

**REHABILITATION AGREEMENT
FOR THE CEDAR STREET PROJECT
(4292 Cedar Street)**

by and between the

CITY OF RIVERSIDE

and

RIVERSIDE HOUSING DEVELOPMENT CORPORATION

**U. S. Department of Housing and Urban Development
Community Development Block Grant Program**

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**REHABILITATION AGREEMENT
FOR THE CEDAR STREET PROJECT
(4292 Cedar Street)**

**U.S. Department of Housing and Urban Development
Community Development Block Grant Program**

This Rehabilitation Agreement for The Cedar Street Project ("Agreement") is entered into on this ____ day of _____, 2022, by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation ("City"), by and through its Office of Homeless Solutions, and RIVERSIDE HOUSING DEVELOPMENT CORPORATION, a California nonprofit corporation, hereinafter referred to as "RHDC," UEI No. NGKMFABRZKW9 ("RHDC"). Hereinafter, the City and RHDC may be referred to individually as "Party" or collectively as the "Parties."

RECITALS

A. The City of Riverside ("*City*") has adopted its 6th Cycle 2021-2029 Housing Element pursuant to Government Code Section 65580 *et seq.*, which sets forth the City's policies, goals and objectives to provide housing to all economic segments of the community, including the preservation and development of rental housing affordable to very low income, low income and moderate income households.

B. RHDC is a California public benefit corporation and experienced affordable housing developer who owns and intends to develop certain real property located at 4292 Cedar Street in the City of Riverside, California, and identified with Riverside County Assessor Parcel Number 215-201-016 ("*Site*") as depicted on the Site Plan (Attachment No. 1) and described in the Site Legal Description (Attachment No. 2), incorporated herein by this reference, by rehabilitating the single family residence on the Site and constructing two additional units thereon, consisting of one accessory dwelling unit ("*ADU*") and one junior accessory dwelling unit ("*JADU*"), together with any improvements appurtenant thereto ("*Project*").

C. The City has applied for and been awarded grant funds from the United States Department of Housing and Urban Development ("HUD") for the City's fiscal year 2020-2021 Community Development Block Grant ("CDBG"), Catalog of Federal Domestic Assistance ("CFDA") No. 14.218.

D. Following a public hearing on September 21, 2021, the City Council of the City of Riverside approved the allocation of Four Hundred Seventy-One Thousand Dollars (\$471,000.00) from its 2020-2021 Community Development Block Grant ("CDBG Funds") to its Office of Homeless Solutions to subgrant the CDBG Funds to RHDC for planning, construction, inspection, contract administration and other related costs associated with the Project.

E. On _____, the City of Riverside and its Office of Homeless Solutions entered into an Interdepartmental Memorandum of Understanding for the allocation of CDBG Funds.

F. RHDC has demonstrated effective development of projects similar in size, scope, and level of complexity as the Project herein.

G. The Parties intend that by this Agreement:

- (i) RHDC, as an experienced affordable housing developer, will own and perform the rehabilitation services associated with the Project and thereafter lease three housing units affordable to persons earning at-or-below 80% of the Area Median Income for Riverside County as shall be recalculated annually; and
- (iii) The City will provide Four Hundred Seventy-One Thousand Dollars (\$471,000.00) in CDBG Funds to RHDC for Project Costs (as defined below) in accordance with this Agreement.

H. The implementation of the Project pursuant to the terms and conditions of this Agreement is in the vital and best interest of the City and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state, and local laws.

NOW, THEREFORE, in consideration of the covenants and conditions set forth herein, Parties agree as follows:

1. DEFINITIONS

1.1 Defined Terms

As used in this Agreement, the following capitalized terms shall have the following meanings:

“Affordable Rent” means amount of monthly rent, including a reasonable utility allowance, that does not exceed the lesser of the maximum allowable rent of thirty (30%) of the annual income of a family whose income equals 50 to 80 percent of the median income for the area as determined by HUD, or any applicable regulations pursuant to any other source of financing secured for the Project, and paid by the Low Income Household or Moderate Income Households, occupying the Affordable Units.

“Affordable Units” means the one (1) single family residence, attached JADU, and detached ADU, at 4292 Cedar Street, required to be maintained and available to, occupied by or held vacant for occupancy to one (1) Low Income Households and two (2) Moderate Income Households. Preference shall be given to households as identified in Section 6.1.

“Affordability Period” means the period commencing upon the recordation of the Release of Construction Covenants and terminating on the fifty-fifth (55th) anniversary thereof.

