015 AS INSTRUMENT NO. 2015-0016730 OF OFFICIAL RECORDS.

**Exhibit I**

**REQUEST FOR NOTICE OF DEFAULT**

NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE SECTION 27383

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

County of Riverside  
3403 Tenth Street, Suite #300  
Riverside, CA 92501  
Attn: \_\_\_\_\_

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 \_\_\_\_\_, 20\_\_ and recorded concurrently herewith in the Official Records of the County of Riverside, California, executed by \_\_\_\_\_, a California \_\_\_\_\_, as Trustor in which \_\_\_\_\_ is named as Beneficiary, and \_\_\_\_\_ is named as Trustee, and describing land therein as all that certain real property situated in the County of Riverside, State of California, described as follows:

[INSERT LEGAL DESCRIPTION]

Assessor's Parcel No.: \_\_\_\_\_, CA \_\_\_\_\_

All notices to be mailed to:

Attn: \_\_\_\_\_  
County of Riverside  
Housing and Workforce Solutions  
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

By: \_\_\_\_\_, Director

**<INSERT CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT HERE>**

**Exhibit J**

**ENVIRONMENTAL INDEMNITY**

[attached]



## ENVIRONMENTAL INDEMNITY

THIS ENVIRONMENTAL INDEMNITY (this "Indemnity"), dated as of December \_\_, 2022, is made by Temecula Pacific Associates, a California Limited Partnership, a California limited partnership (referred to as "Indemnitor"), whose address for purposes of giving notices is 430 East State Street, Suite 100, Eagle, Idaho 83616, in favor of the COUNTY OF RIVERSIDE, a political subdivision of the State of California ("COUNTY" or "County"), whose address for purposes of giving notices is 3403 Tenth Street, Suite #300, Riverside, CA 92501.

### WITNESSETH

WHEREAS, Indemnitor is the owner of the real property in the City of Temecula, County of Riverside, California, as more particularly described on Exhibit A attached hereto and made a part hereof, and the real property improvements thereon or to be constructed thereon (collectively referred to as the "Property");

WHEREAS, Indemnitor and COUNTY have entered into that certain Loan Agreement for the Use of PLHA Program Funds (Northwest Corner of Main Street and Pujol Street, Temecula, CA), dated as of December \_\_, 2022 (the "Loan Agreement"), pursuant to which COUNTY agreed to loan to Indemnitor, or its assignee, Two Million Eight Hundred Thousand and 0/100 Dollars (\$2,800,000) in PLHA Program funds (the "PLHA Loan") for the purpose of developing an approximately sixty (60) unit multifamily rental affordable housing development and related improvements and amenities on the Property; and

WHEREAS, Indemnitor has agreed to execute and deliver to COUNTY this Indemnity to induce COUNTY to enter into the Loan Agreement and provide the PLHA Loan to Indemnitor.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual agreements hereinafter set forth, Indemnitor hereby agrees with COUNTY as follows:

#### Section 1. DEFINITIONS

For the purpose of this Indemnity, "Hazardous Materials" or "Hazardous Substances" shall include, but not be limited to, any substance or material (whether a raw material, building component or waste, a product or by-product of manufacturing or other activities, or any other substance or material) which is or becomes designated, classified or regulated as being "hazardous" or "toxic", or is or becomes otherwise similarly designated, classified or regulated, under any Federal, state or local law, regulation or ordinance, including without limitation (i) any substance defined as a "hazardous substance" or a "hazardous waste" for purposes of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., or the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., respectively, (ii) any substance defined as a "hazardous waste" or a "hazardous substance" for purposes of applicable state or local law and (iii) petroleum, flammable explosives, urea formaldehyde insulation, asbestos and radioactive materials, substances defined as "extremely hazardous substances," "hazardous substances," "hazardous materials,"

“hazardous waste” or “toxic substances” the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801, et seq.; and those substances defined as “hazardous waste” in Section 25117 of the California Health and Safety Code, as “infectious waste” in Section 25117.5 of the California Health and Safety Code, or as “hazardous substances” in Section 25316 of the California Health and Safety Code or “hazardous materials” as defined in Section 353 of the California Vehicle Code; and in the regulations adopted and publications promulgated pursuant to said laws. “Hazardous Materials” and “Hazardous Substances” shall expressly exclude substances typically used in the construction, development, operation and maintenance of an apartment complex provided such substances are used in accordance with all applicable laws.

For the purpose of this Indemnity, “PLHA Loan Documents” shall refer to the Loan Agreement, any agreement entered into in the form of an Attachment thereto or in connection therewith, and any extensions, modifications or amendments thereto.

## Section 2. COVENANTS AND INDEMNITY

The following covenants and indemnities are hereby given and made by Indemnitor:

### 2.1 Covenants.

(a) Indemnitor covenants that it shall comply with any and all laws, regulations, and/or orders which may be promulgated, from time to time, with respect to the discharge and/or removal of Hazardous Materials, to pay immediately when due the costs of the removal of, or any other action required by law with respect to, any such Hazardous Materials, and to keep the Property free of any lien imposed pursuant to any such laws, regulations, or orders.

(b) Indemnitor covenants that the Property will not, while Indemnitor is the owner thereof, be used for any activities involving, directly or indirectly, the use, generation, treatment, storage, release, or disposal of any Hazardous Materials, except for de minimis quantities used at the Property in compliance with all applicable environmental laws and required in connection with the development of the Property in conformance with the PLHA Loan Documents.

(c) Indemnitor further agrees that Indemnitor shall not release or dispose of any Hazardous Materials at the Property, except for de minimis quantities released or disposed of at the Property in compliance with all applicable environmental laws, without the express written approval of COUNTY and that any such release or disposal shall be effected in strict compliance with all applicable laws and all conditions, if any, established by COUNTY.

(d) COUNTY shall have the right, upon reasonable notice and subject to rights of tenants, to conduct an environmental audit of the Property at COUNTY’s expense, unless Hazardous Materials are found in violation of this Indemnity, then at Indemnitor’s sole cost and expense, and Indemnitor shall cooperate in the conduct of any such environmental audit but in no event shall such audit be conducted unless COUNTY reasonably believes that such audit is warranted. Other than in an emergency, such audit shall be conducted only after prior notice has

been given to Indemnitor and only in the presence of a representative of Indemnitor. Indemnitor shall give COUNTY and its agents and employees access to the Property to remove, or otherwise to mitigate against the effects of, Hazardous Materials, provided, however, that COUNTY may exercise this right only if Indemnitor has failed to commence action to mitigate the effects of the Hazardous Materials within thirty (30) days of receipt of notice from COUNTY.

(e) Indemnitor shall not install, or permit to be installed, on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal or state regulations respecting such material, and, with respect to any such material currently present in the Property, Indemnitor shall promptly either (i) remove or cause to be removed any material that such regulations deem hazardous and require to be removed, or (ii) otherwise comply with such federal and state regulations, at Indemnitor's sole cost and expense. If Indemnitor shall fail to so do within the cure period permitted under applicable law, regulation, or order, COUNTY may do whatever is necessary to eliminate said substances from the premises or to otherwise comply with the applicable law, regulation, or order, and the costs thereof shall be added to the Obligations (as hereinafter defined) of Indemnitor under this Section 2.

(f) Indemnitor shall immediately advise COUNTY in writing of any of the following: (i) any pending or threatened environmental claim against Indemnitor or the Property, (ii) any condition or occurrence on the Property that (A) results in noncompliance by Indemnitor with any applicable environmental law, (B) could reasonably be anticipated to cause the Property to be subject to any restrictions on the ownership, occupancy, use or transferability of the Property under any environmental law, or (C) could reasonably be anticipated to form the basis of an environmental claim against the Property or Indemnitor that could reasonably have material adverse effect on the Property.