“Agreement” means this Rehabilitation Agreement, including all Attachments

hereto, by and among the Parties.

“AMI” or “Area Median Income” means the median family income (adjusted for family size) for Riverside County promulgated and published annually by HUD pursuant to 24 CFR 570.3(q). If HUD ceases annually to publish median incomes, the Parties will agree upon an adequate substitute manner for determining Area Median Income.

“CDBG Funds,” as referenced in Recital D, shall mean Four Hundred Seventy-One Thousand Dollars (\$471,000.00) that RHDC will receive from the City as part of the CDBG Program.

“CDBG Program,” as referenced in Recital C, shall mean the federal Community Development Block Grant Program as administered by the City.

“CDBG Regulations” means the CDBG Program regulations attached hereto as Attachment No. 6.

“City” means the City of Riverside, a California charter city and municipal corporation.

“City Manager” means the City Manager of the City of Riverside or his/her designated representative.

“City CDBG Regulatory Agreement” means the Regulatory Agreement (CDBG) in the form attached hereto as Attachment No. 8 that provides affordability restrictions for a period of not less than fifty-five (55) years.

“Construction Contract” means the construction contract between RHDC and the General Contractor, whether at a fixed price or guaranteed maximum cost, for all improvements necessary to complete the Project.

“Effective Date” means the date upon which this Agreement was approved by the City.

“Environmental Laws” means any and all present and future federal, state and local laws (whether under common law, statute, ordinance, rule, regulation or otherwise), court or administrative orders or decrees, requirements of permits issued with respect thereto, and other requirements of governmental authorities relating to the environment or to any Hazardous Substance or Hazardous Substance Activity (including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9601, et seq.), as heretofore or hereafter amended from time to time (“CERCLA”), and the applicable provisions of the California Health and Safety Code and the California Water Code, and any and all successor statutes and regulations, orders, decrees, guidelines, or pronouncements promulgated thereunder).

“Event of Default” means the failure of a Party to perform any action or covenant required by this Agreement within the time periods provided herein following notice and opportunity to cure, as set forth in Section 9.1.

“Executive Director” means the Executive Director of the Authority or his/her designated representative.

“General Contractor” means the general contractor hired by RHDC and approved by the City to render services under the Construction Contract, who is capable of being bonded and is duly and properly licensed in California.

“Governmental Regulations” means any local, state, and federal laws, ordinances, rules, requirements, resolutions, policy statements and regulations (including, without limitation, those relating to land use, subdivision, zoning, environmental, labor relations, prevailing wage, notification of sale to employees, Hazardous Substance, occupational health and safety, water, earthquake hazard reduction and building and fire codes) bearing on the demolition, alteration, replacement, repair, refurbishing, improvement, construction, maintenance, management, use, or operation of the Project.

“Hazardous Substance” means (i) any chemical, compound, material, mixture or substance that is now or hereafter defined or listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101), as amended from time to time, or now or hereafter otherwise classified or regulated pursuant to any Environmental Laws as a “hazardous substance,” “hazardous material,” “hazardous waste,” “extremely hazardous waste,” “infectious waste,” “toxic substance,” “toxic pollutant” or any other formulation intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, or “EP toxicity;” (ii) any asbestos or asbestos containing material; (iii) any polychlorinated biphenyls (PCBs); (iv) any urea formaldehyde; and (v) any petroleum, natural gas, natural gas liquid, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas), ash produced by a resource recovery facility utilizing a municipal solid waste stream, and drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal resources. Notwithstanding the foregoing, “Hazardous Substances” shall not include any chemical, compound, material, mixture or substance used in the normal course of operating an apartment complex, so long as such chemical, compound, material, mixture or substance is used in accordance with Environmental Laws.

“Hazardous Substance Activity” means any actual, proposed or threatened storage, holding, existence or suspected existence, release or suspected release, emission, discharge, generation, processing, abatement, removal, disposition, treatment, handling or transportation of any Hazardous Substance from, under, into, on, above, around or across the Site or surrounding property or any other use of or operation on the Site or the surrounding property that creates a risk of Hazardous Substance contamination of the Site.

“Historic District” means the Evergreen Quarter Historic District.

“Household” means one or more persons occupying an Affordable Unit.

“Low Income Household” means a Household whose aggregate gross income is

less than fifty percent (50%) of AMI and qualifies as a “low income household” pursuant to 24 CFR § 570.3 or any successor statute.