2.2 Indemnity. Indemnitor shall indemnify, protect, and hold COUNTY and its directors, officers, employees, and agents (the "Indemnified Parties") harmless from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements, or expenses (including, without limitation, attorneys' and experts' fees and disbursements) of any kind or of any nature whatsoever (collectively, the "Obligations") which may at any time be imposed upon, incurred by or asserted or awarded against COUNTY and arising in connection with, from or out of:

- (a) The presence of any Hazardous Materials on, in, under, or affecting all or any portion of the Property, which were stored, discharged, released or emitted on the Property;
- (b) The breach of any covenant made by Indemnitor in Section 2.1 hereof; or
- (c) The enforcement by COUNTY of any of the provisions of this Section 2.2 or the assertion by Indemnitor of any defense to its obligations hereunder.

Notwithstanding the foregoing, Indemnitor's liability under this Section 2.2 shall not extend to (i) any Hazardous Substance present or released in, on, or around any part of the Property, or in

the soil, groundwater, or soil vapor or under the Property that first arise, commence or occur after the actual dispossession of the Property from Indemnitor and all entities which control, are controlled by, or are under common control with Indemnitor, following foreclosure or acquisition of the Property by a deed in lieu of foreclosure, or (ii) any Obligations arising from the gross negligence or intentional misconduct of COUNTY or any of its Indemnified Parties.

### Section 3. INDEMNITOR'S UNCONDITIONAL OBLIGATIONS

3.1 Unconditional Obligations. Indemnitor hereby agrees that the Obligations will be paid and performed strictly in accordance with the terms of this Indemnity, regardless of any law, regulation, or order now or hereafter in effect in any jurisdiction affecting the PLHA Loan Documents or affecting any of the rights of COUNTY with respect thereto. The obligations of Indemnitor hereunder shall be absolute and unconditional irrespective of:

- (a) The validity, regularity, or enforceability of the Loan Agreement or any other instrument or document executed or delivered in connection therewith;
- (b) Any alteration, amendment, modification, release, termination, or cancellation of the PLHA Loan Documents, or any change in the time, manner, or place of payment or performance of, or in any other term in respect of, all or any of the obligations of Indemnitor contained in any of the PLHA Loan Documents;
- (c) Any exculpatory provision in any of the PLHA Loan Documents or any document delivered in connection therewith limiting COUNTY's recourse to property encumbered by the deed of trust securing Indemnitor's obligations under the PLHA Loan Documents, or to any other security, or limiting COUNTY's rights to a deficiency judgment against Indemnitor;
- (d) The insolvency or bankruptcy of Indemnitor; or
- (e) Any other circumstance that might otherwise constitute a defense available to, or a discharge of, Indemnitor with respect to any or all of the Obligations.

3.2 Continuation. The Indemnity provided under § 2.2 (a) is a continuing indemnity and shall remain in full force and effect until the satisfaction in full of all of the Obligations (notwithstanding the release or other extinguishment of the deed of trust securing Indemnitor's obligations under the PLHA Loan Documents); and (b) shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment of any of the Obligations is rescinded or must otherwise be returned by the COUNTY upon the insolvency, bankruptcy, or reorganization of Indemnitor, all as though such payment had not been made.

3.3 Termination. Notwithstanding the payment (and performance) in full of all of the Obligations and the payment (or performance) in full of all of Indemnitor's obligations under the PLHA Loan Documents, this Indemnity shall not terminate if any of the following shall have occurred:

(a) COUNTY has at any time or in any manner participated in the management or control of, taken possession of (whether personally, by agent or by appointment of a receiver), or taken title to the Property or any portion thereof, whether by foreclosure, deed in lieu of foreclosure, sale under power of sale or otherwise; or

(b) There has been a change, between the date hereof and the date on which all of the Obligations are paid and performed in full, in any Hazardous Materials laws, the effect of which may be to make a lender or mortgagee liable in respect of any of the Obligations, notwithstanding the fact that no event, circumstance, or condition of the nature described in paragraph (a) above ever occurred.

#### Section 4. WAIVER

Indemnitor hereby waives the following:

- (a) Promptness and diligence;
- (b) Notice of acceptance and notice of the incurrence of any obligation by Indemnitor;
- (c) Notice of any action taken by COUNTY, or any other interested party under the Loan Agreement or under any other agreement or instrument relating thereto;
- (d) All other notices, demands, and protests, and all other formalities of every kind, in connection with the enforcement of the Obligations, the omission of or delay in which, but for the provisions of this Section 4, might constitute grounds for relieving Indemnitor of its Obligations hereunder;
- (e) Any requirement that COUNTY protect, secure, perfect, or insure any security interest or lien in or on any property subject thereto,
- (f) Any requirement that COUNTY exhaust any right or take any action against Borrower or any other person or collateral;
- (g) Any defense that may arise by reason of:
  - (1) The incapacity, lack of authority, death or disability of, or revocation hereof by, any person or persons;
  - (2) The failure of COUNTY to file or enforce any claim against the estate (in probate, bankruptcy, or any other proceedings) of any person or persons; or
  - (3) Any defense based upon an election of remedies by COUNTY, including, without limitation, an election to proceed by non-judicial foreclosure or which

destroys or otherwise impairs the subrogation rights of COUNTY or any other right of COUNTY to proceed against Indemnitor.

Section 5. NOTICES

Any notice, demand, statement, request, or consent made hereunder shall be in writing and shall be personally served, mailed by first-class registered mail, return receipt requested, to the address set forth in the first paragraph of this Indemnity, above, or given by telecopier to the telecopier numbers stated below, with confirmations mailed by first class registered mail, return receipt requested to the address set forth above, of the party to whom such notice is to be given (or to such other address as the Parties hereto, shall designate in writing):

In the case of COUNTY:

County of Riverside  
Housing and Workforce Solutions  
3403 Tenth Street, Suite #300  
Riverside, CA 92501  
Attn: Director

In the case of Indemnitor:

Temecula Pacific Associates, a California Limited Partnership  
c/o Pacific West Communities, Inc.  
430 East State Street, Suite 100  
Eagle, Idaho 83616  
Attn: Caleb Roope, President and CEO

with copies to:

McReynolds & McCormack, PLLC  
430 East State Street, Suite 140  
Eagle, Idaho 83616  
Attention: Clayton McReynolds & Sarah McCormack

and

Katten Muchin Rosenman LLP  
2029 Century Park East  
Suite 2600  
Los Angeles, California 90067-3012  
Attention: David P. Cohen

and

RCC MGP LLC  
c/o Riverside Charitable Corporation  
14131 Yorba Street  
Tustin, California 92780  
Attention: Recinda Shafer, Deputy Executive Director

and

[limited partner]

and

[limited partner's counsel]

Any notice that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt; and any notice that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

#### Section 6. MISCELLANEOUS

6.1 Indemnitor shall make any payment required to be made hereunder in lawful money of the United States of America, and in same day funds, to COUNTY at its address specified in the first paragraph hereof.

6.2 No amendment of any provision of this Indemnity shall be effective unless it is in writing and signed by Indemnitor and COUNTY, and no waiver of any provision of this Indemnity, and no consent to any departure by Indemnitor from any provision of this Indemnity, shall be effective unless it is in writing and signed by COUNTY, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

6.3 No failure on the part of COUNTY to exercise, and no delay in exercising, any right hereunder or under the PLHA Loan Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right preclude any other or further exercise thereof or the exercise of any other right. The rights and remedies of COUNTY provided herein and in the other loan documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law.

6.4 Any provision of this Indemnity that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or

unenforceability without invalidating the remaining portions hereof and without affecting the validity or enforceability of such provision in any other jurisdiction.

6.5 This Indemnity shall (a) be binding upon Indemnitor, and Indemnitor's successors and assigns; and (b) inure, together with all rights and remedies of COUNTY hereunder, to the benefit of COUNTY, its respective directors, officers, employees, and agents, any successors to COUNTY's interest in the Property, any other person who acquires any portion of the Property at a foreclosure sale or otherwise through the exercise of COUNTY's rights and remedies under the PLHA Loan Documents, any successors to any such person, and all directors, officers, employees, and agents of all of the aforementioned parties. Without limiting the generality of clause (b) of the immediately preceding sentence, COUNTY may, subject to, and in accordance with, the provisions of the PLHA Loan Documents, assign or otherwise transfer all or any portion of its rights and obligations under the PLHA Loan Documents, to any other person, and such other person shall thereupon become vested with all of the rights and obligations in respect thereof that were granted to COUNTY herein or otherwise. None of the rights or obligations of Indemnitor hereunder may be assigned or otherwise transferred without the prior written consent of COUNTY, except as provided in the PLHA Loan Documents.

6.6 Indemnitor hereby (a) irrevocably submits to the jurisdiction of the Superior Court of Riverside County in any action or proceeding arising out of or relating to this Indemnity, (b) waives any defense based on doctrines of venue or forum non convenient or similar rules or doctrines, and (c) irrevocably agrees that all claims in respect of any such action or proceeding may be heard and determined in such California or federal court. Indemnitor irrevocably consents to the service of any and all process which may be required or permitted in any such action or proceeding to the address specified in the first paragraph of this Indemnity, above. Indemnitor agrees that a final judgment in any such action or proceeding shall be inclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law.

6.7 The title of this document and the captions used herein are inserted only as a matter of convenience and for reference and shall in no way define, limit, or describe the scope or the intent of this Indemnity or any of the provisions hereof.

6.8 This Indemnity shall be governed by, and construed and interpreted in accordance with, the laws of the State of California applicable to contracts made and to be performed therein, except to the extent that the laws of the United States preempt the laws of the State of California.

6.9 This Indemnity may be executed in any number of counterparts, each of which shall constitute an original and all of which together shall constitute one agreement.

[Signatures on the Following Page]





IN WITNESS WHEREOF, Indemnitor has duly executed this Indemnity as of the date first set forth above.

**INDEMNITOR:**

TEMECULA PACIFIC ASSOCIATES, A  
CALIFORNIA LIMITED PARTNERSHIP,  
a California limited partnership

By: TPC HOLDINGS IX, LLC,  
an Idaho limited liability company  
Its: Administrative General Partner

By: Pacific West Communities, Inc.,  
an Idaho corporation  
Its: Manager

By: \_\_\_\_\_  
Name: Caleb Roope  
Its: President and CEO

By: RCC MGP LLC  
a California limited liability company  
Its: Managing General Partner

By: RIVERSIDE CHARITABLE  
CORPORATION  
a California Nonprofit Public Benefit  
Corporation  
Its: Sole Member and Manager

By: \_\_\_\_\_  
Name: Recinda Shafer  
Its: Deputy Executive Director

Exhibit A  
**LEGAL DESCRIPTION**

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

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

PARCEL A: APN 922-053-047

THE NORTHWESTERLY 255 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

THE NORTHWESTERLY ONE-HALF OF THAT TRACT OF LAND FORMERLY USED AS RAILROAD RIGHT OF WAY AND STATION GROUND OF THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY, CONVEYED TO N.R. VAIL, ET AL., BY DEED RECORDED JUNE 11, 1940 IN BOOK 464, PAGE 505 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, SAID PROPERTY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 1, BLOCK 27 OF THE TOWN OF TEMECULA, IN THE CITY OF TEMECULA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SHOWN BY MAP ON FILE IN BOOK 15, PAGE 726 OF MAPS, RECORDS OF SAN DIEGO COUNTY, CALIFORNIA; THENCE SOUTHWESTERLY IN A STRAIGHT LINE TO THE MOST EASTERLY CORNER OF LOT 1, BLOCK 36, AS SHOWN BY SAID MAP; THENCE NORTHWESTERLY IN A STRAIGHT LINE TO THE MOST NORTHERLY CORNER OF LOT 10, BLOCK 37, AS SHOWN BY SAID MAP; THENCE NORTHEASTERLY ON A STRAIGHT LINE TO THE MOST WESTERLY CORNER OF LOT 22, BLOCK 25 ON SAID MAP; THENCE SOUTHEASTERLY IN A STRAIGHT LINE TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE NORTHWESTERLY 595 FEET THEREOF.

ALSO EXCEPT THEREFROM THOSE PORTIONS INCLUDED IN RIVER AND PUJOL STREETS AS SHOWN ON SAID MAP.

ALSO EXCEPT THEREFROM THAT PORTION OF SAID LAND CONDEMNED BY THE RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT AS SET FORTH AND DESCRIBED IN THAT CERTAIN DOCUMENT RECORDED OCTOBER 5, 2010 AS INSTRUMENT NO. 2010-477535 OF OFFICIAL RECORDS.

PARCEL B: APN 922-053-021, APN 922-053-048

PARCELS 1 AND 2 OF PARCEL MAP 9839, IN THE CITY OF TEMECULA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 61, PAGE 14 OF PARCEL MAPS, RECORDS OF SAID COUNTY, CALIFORNIA.

EXCEPT THEREFROM THAT PORTION OF PARCEL 1 CONVEYED TO THE RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, A BODY POLITIC, BY DOCUMENT RECORDED JANUARY 14, 2015 AS INSTRUMENT NO. 2015-0016730 OF OFFICIAL RECORDS.

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Ann J. McGill  
Kutak Rock LLP  
1650 Farnam Street  
Omaha, Nebraska 68102

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**SUBORDINATION AGREEMENT**

**THIS SUBORDINATION AGREEMENT** (this “Agreement”) is made effective as of December \_\_\_\_, 2022 by and between **PACIFIC WESTERN BANK**, a California state-chartered bank (together with its successors and assigns, the “Senior Lender”) and **COUNTY OF RIVERSIDE**, a political subdivision of the State of California (the “Subordinate Lender”).

**RECITALS**

A. Temecula Pacific Associates, a California Limited Partnership (“Borrower”) is the owner of certain real property described in Exhibit A attached hereto (the “Land”) upon which Borrower intends to construct and operate a multifamily housing project and related facilities (the “Improvements” and together with the Land, collectively, the “Property”).

B. Pursuant to the terms of a Continuing Covenant Agreement dated [December] 1, 2022 (as amended, modified or supplemented from time to time, the “Continuing Covenant Agreement”), Borrower has requested that the Bank make certain loans (collectively, the “Bank Loan”) to the California Municipal Finance Authority (the “Authority”), the proceeds of which will be used by the Authority to make certain loans to Borrower (collectively, the “Authority Loan”). The Authority Loan will be evidenced by (i) a Tax-Exempt Note from Borrower in favor of the Authority in the original principal amount of \$[18,600,000] (as amended, modified or supplemented from time to time, the “Tax-Exempt Borrower Note”), and (ii) a Taxable Note from Borrower in favor of the Authority in the original principal amount of \$[8,135,669] (as amended, modified or supplemented from time to time, the “Taxable Borrower Note” and together with the Tax-Exempt Borrower Note, collectively, the “Borrower Note”). The Borrower’s obligations under the Borrower Note and the Continuing Covenant Agreement will be secured by a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of the date hereof and recorded concurrently herewith (as amended, modified or supplemented from time to time, the “Senior Mortgage”), encumbering the Property and certain other property as more particularly described in the Mortgage. The Authority has assigned its rights under the Borrower Note and the Senior Mortgage to Senior Lender as security for the Bank Loan. The Bank Loan and the Authority Loan shall sometimes be collectively referred to herein as the “Senior Loan.” The Borrower Note, the Continuing Covenant Agreement, the Senior Mortgage, this Agreement and any of the other documents evidencing or related to the Senior Loan are collectively referred to herein as the “Senior Loan Documents.”