“Moderate Income Household” means a Household whose aggregate gross income is less than eighty percent (80%) of AMI and qualifies as a “moderate income household” pursuant to 24 CFR § 570.3 or any successor statute.

“Notice” means a notice in the form prescribed by Section 10.

“Outside Completion Date” means December 31, 2023.

“Parties” means the City and RHDC.

“Project,” as referenced in Recital G and described in Attachment No. 3, shall mean and include any rehabilitation activities related to the Site, as well as all buildings, structures, fixtures, foundations, excavation, parking, landscaping, underground installations, and other work, construction and improvement of whatsoever character undertaken or constructed on, around, under or over the Site by RHDC for the rehabilitation of one single family house to create three sub-units including one front unit, one Accessory Dwelling Unit (ADU), and one Junior Accessory Dwelling Unit (JADU); all residential units are required to be maintained and available to, occupied by, or held vacant for occupancy to Low Income Households and Moderate Income Households, as set forth in Section 6, and any other activities undertaken in connection therewith in accordance with all regulations referenced herein.

“Project Budget” means the budget for the Project, attached hereto as Attachment No. 5.

“Project Costs” means all costs and expenses reasonably approved pursuant to this Agreement which are customarily incurred and shall have been actually incurred by RHDC for the development of the Project and shall include, without limitation, the following: construction costs, construction and design fees, architectural and engineering costs and fees (if any); a construction management fee as set forth in the Project Budget; security services; offsite improvements and permits (if any); building permits; utility fees; insurance; legal and accounting fees; tests to determine the condition of the Site; and such other costs, fees, and expenses, as agreed to by the City; provided, however, that payment to Parties related to RHDC must not exceed reasonable and customary market rates.

“Project Description” means the description of the Project, attached hereto as Attachment No. 3.

“Rehabilitation Plans” means the detailed plans, specifications, materials, and drawings describing the rehabilitation of the Site.

“Release of Construction Covenants” means the document which evidences the Developer’s satisfactory completion of the development of the Site, as set forth in Section 5.1.11, in substantially the form of Attachment No. 8.

“Schedule of Performance” means that certain Schedule of Performance attached hereto as Attachment No. 4, setting out the dates and/or time periods by which certain obligations set forth in this Agreement must be accomplished. The Schedule of Performance is subject to revision from time to time as mutually agreed upon in writing between RHDC and the City. The City authorizes the City Manager, or his or her designee, to make such revisions to the Schedule of Performance as he/she deems reasonably necessary to effectuate the purposes of this Agreement.

“Site” means that certain real property referenced in Recital B above as delineated on the Site Plan (Attachment No. 1) and more particularly described in the Site Legal Description (Attachment No. 2).

“Site Legal Description” means the description of the Site which is attached hereto as Attachment No. 2.

“Site Plan” means the map of the Site and the proposed Project, attached hereto as Attachment No. 1.

1.2 Singular and Plural Terms

Any defined term used in the plural herein shall refer to all members of the relevant class and any defined term used in the singular shall refer to any number of the members of the relevant class.

1.3 Accounting Principles

Any accounting term used and not specifically defined herein shall be construed in conformity with and all financial data required to be submitted herein shall be prepared in conformity with generally accepted accounting principles applied on a consistent basis or in accordance with such other principles or methods as are reasonably acceptable to the City.

1.4 References and Other Terms

Any reference to any document shall include such document both as originally executed and as it may from time to time be modified. References herein to Sections and Attachments shall be construed as references to this Agreement unless a different document is named. References to subparagraphs shall be construed as references to the same Section in which the reference appears. The term “document” is used in its broadest sense and encompasses agreements, certificates, opinions, consents, instruments and other written material of every kind. The terms “including” and “include” mean “including (include), without limitation.”

1.5 Attachments Incorporated

All attachments to this Agreement, as now existing and as the same may from time to time be modified, are incorporated herein by this reference.

2. FUNDING

2.1 Sources of Funding

As set forth in the Project Budget, RHDC anticipates that Project Costs totaling Eight Hundred Twenty-Eight Thousand Dollars (\$828,000.00) will be financed exclusively with CDBG Funds in the amount of Four Hundred Seventy-One Thousand Dollars (\$471,000.00), HOME Investment Partnerships Act funds in the amount of Two Hundred Fifty-Five Thousand Dollars (\$255,000.00), and private financing obtained by RHDC in the amount of One Hundred Two Thousand Dollars (\$102,000.00). The City shall distribute the CDBG Funds to RHDC pursuant to the CDBG Program. The CDBG Funds shall then be used for Project Costs as approved by the City.