C. Pursuant to the terms of a Loan Agreement for the Use of PLHA Program Funds (as amended, modified, or supplemented from time to time, the "Subordinate Loan Agreement"), Subordinate Lender will make a loan to Borrower in the original principal amount of \$2,800,000 (as amended, modified or supplemented from time to time, the "Subordinate Loan"). The Subordinate Loan will be evidenced by a Promissory Note Secured by Deed of Trust in the original principal amount of \$2,800,000 made by Borrower to Subordinate Lender (as amended, modified or supplemented from time to time, the "Subordinate Note"). The Borrower's obligations under the Subordinate Loan Agreement and Subordinate Note will be secured by a Deed of Trust, Security Agreement and Fixture Filing (with Assignment of Rents) recorded concurrently herewith (as amended, modified, or supplemented from time to time, the "Subordinate Mortgage") encumbering the Property as more particularly described in the Subordinate Mortgage. In addition, Borrower has executed that certain PLHA Covenant Agreement (Vine Creek Apartments) recorded concurrently herewith (the "Regulatory Agreement"). The Subordinate Loan Agreement, Subordinate Note, and Subordinate Mortgage, and any other documents evidencing or related to the Subordinate Loan shall be collectively referred to herein as the "Subordinate Loan Documents". The Regulatory Agreement is not included as a "Subordinate Loan Document".

D. The execution and delivery of this Agreement by Subordinate Lender is a condition precedent to the making of the Senior Loan.

## AGREEMENTS

**NOW, THEREFORE**, for valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. **Definitions.** As used herein, the following terms have the meanings set forth below:

**"Bankruptcy Proceeding"** means any bankruptcy, reorganization, insolvency, composition, restructuring, dissolution, liquidation, receivership, assignment for the benefit of creditors, or custodianship action or proceeding under any federal or state law with respect to Borrower, any guarantor of any of the Senior Loan, any of their respective properties, or any of their respective partners, members, officers, directors, or shareholders.

**"Business Day(s)"** shall have the meaning assigned to such term in the Continuing Covenant Agreement.

**"Casualty"** means the occurrence of damage to or loss of all or any portion of the Property by fire or other casualty.

**"Condemnation"** means any action or proceeding or notice relating to any proposed or actual condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Project, whether direct or indirect.

**"Enforcement Action"** means any of the following actions taken by or at the direction of Subordinate Lender: the acceleration of all or any part of the Subordinate Loan, the advertising of or commencement of any foreclosure or trustee's sale proceedings, the exercise of any power of sale, the acceptance of a deed or assignment in lieu of foreclosure or sale, the collecting of Rents,

the obtaining of or seeking of the appointment of a receiver, the seeking of default interest, the taking of possession or control of any of the Property, the commencement of any suit or other legal, administrative, or arbitration proceeding based upon the Subordinate Loan Documents, the exercising of any banker's lien or rights of set-off or recoupment, or the exercise of any other remedial action against Borrower, any other party liable for the Subordinate Loan or obligated under any of the Subordinate Loan Documents, or the Property.

**"Enforcement Action Notice"** means a written notice from Subordinate Lender to Senior Lender, given following one or more Subordinate Loan Default(s) and the expiration of any notice or cure periods provided for such Subordinate Loan Default(s) in the Subordinate Loan Documents, setting forth in reasonable detail the Subordinate Loan Default(s) and the Enforcement Actions proposed to be taken by Subordinate Lender.

**"Loss Proceeds"** means all monies received or to be received under any insurance policy, from any condemning authority, or from any other source, as a result of any Condemnation or Casualty.

**"Rents"** will have the meaning given to that term in the Continuing Covenant Agreement.

**"Senior Loan Default"** means any act, failure to act, event, condition, or occurrence which constitutes, or which with the giving of Notice or the passage of time, or both, would constitute, an "Event of Default" as defined in the Senior Loan Documents.

**"Subordinate Loan Default"** means any act, failure to act, event, condition, or occurrence which allows (but for any contrary provision of this Agreement), or which with the giving of Notice or the passage of time, or both, would allow (but for any contrary provision of this Agreement), Subordinate Lender to take an Enforcement Action.

## 2. **Subordination of Subordinate Loan.**

a. The Subordinate Loan is and will at all times continue to be subject and subordinate in right of payment to the prior payment in full of the Senior Loan.

b. Until the occurrence of an Event of Default (as defined in the Senior Loan Documents) under the Senior Loan Documents, Subordinate Lender will be entitled to retain for its own account all payments made on account of the principal of and interest on the Subordinate Loan in accordance with the requirements of the Subordinate Loan Documents. However, immediately upon Subordinate Lender's receipt of Notice (as defined herein) or actual knowledge of an Event of Default, Subordinate Lender will not accept any payments on account of the Subordinate Loan, and the provisions of Section 2(c) of this Agreement will apply. Subordinate Lender acknowledges that a Subordinate Loan Default constitutes a Senior Loan Default. Accordingly, upon the occurrence of a Subordinate Loan Default, Subordinate Lender will be deemed to have actual knowledge of a Senior Loan Default.

c. If (i) Subordinate Lender receives any payment, property, or asset of any kind or in any form on account of the Subordinate Loan (including any proceeds from any Enforcement Action) after a Senior Loan Default of which such Subordinate Lender has actual knowledge (or is deemed to have actual knowledge as provided in 2(b) above) or has been given Notice, or (ii)

Subordinate Lender receives, voluntarily or involuntarily, by operation of law or otherwise, any payment, property, or asset in or in connection with any Bankruptcy Proceeding, such payment, property, or asset will be received and held in trust for Senior Lender. Subordinate Lender will promptly remit, in kind and properly endorsed as necessary, all such payments, properties, and assets to Senior Lender. Senior Lender will apply any payment, asset, or property so received from Subordinate Lender to the Senior Loan in such order, amount (with respect to any asset or property other than immediately available funds), and manner as Senior Lender determines in its sole and absolute discretion.

d. Without limiting the complete subordination of the Subordinate Loan to the payment in full of the Senior Loan, in any Bankruptcy Proceeding, upon any payment or distribution (whether in cash, property, securities, or otherwise) to creditors (i) the Senior Loan will first be paid in full in cash before Subordinate Lender will be entitled to receive any payment or other distribution on account of or in respect of the Subordinate Loan, and (ii) until all of the Senior Loan is paid in full in cash, any payment or distribution to which Subordinate Lender would be entitled but for this Agreement (whether in cash, property, or other assets) will be made to Senior Lender.

e. The subordination of the Subordinate Loan will continue if any payment under the Senior Loan Documents (whether by or on behalf of Borrower, as proceeds of security or enforcement of any right of set-off or otherwise) is for any reason repaid or returned to Borrower or its insolvent estate, or avoided, set aside or required to be paid to Borrower, a trustee, receiver or other similar party under any bankruptcy, insolvency, receivership or similar law. In such event, any or all of the Senior Loan originally intended to be satisfied will be deemed to be reinstated and outstanding to the extent of any repayment, return, or other action, as if such payment on account of the Senior Loan had not been made.

### **3. Subordination of Subordinate Loan Documents.**

a. Each of the Subordinate Loan Documents is, and will at all times remain, subject and subordinate in all respects to the liens, terms, covenants, conditions, operations, and effects of each of the Senior Loan Documents.

b. The subordination of the Subordinate Loan Documents and of the Subordinate Loan will apply and continue notwithstanding (i) the actual date and time of execution, delivery, recording, filing or perfection of each of the Senior Loan Documents and of each of the Subordinate Loan Documents, and (ii) the availability of any collateral to Senior Lender, including the availability of any collateral other than the Property.

c. By reason of, and without in any way limiting, the full subordination of the Subordinate Loan and the Subordinate Loan Documents provided for in this Agreement, all rights and claims of Subordinate Lender under the Subordinate Loan Documents in or to all or any portion of the Property are expressly subject and subordinate in all respects to the rights and claims of Senior Lender under the Senior Loan Documents in or to the Property.

d. If Subordinate Lender, by indemnification, subrogation or otherwise, acquires any lien, estate, right or other interest in any of the Property, then that lien, estate, right or other interest

will be fully subject and subordinate to the receipt by Senior Lender of payment in full of the Senior Loan, and to the Senior Loan Documents, to the same extent as the Subordinate Loan and the Subordinate Loan Documents are subordinate pursuant to this Agreement.

**4. Additional Representations and Covenants.**

a. Subordinate Lender represents and warrants with respect to the Subordinate Loan that each of the following is true:

- i. Subordinate Lender is now the owner and holder of the Subordinate Loan Documents.
- ii. The Subordinate Loan Documents are now in full force and effect.
- iii. The Subordinate Loan Documents have not been modified or amended.
- iv. No Subordinate Loan Default has occurred with respect to the Subordinate Loan.
- v. None of the rights of Subordinate Lender under any of the Subordinate Loan Documents are subject to the rights of any third parties, by way of subrogation, indemnification or otherwise.

b. Without the prior written consent of Senior Lender in each instance, Subordinate Lender will not do any of the following:

- i. Amend, modify, waive, extend, renew, or replace any provision of any of the Subordinate Loan Documents.
- ii. Pledge, assign, transfer, convey, or sell any interest in the Subordinate Loan or any of the Subordinate Loan Documents.
- iii. Accept any payment on account of the Subordinate Loan other than a regularly scheduled payment of interest or principal and interest made not earlier than 10 days prior to its due date.
- iv. Take any action which has the effect of increasing the amount of the Subordinate Loan.
- v. Appear in, defend or bring any action to protect Subordinate Lender's interest in the Property.
- vi. Take any action concerning environmental matters affecting the Property.

c. Subordinate Lender will deliver to Senior Lender a copy of each Notice received or delivered by Subordinate Lender pursuant to the Subordinate Loan Documents or in connection with the Subordinate Loan, simultaneously with Subordinate Lender's delivery or receipt of such Notice. Senior Lender will deliver to Subordinate Lender in the manner required in Section 5(b) a



copy of each Notice of a Senior Loan Default delivered to Borrower by Senior Lender. Neither giving nor failing to give a Notice to Senior Lender or Subordinate Lender pursuant to this Section 4(c) will affect the validity of any Notice given by Senior Lender or Subordinate Lender to Borrower, as between Borrower and such of Senior Lender or Subordinate Lender as provided the Notice to Borrower.

d. Without the prior written consent of Senior Lender in each instance, Subordinate Lender will not commence, or join with any other creditor in commencing, any Bankruptcy Proceeding. In the event of a Bankruptcy Proceeding, Subordinate Lender will not vote affirmatively in favor of any plan of reorganization or liquidation unless Senior Lender has also voted affirmatively in favor of such plan. In the event of any Bankruptcy Proceeding, Subordinate Lender will not contest the continued accrual of interest on the Senior Loan, in accordance with and at the rates specified in the Senior Loan Documents, both for periods before and for periods after the commencement of such Bankruptcy Proceedings.

e. Whenever the Subordinate Loan Documents give a Subordinate Lender approval or consent rights with respect to any matter, and a right of approval or consent with regard to the same or substantially the same matter is also granted to Senior Lender pursuant to the Senior Loan Documents or otherwise, Senior Lender's approval or consent or failure to approve or consent, as the case may be, will be binding on each Subordinate Lender. None of the other provisions of this Section 4 are intended to be in any way in limitation of the provisions of this Section 4(e).

f. All requirements pertaining to insurance under the Subordinate Loan Documents (including requirements relating to amounts and types of coverages, deductibles and special endorsements) will be deemed satisfied if Borrower complies with the insurance requirements under the Senior Loan Documents and of Senior Lender. All original policies of insurance required pursuant to the Senior Loan Documents will be held by Senior Lender. Nothing in this Section 4(f) will preclude Subordinate Lender from requiring that it be named as a mortgagee and loss payee, as its interest may appear, under all policies of property damage insurance maintained by Borrower with respect to the Property, provided such action does not affect the priority of payment of Loss Proceeds, or that Subordinate Lender be named as an additional insured under all policies of liability insurance maintained by Borrower with respect to the Property.

g. In the event of a Condemnation or a Casualty, all of the following provisions will apply:

- i. The rights of Subordinate Lender to participate in any proceeding or action relating to a Condemnation or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Condemnation or a Casualty, will be and remain subordinate in all respects to Senior Lender's rights under the Senior Loan Documents with respect thereto, and Subordinate Lender will be bound by any settlement or adjustment of a claim resulting from a Condemnation or a Casualty made by Senior Lender.
- ii. All Loss Proceeds will be applied either to payment of the costs and expenses of restoration or to payment on account of the Senior Loan, as and in the manner determined by Senior Lender in its sole discretion.

- iii. If Senior Lender applies or releases Loss Proceeds for the purposes of restoration of the Property, then Subordinate Lender will release for such purpose all of their right, title and interest, if any, in and to such Loss Proceeds. If Senior Lender holds Loss Proceeds, or monitors the disbursement thereof, Subordinate Lender will not do so. Nothing contained in this Agreement will be deemed to require Senior Lender to act for or on behalf of Subordinate Lender in connection with any restoration or to hold or monitor any Loss Proceeds in trust for or otherwise on behalf of Subordinate Lender, and all or any Loss Proceeds may be commingled with any funds of Senior Lender.
- iv. If Senior Lender elects to apply Loss Proceeds to payment on account of the Senior Loan, and if the application of such Loss Proceeds results in the payment in full of the entire Senior Loan, any remaining Loss Proceeds held by Senior Lender will be paid to Subordinate Lender unless another party has asserted a claim to the remaining Loss Proceeds.

h. Except as provided in this Section 4(h), and regardless of any contrary provision in the Subordinate Loan Documents, Subordinate Lender will not collect payments for the purpose of escrowing for any cost or expense related to the Property (“Impositions”) or for any portion of the Subordinate Loan. However, if Senior Lender is not collecting escrow payments for one or more Impositions, Subordinate Lender may collect escrow payments for such Impositions; provided that all payments so collected by Subordinate Lender will be held in trust by Subordinate Lender to be applied only to the payment of such Impositions.

i. Within ten (10) Business Days after request by Senior Lender, Subordinate Lender will furnish Senior Lender with a statement, duly acknowledged and certified setting forth the then-current amount and terms of the Subordinate Loan, confirming that there exists no default under the Subordinate Loan Documents (or describing any default that does exist), and certifying to such other information with respect to the Subordinate Loan as Senior Lender may request.

j. Senior Lender may amend, waive, postpone, extend, renew, replace, reduce or otherwise modify any provisions of the Senior Loan Documents without the necessity of obtaining the consent of or providing Notice to Subordinate Lender, and without affecting any of the provisions of this Agreement. Notwithstanding the foregoing, Senior Lender may not modify any provision of the Senior Loan Documents that increases the amount of the Senior Loan, except for increases in the Senior Loan that result from advances made by Senior Lender to protect the security or lien priority of Senior Lender under the Senior Loan Documents or to cure defaults under the Subordinate Loan Documents.