The City reserves the right to reduce the allocation of CDBG Funds when the City's fiscal monitoring indicates that RHDC's rate of expenditure will result in unspent funds at the end of the calendar year. Changes in the grant allocation will be done after consultation with RHDC. Such changes shall be incorporated into this Agreement by written amendments.

2.2 Method of Payment

(a) Invoicing. The City shall pay RHDC on a reimbursable basis for all approved costs. RHDC shall submit no more than once a month to the City, a certified statement setting forth in detail the expenditures made for which it is asking reimbursement along with supporting documentation which specifically states how funds were expended. At the City's discretion and in accordance with state and federal regulations, said documentation may include, but will not be limited to bills, cancelled checks, invoices, prevailing wage reports and receipts.

(b) Reimbursement. The City shall promptly review the expenditure statement and supporting documentation and reimburse the RHDC for approved costs in accordance with its usual accounting procedures, but in no event later than thirty (30) days. The City may require additional information from RHDC as may be necessary and appropriate for the City to make its determination as to allowable costs.

(c) Wire Transfers. To facilitate prompt payment to RHDC, the City shall make payments to RHDC by electronic means where appropriate, in City's sole discretion. All disbursements shall be recorded by the City and acknowledged by RHDC.

2.3 Obligation to Update Project Budget

RHDC shall update the Project Budget in the event of a proposed material change to the Project Budget. For purposes of this section, a "material change" shall mean any increase or decrease in excess of Twenty Thousand Dollars (\$20,000.00) to any line item within the Project Budget. In the event of a proposed material change to the Project Budget, RHDC shall notify the City in writing of the nature of the proposed change, including a detailed description of the effect of such change, and submit a revised, pro forma Project Budget reflecting such change to the City. The City shall have the right to approve such change prior to RHDC taking any action in

furtherance of such change.

2.4 Release of Construction Covenants

Final payment of all sums invoiced and unpaid, including all retentions, shall be made within thirty-five (35) days after the Project is fully performed and accepted by the City, and the City files a Release of Construction Covenants, except such sums thereof which are required by law or authorized by the Agreement to be further retained.

2.5. Subordination

The City's CDBG Regulatory Agreement for the CDBG Funds shall be subject and subordinate to the obligations and any liens or deeds of trust of the City HOME Investment Partnerships (HOME) Regulatory Agreement and such exceptions to title as are approved by City in writing. In addition, City agrees to consider in good faith any other reasonable request by Developer for subordination of the City Regulatory Agreement to other loans obtained by Developer pursuant to Section 3 where City's interests are protected and secure.

3. CONDITIONS PRECEDENT FOR COMMENCEMENT OF WORK

The date of commencement of the Project shall be established in a written Notice to Proceed issued by the City. The City will not issue a Notice to Proceed to the RHDC until the prior satisfaction by RHDC, or waiver by the City, of the following conditions precedent:

3.1 Approved Final Project Budget

RHDC shall have submitted to the City for its approval an updated and final pro forma and detailed final Project Budget (consistent with the Project Description), and the City shall have approved the final Project Budget in the City's reasonable discretion.

3.2 Environmental Compliance

All Governmental Requirements including all Environmental Laws applicable to the Project, including without limitation, the National Environmental Policy Act of 1969, Public Law 91-190, 42 U.S.C. Sections 4321-4347, as amended, the California Environmental Quality Act, Public Resources Code Section 21000, et seq., as amended, the Clean Air Act, 42 U.S.C. 7401, et seq., as amended, the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., as amended, and HUD 24 CFR Part 35, as amended, shall have been satisfied if and to the extent such satisfaction is required.

3.3 Approval of Rehabilitation Plans

RHDC shall have submitted to the City the Rehabilitation Plans, and the City shall have approved the Rehabilitation Plans as being in substantial conformity with the Project Description, this Agreement, and the City of Riverside Municipal Code ("Riverside Municipal Code"). In addition, RHDC shall have submitted to the City detailed information regarding its

methodology for the abatement of asbestos, lead based paint, and other required Hazardous Substances remediation at the Site, if any, and such methodology shall be reasonably satisfactory to the City. RHDC acknowledges and agrees that the Rehabilitation Plans shall be subject to the City's normal development services, planning, and building review process, as applicable. All rehabilitation plans shall conform to the requirements of the Historic District.

3.4 Building Permits

RHDC shall have obtained all Building Permits and other permits required for the full Project, and shall have provided true, correct and complete copies of all such Building Permits to the City. RHDC shall not commence any portion of the work until all applicable Building Permits and other permits required have been obtained, with true, correct and complete copies of such Building Permits delivered to the City. To the extent any decision relating to such permits is a discretionary decision of the City or any of its commission(s), administrator(s) or employee(s), then this Agreement does not, nor shall it be construed to, pre-approve any discretionary decision relating to any Building Permit or other approval necessary to commence and complete the development of the Site.

3.5 Pre-Construction Meeting of General Contractor, City Representative(s), and RHDC

RHDC shall have attended pre-construction meeting(s) or conference(s), as arranged by the City, among General Contractor, RHDC, the City staff, relating to the commencement of the rehabilitation, compliance with the Section 3 Clause (as required in Section 7.8), and other issues related to undertaking and completing the rehabilitation in conformity with this Agreement and all applicable local, state, and federal laws.

3.6 Construction Contract

RHDC shall have delivered to the City, for its review and approval, the Construction Contract. RHDC shall verify that the General Contractor is eligible to participate in State and Federal programs. The Construction Contract shall contain a schedule of values in such form as is reasonably satisfactory to the City and shall give the City the right, but not the obligation, to cure defaults thereunder and to assume RHDC's obligations and rights under the contract. In addition, each Construction Contract shall provide, among other matters, that all change orders in excess of Twenty-Five Thousand Dollars (\$25,000.00) must be approved by the City within five (5) Business Days. Further, each Construction Contract shall set forth a reasonably detailed schedule for completion of each stage of construction.

The City's approval of the Construction Contract shall not constitute a waiver by the City of any breach or violation of this Agreement that is a result of acts that are, or purport to be, in compliance with or in furtherance of said Construction Contract.

3.7 Insurance

RHDC shall have secured and submitted proof of (and shall thereafter maintain

without interruption until the completion of the Project), through the City's insurance portal at <https://riversideca.gov/coiportal>, such commercial general and automobile liability insurance as shall protect RHDC, its General Contractor and subcontractors (together with the General Contractor collectively referred to as "Subcontractors" for purposes of this Section 3.7) and the Additional Insureds from any and all claims for damages for personal injury, including accidental death, as well as any and all claims for property damage which may arise from or which may concern operations under the Agreement, whether such operations be by or on behalf of RHDC, any Subcontractor or anyone directly or indirectly employed by, connected with or acting for or on behalf of any of them.

3.7.1 Carrier Ratings

All liability insurance shall be issued by an insurance company or companies authorized to transact liability insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or larger.

3.7.2 Minimum Limits

RHDC shall maintain minimum limits of insurance as follows:

(a) **Commercial General Liability.** RHDC's commercial general liability insurance policy shall cover both bodily injury (including death) and property damage (including, but not limited to, premises operations liability, products-completed operations liability, independent contractor's liability, personal injury liability, and contractual liability) in an amount not less than \$1,000,000 per occurrence, an aggregate limit for products/completed operations in the amount not less than \$2,000,000.

(b) **Automobile Liability Insurance.** RHDC's automobile liability policy shall cover both bodily injury and property damage in an amount not less than \$1,000,000 per occurrence and an aggregate limit of not less than \$1,000,000. RHDC's automobile and/or commercial general liability insurance policies shall cover all vehicles used in connection with RHDC's performance of this Agreement, which vehicles shall include, but are not limited to, RHDC owned vehicles, RHDC leased vehicles, RHDC's employee vehicles, non-RHDC-owned vehicles and hired vehicles.

(c) **Installation Floater Insurance.** RHDC shall obtain, at RHDC's expense, and keep in effect during the term of this Agreement, Installation Floater insurance for coverage of labor, materials, and equipment to be used for completion of the work performed under this Agreement. The minimum amount of coverage to be carried shall be equal to the full amount of the RHDC's labor, equipment, materials, or fixtures to be installed, in transit, or stored off-site or on-site during the performance of this Agreement. The policy shall include as loss payee, the City of Riverside, the RHDC, and its Subcontractors, as their interest may appear. The City shall not be responsible for the theft of any materials, equipment in the possession and control of RHDC.

3.7.3 Notice of Cancellation and Renewals

The policies shall not be cancelled unless thirty (30) days' prior written notification of intended cancellation has been given to the City by certified or registered mail (this obligation may be satisfied in the alternative by requiring such notice to be provided by RHDC's insurance broker and set forth on its Certificate of Insurance provided to the City). RHDC agrees that upon receipt of any notice of cancellation or alteration of the policies, RHDC shall procure within five (5) days, other policies of insurance similar in all respects to the policy or policies to be cancelled or altered. RHDC shall furnish to the City copies of any endorsements that are subsequently issued amending coverage or limits within fourteen (14) days of the amendment.