## **5. Default under Loan Documents.**

a. For a period of ninety (90) days following delivery to Senior Lender of an Enforcement Action Notice, Senior Lender will have the right, but not the obligation, to cure any Subordinate Loan Default, provided that if such Subordinate Loan Default is a non-monetary default and is not capable of being cured within such 90-day period and Senior Lender has commenced and is diligently pursuing such cure to completion, Senior Lender will have such

additional period of time as may be required to cure such Subordinate Loan Default or until such time, if ever, as Senior Lender (i) discontinues its pursuit of any cure and/or (ii) delivers to Subordinate Lender Senior Lender's written consent to the Enforcement Action described in the Enforcement Action Notice. Senior Lender will not be subrogated to the rights of Subordinate Lender under the Subordinate Loan Documents by reason of Senior Lender having cured any Subordinate Loan Default. However, Subordinate Lender acknowledges that all amounts advanced or expended by Senior Lender in accordance with the Senior Loan Documents or to cure a Subordinate Loan Default will be added to and become a part of the Senior Loan and will be secured by the lien of the Senior Mortgage.

b. Senior Lender will deliver to Subordinate Lender a copy of any Notice sent by Senior Lender to Borrower of a Senior Loan Default within ten (10) Business Days of sending such Notice to Borrower. Failure of Senior Lender to send Notice to Subordinate Lender will not prevent the exercise of Senior Lender's rights and remedies under the Senior Loan Documents. Subordinate Lender will have the right, but not the obligation, to cure any monetary Senior Loan Default within thirty (30) days following the date of such Notice; provided, however, that Senior Lender will be entitled during such 30-day period to continue to pursue its remedies under the Senior Loan Documents. Subordinate Lender may, within ninety (90) days after the date of the Notice, cure a non-monetary Senior Loan Default if during such 90-day period, Subordinate Lender keeps current all payments required by the Senior Loan Documents. If such a non-monetary Senior Loan Default creates an unacceptable level of risk relative to the Property, or Senior Lender's secured position relative to the Property, as determined by Senior Lender in its sole discretion, then during such 90-day period Senior Lender may exercise all available rights and remedies to protect and preserve the Property and the Rents, revenues and other proceeds from the Property. Subordinate Lender will not be subrogated to the rights of Senior Lender under the Senior Loan Documents by reason of Subordinate Lender having cured any Senior Loan Default. However, Senior Lender acknowledges that all amounts paid by Subordinate Lender to Senior Lender to cure a Senior Loan Default will be deemed to have been advanced by such Subordinate Lender pursuant to, and will be secured by the lien of, the Subordinate Loan Documents. Notwithstanding anything in this Section 5(b) to the contrary, Subordinate Lender's right to cure any Senior Loan Default will terminate immediately upon the occurrence of any Bankruptcy Proceeding.

c. In the event of a Subordinate Loan Default, Subordinate Lender will not commence any Enforcement Action until ninety (90) days after Subordinate Lender has delivered to Senior Lender an Enforcement Action Notice with respect to such Enforcement Action provided that during such 90-day period or such longer period as provided in Section 5(a), Subordinate Lender will be entitled to seek specific performance to enforce covenants and agreements of Borrower relating to income, rent, or affordability restrictions contained in the Regulatory Agreement, subject to Senior Lender's right to cure a Subordinate Loan Default set forth in Section 5(a). Subordinate Lender may not commence any other Enforcement Action, including any foreclosure action under the Subordinate Loan Documents, until the earlier of (i) the expiration of such 90-day period or such longer period as provided in Section 5(a), or (ii) the delivery by Senior Lender to Subordinate Lender of Senior Lender's written consent to such Enforcement Action by such Subordinate Lender. Subordinate Lender acknowledges that Senior Lender may grant or refuse consent to Subordinate Lender's Enforcement Action in Senior Lender's sole and absolute discretion. At the expiration of such 90-day period or such longer period as provided in Section

5(a) and, subject to Senior Lender's right to cure set forth in Section 5(a), Subordinate Lender may commence any Enforcement Action. Any Enforcement Action on the part of Subordinate Lender will be subject to the provisions of this Agreement. Subordinate Lender acknowledges that the provisions of this Section 5(c) are fair and reasonable under the circumstances, that Subordinate Lender has received a substantial benefit from Senior Lender having granted its consent to the Subordinate Loan, and that Senior Lender would not have granted such consent without the inclusion of these provisions in this Agreement.

d. Senior Lender may pursue all rights and remedies available to it under the Senior Loan Documents, at law, or in equity, regardless of any Enforcement Action Notice or Enforcement Action by Subordinate Lender. No action or failure to act on the part of Senior Lender in the event of a Subordinate Loan Default or commencement of an Enforcement Action will constitute a waiver on the part of Senior Lender of any provision of the Senior Loan Documents or this Agreement.

e. If the Enforcement Action taken by Subordinate Lender is the appointment of a receiver for any of the Property, all of the Rents, issues, profits and proceeds collected by the receiver will be paid and applied by the receiver solely to and for the benefit of Senior Lender until the Senior Loan will have been paid in full.

f. Subordinate Lender consents to and authorizes the release by Senior Lender of all or any portion of the Property from the lien, operation, and effect of the Senior Loan Documents. Subordinate Lender waives to the fullest extent permitted by law, all equitable or other rights it may have (i) in connection with the release of all or any portion of the Property, (ii) to require the separate sale of any portion of the Property, (iii) to require Senior Lender to exhaust its remedies against all or any portion of the Property or any combination of portions of the Property or any other collateral for the Senior Loan, or (iv) to require Senior Lender to proceed against Borrower, any other party that may be liable for any of the Senior Loan (including any general partner of Borrower if Borrower is a partnership), all or any portion of the Property or combination of portions of the Property or any other collateral, before proceeding against all or such portions or combination of portions of the Property as Senior Lender determines. Subordinate Lender waives to the fullest extent permitted by law any and all benefits under California Civil Code Sections 2845, 2849 and 2850. Subordinate Lender consents to and authorizes, at the option of Senior Lender, the sale, either separately or together, of all or any portion of the Property. Subordinate Lender acknowledges that without Notice to such Subordinate Lender and without affecting any of the provisions of this Agreement, Senior Lender may (i) extend the time for or waive any payment or performance under the Senior Loan Documents; (ii) modify or amend in any respect any provision of the Senior Loan Documents subject to the limitations on such rights as set forth in Section 4(j); and (iii) modify, exchange, surrender, release, and otherwise deal with any additional collateral for the Senior Loan.

g. If any party other than Borrower (including Senior Lender) acquires title to any of the Property pursuant to a foreclosure of, or trustee's sale or other exercise of any power of sale under, the Senior Lender conducted in accordance with applicable law, the lien, operation, and effect of the Subordinate Loan Documents automatically will terminate with respect to such Property.