3.7.4 All Coverages

The insurance policy or policies shall also comply with the following provisions:

(a) Policies shall include premises/operations, products completed operations, independent contractors, owners and contractors' protection, explosion, collapse, underground hazard, broad form contractual, personal injury with employment exclusion deleted, and broad form property damage.

(b) The policy shall be endorsed to waive any right of subrogation against the City, and the subconsultants, employees, officers, agents, and directors of each.

(c) If policies are written on a "claims made" basis, the certificate should so specify, and the policy must continue in force for five (5) years after completion of the Project. The retroactive date of the coverage must also be listed.

(d) The policy shall specify that the insurance provided by RHDC will be considered primary and not contributory to any other insurance available to the City of Riverside. RHDC shall provide Form No. CG 20010413 to the City.

(e) All policies of insurance shall name the City as an Additional Insured and shall contain the following language: "Solely with respect to work done by and on behalf of the named insured for the City of Riverside, it is agreed that the City of Riverside, and its officers and employees, are added as additional insureds under this policy."

3.7.5 Certificates of Insurance

Additional Insured Endorsements and Deductibles. Prior to execution of the Agreement, and thereafter upon the City's request, RHDC shall furnish the City with original certificates of insurance and additional insured endorsements setting forth evidence of all insurance coverage required by this Article. Each certificate and endorsement are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City of Riverside, its City Council and its respective officials, officers, directors, employees, managers, commission members, representatives, agents, and council members shall be named as additional insureds

("Additional Insureds") under each policy.

3.7.6 RHDC's Failure to Provide Required Insurance

Failure to maintain required insurance during the entire term of this agreement shall constitute a default and material breach. In such event, RHDC shall immediately notify the City and cease all performance under this Agreement until further directed by the City. In the absence of satisfactory insurance coverage, the City may, at its discretion and sole option: (a) procure insurance with collection rights for premiums, attorneys' fees and costs against RHDC by way of set-off or recoupment from sums due RHDC; (b) immediately terminate or suspend RHDC's performance of the Agreement; (c) pay RHDC's premiums for renewal of RHDC's coverage; or (d) self-insure the risk, with all damages and costs incurred, by judgment, settlement or otherwise, including attorneys' fees and costs, being collectible from RHDC, by way of set-off or recoupment from any sums due RHDC. Upon demand, RHDC shall repay the City for all sums that the City paid to obtain, renew, reinstate, or replace the insurance, or the City may offset the cost against any monies that the City may owe RHDC.

3.7.7 Verification of Coverage

The City shall have the right to obtain complete and certified copies of RHDC's and Subcontractors' insurance policies (including, but not limited to, the declarations page, form list, and riders), endorsements or certificates required, upon request.

3.7.8 Reassessment of Insurance Requirements

At any time during the term of this Agreement, the City may require that RHDC obtain, pay for, and maintain more or less insurance depending on the City's assessment of any one or more of the following factors: (1) the City's risk of liability or exposure arising out of, or in any way connected with, RHDC's services under this Agreement; (2) the nature or number of accidents, claims or lawsuits arising out of, or in any way connected with, RHDC's services under this Agreement; or (3) the availability or affordability, or both, of increased liability insurance coverage.

3.7.9 RHDC's Insurance for Other Losses

RHDC and its Subcontractors of every tier shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, RHDC's (or Subcontractors') employee-owned tools, machinery, equipment, or motor vehicles owned or rented by the RHDC or the RHDC's agents, suppliers, or Subcontractors, as well as to any temporary structures, scaffolding and protective fences.

3.7.10 No Limitation

RHDC's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the RHDC or its Subcontractors of any tier to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law

or in equity.

3.7.11 Subcontractors' Insurance

RHDC shall ensure that all subcontracts, including the Construction Contract, contain a requirement that Subcontractors of every tier shall obtain and maintain all insurance required by this Agreement, except that the limits of liability and deductibles shall be in amounts determined by the RHDC, based on the degree of hazardous exposure according to the work performed by each Subcontractor and the size of each subcontract. RHDC shall ensure that any professional engineer who is retained on its behalf to provide supplemental plans and engineering calculations required in conjunction with the work maintains professional liability insurance during the entire term of this Agreement. Such insurance shall be in the minimum amount of \$1,000,000 to protect the City from claims resulting from the engineer's/engineers' activities. This minimum amount of coverage shall not constitute any limitation or cap on RHDC's indemnification obligations set forth herein. The City reserves the right to request certificates of insurance from the RHDC for each Subcontractor. RHDC acknowledges that regardless of insurance obtained by its Subcontractors, RHDC will be responsible to the City for all acts of its Subcontractors.