**6. Miscellaneous.**

a. If there is any conflict or inconsistency between the terms of the Subordinate Loan Documents and the terms of this Agreement, then the terms of this Agreement will control.

b. This Agreement will be binding upon and will inure to the benefit of the respective legal successors and permitted assigns of the parties to this Agreement. No other party will be entitled to any benefits under this Agreement, whether as a third-party beneficiary or otherwise.

c. This Agreement does not constitute an approval by Senior Lender of the terms of the Subordinate Loan Documents.

d. All notices or other written communications hereunder (each, a "Notice" and collectively, "Notices") shall be deemed to have been properly given (i) upon delivery, if delivered in person with receipt acknowledged by the recipient thereof, (ii) one (1) Business Day after having been deposited for overnight delivery with any reputable overnight courier service, or (iii) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective parties as follows:

Senior Lender: Pacific Western Bank  
9701 Wilshire Boulevard  
Suite 700  
Beverly Hills, California 90212

With a copy to: Pacific Western Bank  
400 North Brand Blvd., Ste. 100  
Glendale, California 91203  
Attention: Holly A. Hayes  
Phone (213) 330-2073  
Email: hhayes@pacwest.com

Subordinate Lender: County of Riverside  
Director  
Housing & Workforce Solutions  
3403 Tenth Street, Suite 300  
Riverside, CA 92501

e. Nothing in this Agreement or in any of the Senior Loan Documents or Subordinate Loan Documents will be deemed to constitute Senior Lender as a joint venturer or partner of Subordinate Lender.

f. Upon Notice from Senior Lender, Subordinate Lender will execute and deliver such additional instruments and documents, and will take such actions, as are required by Senior Lender in order to further evidence or implement the provisions and intent of this Agreement.

g. If any one or more of the provisions contained in this Agreement, or any application of any such provisions, is invalid, illegal, or unenforceable in any respect, the validity, legality, enforceability, and application of the remaining provisions contained in this Agreement will not in any way be affected or impaired.

h. The term of this Agreement will commence on the date of this Agreement and will continue until the earliest to occur of the following events: (i) the payment of all of the Senior Loan; provided that this Agreement will be reinstated in the event any payment on account of the Senior Loan is avoided, set aside, rescinded or repaid by Senior Lender as described in Section 2(e) of this Agreement, (ii) the payment of all of the Subordinate Loan other than by reason of payments which Subordinate Lender is obligated to remit to Senior Lender pursuant to this Agreement, (iii) the acquisition by Senior Lender or by a third party purchaser of title to the Property pursuant to a foreclosure of, deed in lieu of foreclosure, or trustee's sale or other exercise of a power of sale or similar disposition under the Senior Mortgage; or (iv) with the prior written consent of Senior Lender, without limiting the provisions of Section 5(d), the acquisition by Subordinate Lender of title to the Property subject to the Senior Mortgage, pursuant to a foreclosure, or a deed in lieu of foreclosure, of (or the exercise of a power of sale under) the Subordinate Loan Documents.

i. No failure or delay on the part of any party to this Agreement in exercising any right, power, or remedy under this Agreement will operate as a waiver of such right, power, or remedy, nor will any single or partial exercise of any such right, power or remedy preclude any other or further exercise of such right, power, or remedy or the exercise of any other right, power or remedy under this Agreement.

j. Each party to this Agreement acknowledges that if any party fails to comply with its obligations under this Agreement, the other parties will have all rights available at law and in equity, including the right to obtain specific performance of the obligations of such defaulting party and injunctive relief.

k. Nothing in this Agreement is intended, nor will it be construed, to in any way limit the exercise by Subordinate Lender of its governmental powers (including police, regulatory and taxing powers) with respect to Borrower or the Property to the same extent as if it were not a party to this Agreement or the transactions contemplated by this Agreement.

l. This Agreement may be assigned at any time by Senior Lender to any subsequent holder of the Senior Loan Documents.

m. This Agreement may be amended, changed, modified, altered or terminated only by a written instrument or written instruments signed by the parties to this Agreement.

n. This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

o. THIS AGREEMENT SHALL BE DEEMED TO BE A CONTRACT UNDER, AND TOGETHER WITH ANY DISPUTES OR CONTROVERSIES ARISING OUT OF OR

RELATING TO THIS AGREEMENT, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA AND APPLICABLE FEDERAL LAW, WITHOUT REGARD TO CHOICE OF LAW RULES.

p. EACH PARTY HERETO CONSENTS TO AND SUBMITS TO IN PERSONAM JURISDICTION AND VENUE IN THE STATE AND IN THE FEDERAL DISTRICT COURTS WHICH ARE LOCATED IN THE STATE. EACH PARTY ASSERTS THAT IT HAS PURPOSEFULLY AVAILED ITSELF OF THE BENEFITS OF THE LAWS OF THE STATE AND WAIVES ANY OBJECTION TO IN PERSONAM JURISDICTION ON THE GROUNDS OF MINIMUM CONTACTS, WAIVES ANY OBJECTION TO VENUE, AND WAIVES ANY PLEA OF FORUM NON CONVENIENS. THIS CONSENT TO AND SUBMISSION TO JURISDICTION IS WITH REGARD TO ANY ACTION RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE PARTY'S ACTIONS TOOK PLACE IN THE STATE OR ELSEWHERE IN THE UNITED STATES OF AMERICA, THIS SUBMISSION TO JURISDICTION IS NONEXCLUSIVE, AND DOES NOT PRECLUDE EITHER PARTY FROM OBTAINING JURISDICTION OVER THE OTHER IN ANY COURT OTHERWISE HAVING JURISDICTION.

q. EACH PARTY HERETO WAIVES ITS RIGHT TO A JURY TRIAL OF ANY AND ALL CLAIMS OR CAUSES OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT. IT IS HEREBY ACKNOWLEDGED THAT THE WAIVER OF A JURY TRIAL IS A MATERIAL INDUCEMENT FOR THE BANK TO MAKE THE BANK LOAN AND THAT THE EXECUTION AND DELIVERY OF THIS AGREEMENT BY THE IS MADE IN RELIANCE UPON SUCH WAIVER. EACH PARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT SUCH WAIVER HAS BEEN KNOWINGLY AND VOLUNTARILY MADE FOLLOWING CONSULTATION WITH ITS RESPECTIVE LEGAL COUNSEL.

r. Each party hereby covenants the following:

The parties prefer that any dispute between them be resolved in litigation subject to a jury trial waiver as set forth in this Agreement, but the California Supreme Court has held that such pre-dispute jury trial waivers are unenforceable. This Section will be applicable until: (i) the California Supreme Court holds that a pre-dispute jury trial waiver provision similar to that contained in this Agreement herein is valid or enforceable; or (ii) the California Legislature passes legislation and the governor of the State of California signs into law a statute authorizing pre-dispute jury trial waivers and as a result such waivers become enforceable.

Other than the exercise of provisional remedies (any of which may be initiated pursuant to applicable law), any controversy, dispute or claim (each, a "Claim") between the parties arising out of or relating to this Agreement will be resolved by a reference proceeding in California in accordance with the provisions of Section 638 et seq. of the California Code of Civil Procedure ("CCP"), or their successor sections, which shall constitute the exclusive remedy for the resolution of any Claim, including whether the Claim is subject to the reference proceeding. Venue for the reference proceeding will be in the Superior Court or Federal District Court in Los Angeles County, California (the "Court").

The referee shall be a retired Judge or Justice selected by mutual written agreement of the parties. If the parties do not agree, the referee shall be selected by the Presiding Judge of the Court (or his or her representative). A request for appointment of a referee may be heard on an ex parte or expedited basis, and the parties agree that irreparable harm would result if ex parte relief is not granted. The referee shall be appointed to sit with all the powers provided by law. Pending appointment of the referee, the Court has power to issue temporary or provisional remedies.

The parties agree that time is of the essence in conducting the reference proceedings. Accordingly, the referee shall be requested, subject to change in the time periods specified herein for good cause shown, to (a) set the matter for a status and trial-setting conference within fifteen (15) days after the date of selection of the referee, (b) if practicable, try all issues of law or fact within ninety (90) days after the date of the conference and (c) report a statement of decision within twenty (20) days after the matter has been submitted for decision.