3.7.12 Workers' Compensation Insurance

(a) **Workers' Compensation Insurance Certificate.** By executing this Agreement, RHDC certifies that RHDC is aware of and will comply with Section 3700 of the Labor Code of the State of California requiring every employer to be insured against liability for workers' compensation or to undertake self-insurance before commencing any of the work. RHDC shall comply with Labor Code Section 1861 by signing and filing the workers' compensation certification provided by the City.

(b) **Evidence of Coverage.** RHDC shall file with the City either: (1) a certificate of insurance or self-insurance evidencing that such insurance is in effect or that RHDC is self-insured for such coverage; or (2) a certified statement that RHDC has no employees and acknowledging that if RHDC does employ any person, the necessary certificate of insurance will immediately be filed with the City. Any Certificate filed with the City shall provide that the City shall be given ten (10) days' prior written notice before modification or cancellation thereof.

(c) **Carrier Rating.** RHDC's workers' compensation insurance carrier shall be authorized to transact insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or larger.

(d) **Subcontractor Workers' Compensation Insurance.** RHDC shall require each of its Subcontractors to obtain and maintain for the duration of this Agreement, complete workers' compensation insurance, meeting or exceeding the coverages and amounts that California law requires.

3.8 Performance Bond

RHDC shall have furnished to the City from the General Contractor a duly executed surety bond as security for the faithful performance of this Agreement. The bond shall be in the amount of the Construction Contract and shall be subscribed by an Admitted Surety Insurer which is authorized to transact surety insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or larger. Should any bond or surety become insufficient, RHDC shall furnish the City a new bond within ten (10) days after receiving notice from the City. No payments will be due or paid under the Agreement until any and all bond deficiencies have been remedied.

4. INDEMNITY

To the full extent permitted by law, RHDC shall indemnify, defend, and hold harmless the City, and any and all of their employees, officials and agents (the Indemnitees) from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys' fees and costs, court costs, interest or defense costs, including expert witness fees), where the same arise out of, are a consequence of, or are in any attributable to, in whole or in part, to: (i) RHDC's compliance with or failure to comply with all applicable laws, including all applicable federal and state labor standards, including, without limitation, the requirements of Labor Code § 1720 and the Davis Bacon Act; (ii) defects in the design of the Project, including (without limitation) the violation of any laws, and for defects in any work done according to the approved plans; or (iii) any other performance or act or failure to perform or act pursuant to this Agreement by RHDC, or by any individual or entity that RHDC shall bear the legal liability thereof, including, but not limited to, officers, agents, employees or contractors of RHDC.

Without affecting the rights of Indemnitees under any provisions of this Agreement, RHDC shall not be required to indemnify and hold harmless Indemnitees for liability attributable to the active negligence of Indemnitees, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where Indemnitees are shown to have been actively negligent and where Indemnitees' active negligence accounts for only a percentage of the liability involved, the obligation of RHDC will be for that entire portion or percentage of liability not attributable to the active negligence of Indemnitees.

Failure of Indemnitees to monitor compliance with these requirements imposes no additional obligations on Indemnitees and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend Indemnitees as set forth herein is binding on the successors, assigns or heirs of RHDC and shall survive the termination of this Agreement.

This indemnification provision supplements and in no way limits the scope of the indemnification set out elsewhere in this Agreement. The indemnity obligation of RHDC under this Section shall survive the expiration or termination, for any reason, of this Agreement; excluded, however, from this Section 4 is any indemnity by RHDC in favor of the City for claims arising from Hazardous Substances on the Site, except for Hazardous Substances introduced onto

the Site by RHDC.

5. PERFORMANCE OF THE WORK

5.1 Completion of Project

RHDC shall complete the Project not later than the Outside Completion Date. RHDC's agreement to complete the Project in accordance with the Project Description, approved Rehabilitation Plans, and all applicable provisions of law and this Agreement within the time set forth in the Schedule of Performance is a substantial part of the consideration for the City's agreement to fund the Project. If RHDC fails to satisfactorily perform the rehabilitation in accordance with the Project Description, the approved Rehabilitation Plans, and all other applicable requirements within the time set forth in the Schedule of Performance, the City shall be entitled to exercise any and all remedies available to it under applicable laws and/or this Agreement.