The referee will have power to expand or limit the amount and duration of discovery. The referee may set or extend discovery deadlines or cutoffs for good cause, including a party's failure to provide requested discovery for any reason whatsoever. Unless otherwise ordered based upon good cause shown, no party shall be entitled to "priority" in conducting discovery, depositions may be taken by either party upon seven (7) days written notice, and all other discovery shall be responded to within fifteen (15) days after service. All disputes relating to discovery which cannot be resolved by the parties shall be submitted to the referee whose decision shall be final and binding.

Except as expressly set forth in this Agreement, the referee shall determine the manner in which the reference proceeding is conducted including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the reference proceeding. All proceedings and hearings conducted before the referee, except for trial, shall be conducted without a court reporter, except that when any party so requests, a court reporter will be used at any hearing conducted before the referee, and the referee will be provided a courtesy copy of the transcript. The party making such a request shall have the obligation to arrange for and pay the court reporter. Subject to the referee's power to award costs to the prevailing party, the parties will equally share the cost of the referee and the court reporter at trial.

The referee shall be required to determine all issues in accordance with existing case law and the statutory laws of the State of California. The rules of evidence applicable to proceedings at law in the State of California will be applicable to the reference proceeding. The referee shall be empowered to enter equitable as well as legal relief, provide all temporary or provisional remedies, enter equitable orders that will be binding on the parties and rule on any motion which would be authorized in a trial, including without limitation motions for summary judgment or summary adjudication. The referee shall issue a decision pursuant to CCP Section 644 the referee's decision shall be entered by the Court as a judgment or an order in the same manner as if the action had been tried by the Court. The final judgment or order or from any appealable decision or order entered by the referee shall be fully appealable as provided by law. The parties reserve the right to findings of fact, conclusions of laws, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial, if granted, is also to be a reference proceeding under this provision.



If the enabling legislation which provides for appointment of a referee is repealed (and no successor statute is enacted), any dispute between the parties that would otherwise be determined by reference procedure will be resolved and determined by arbitration. The arbitration will be conducted by a retired judge or Justice, in accordance with the California Arbitration Act Section 1280 through Section 1294.2 of the CCP as amended from time to time. The limitations with respect to discovery set forth above shall apply to any such arbitration proceeding.

[NO FURTHER TEXT ON THIS PAGE]

THE PARTIES RECOGNIZE AND AGREE THAT ALL DISPUTES RESOLVED UNDER THIS REFERENCE PROVISION WILL BE DECIDED BY A REFEREE AND NOT BY A JURY. AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR OWN CHOICE, EACH PARTY KNOWINGLY AND VOLUNTARILY AND FOR THEIR MUTUAL BENEFIT AGREES THAT THIS REFERENCE PROVISION WILL APPLY TO ANY DISPUTE BETWEEN THEM WHICH ARISES OUT OF OR IS RELATED TO THIS AGREEMENT.

SENIOR LENDER INITIALS: \_\_\_\_\_

SUBORDINATE LENDER INITIALS: \_\_\_\_\_

Nothing in this Section shall affect the rights of the parties to serve legal process in any other manner permitted by law or affect the right of the parties to bring any suit, action or proceeding in the courts of any other jurisdiction

[SIGNATURE PAGES FOLLOW]

[SIGNATURE PAGE TO SUBORDINATION AGREEMENT]

IN WITNESS WHEREOF, this Agreement has been executed effective as of the date first above written:

**SENIOR LENDER:**

**PACIFIC WESTERN BANK**, a California  
state-chartered bank

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

Name:

Title:

**NOTARY ACKNOWLEDGMENT STATEMENT**

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

[SEAL]

[SIGNATURE PAGE TO SUBORDINATION AGREEMENT]

IN WITNESS WHEREOF, this Agreement has been executed effective as of the date first above written:

**SUBORDINATE LENDER:**

**COUNTY OF RIVERSIDE**, a political subdivision  
of the State of California

By: \_\_\_\_\_  
Name: Heidi Marshall  
Title: Director, Housing and Workforce Solutions

**NOTARY ACKNOWLEDGMENT STATEMENT**

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

[SEAL]

## CONSENT OF BORROWER

Borrower acknowledges receipt of a copy of this Subordination Agreement by and between Pacific Western Bank, a California state-chartered bank and County of Riverside and consents to the agreement of the parties set forth in this Agreement.

TEMECULA PACIFIC ASSOCIATES, A CALIFORNIA LIMITED PARTNERSHIP,  
a California limited partnership

By: TPC HOLDINGS IX, LLC,  
an Idaho limited liability company

Its: Administrative General Partner

By: Pacific West Communities, Inc.,  
an Idaho corporation

Its: Manager

By: \_\_\_\_\_  
Name: Caleb Roope  
Its: President and CEO  
Date: \_\_\_\_\_, 2022

By: RCC MGP LLC  
a California limited liability company

Its: Managing General Partner

By: RIVERSIDE CHARITABLE CORPORATION  
a California Nonprofit Public Benefit Corporation

Its: Sole Member and Manager

By: \_\_\_\_\_  
Name: Recinda Shafer  
Its: Deputy Executive Director  
Date: \_\_\_\_\_, 2022

**NOTARY ACKNOWLEDGMENT STATEMENT**

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ [SEAL]



**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

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

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

PARCEL A: APN 922-053-047

THE NORTHWESTERLY 255 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

THE NORTHWESTERLY ONE-HALF OF THAT TRACT OF LAND FORMERLY USED AS RAILROAD RIGHT OF WAY AND STATION GROUND OF THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY, CONVEYED TO N.R. VAIL, ET AL., BY DEED RECORDED JUNE 11, 1940 IN BOOK 464, PAGE 505 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, SAID PROPERTY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 1, BLOCK 27 OF THE TOWN OF TEMECULA, IN THE CITY OF TEMECULA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SHOWN BY MAP ON FILE IN BOOK 15, PAGE 726 OF MAPS, RECORDS OF SAN DIEGO COUNTY, CALIFORNIA; THENCE SOUTHWESTERLY IN A STRAIGHT LINE TO THE MOST EASTERLY CORNER OF LOT 1, BLOCK 36, AS SHOWN BY SAID MAP; THENCE NORTHWESTERLY IN A STRAIGHT LINE TO THE MOST NORTHERLY CORNER OF LOT 10, BLOCK 37, AS SHOWN BY SAID MAP; THENCE NORTHEASTERLY ON A STRAIGHT LINE TO THE MOST WESTERLY CORNER OF LOT 22, BLOCK 25 ON SAID MAP; THENCE SOUTHEASTERLY IN A STRAIGHT LINE TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE NORTHWESTERLY 595 FEET THEREOF.

ALSO EXCEPT THEREFROM THOSE PORTIONS INCLUDED IN RIVER AND PUJOL STREETS AS SHOWN ON SAID MAP.

ALSO EXCEPT THEREFROM THAT PORTION OF SAID LAND CONDEMNED BY THE RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT AS SET FORTH AND DESCRIBED IN THAT CERTAIN DOCUMENT RECORDED OCTOBER 5, 2010 AS INSTRUMENT NO. 2010-477535 OF OFFICIAL RECORDS.

PARCEL B: APN 922-053-021, APN 922-053-048

PARCELS 1 AND 2 OF PARCEL MAP 9839, IN THE CITY OF TEMECULA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 61, PAGE 14 OF PARCEL MAPS, RECORDS OF SAID COUNTY, CALIFORNIA.

EXCEPT THEREFROM THAT PORTION OF PARCEL 1 CONVEYED TO THE RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, A BODY POLITIC, BY DOCUMENT RECORDED JANUARY 14, 2015 AS INSTRUMENT NO. 2015-0016730 OF OFFICIAL RECORDS.