5.2 Liens and Stop Notices

RHDC shall not allow to be placed on the Site or any part thereof any lien or stop notice. If a claim of a lien or stop notice is given or recorded affecting the Project, RHDC shall within thirty (30) days of such recording or service or within five (5) days of the City's demand, whichever last occurs:

- (a) pay and discharge the same; or
- (b) effect the release thereof by recording and delivering to the City a surety bond in sufficient form and amount or otherwise; or
- (c) provide such other assurances which the City deems, in its sole discretion, to be satisfactory for the payment of such lien or bonded stop notice and for the full and continuous protection of the City from the effect of such lien or bonded stop notice.

5.3 Rehabilitation Plans

5.3.1 Revisions

If RHDC desires to propose any substantial revisions to the approved Rehabilitation Plans, it shall submit such proposed changes to the City. Any such change proposed in the approved Rehabilitation Plans may be disapproved by the City through the City in the City's sole and reasonable discretion.

5.3.2 Defects in Plan

The City shall not be responsible to RHDC or to any third parties in any way for any defects in the Rehabilitation Plans, or for any structural or other defects in any work done according to the approved Rehabilitation Plans or for any delays reasonably caused by the

review and approval processes. RHDC shall hold harmless, indemnify and defend the Indemnitees from and against any claims or suits for damages to property or injuries to persons (including death) arising out of or in any way relating to defects, latent or patent, in the Rehabilitation Plans, or the actual construction work or other improvements comprising the development and the Site, including, without limitation, the violation of any laws or arising out of or in any way relating to any defects in any work done and/or improvements completed according to the approved Rehabilitation Plans.

5.3.3 Change Orders

RHDC shall submit all proposed change orders (including change orders proposed by RHDC and any contractor) to the City for the City's approval, disapproval, or conditional approval, which shall be in the City's sole and absolute discretion.

5.4 Eligible Expenses

Except as otherwise limited by this Agreement, the CDBG Funds shall be used exclusively to cover Eligible Expenses directly related to completing the Project, including design, engineering, architecture, permits, and construction costs. Funding shall not be used for food, transportation, or expenses not directly related to rehabilitation costs.

5.5 Rights of Access

The City shall have the right of access to the Site, without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the Project to ensure the work is completed within established standards and to monitor the progress of the work. While conducting such inspections, the City representatives shall comply with all safety rules.

6. AFFORDABLE HOUSING RESTRICTIONS

6.1 [Reserved.]

6.2 Affordability Requirements

The Affordable Units shall be subject to the requirements of the CDBG Regulations and this Section 6 for a period of fifty-five (55) years.

6.3 Tenant Selection Covenants

6.3.1 Selection of Tenants

RHDC shall be responsible for the selection of tenants for the Affordable Units in compliance with all lawful and reasonable criteria. To the extent Affordable Units are available, RHDC shall not refuse to lease to a holder of a certificate of family participation under 24 CFR Part 882 (Rental Certificate Program) or a rental voucher under 24 CFR Part 887 (Rental

Voucher Program) or to the holder of a comparable document evidencing participation in a HOME Program, Section 8 program or other tenant-based assistance program solely on the basis of such certificate, voucher or comparable document, who is otherwise qualified to be a tenant in accordance with the approved tenant selection criteria. Notwithstanding anything to the contrary in this Agreement, the RHDC's selection of tenant households to occupy the Affordable Units shall be performed in accordance with all applicable fair housing laws.

6.3.2 Income and Occupancy Restrictions

As included in the annual income certification provided by RHDC or as otherwise reasonably requested by the City, RHDC shall endeavor to make available for City's review and approval such information as RHDC has reviewed and considered in its selection process, together with the statement by RHDC that RHDC has determined that each selected tenant will comply with all applicable terms and conditions of this Agreement in each tenant's occupancy of an Affordable Unit, including, without limitation, that each corresponding household satisfies the income eligibility requirements, Affordable Rent requirements, and other requirements of this Agreement.

In this regard, RHDC covenants and agrees that: (i) each tenant of an Affordable Unit shall and will be a Low Income Household or Moderate Income Household as defined herein; (ii) the cost to each tenant household for the corresponding Affordable Unit on the site shall be at and within the defined Affordable Rent for Low or Moderate Income Households; (iii) each tenant household shall meet Housing Quality Standards (HQS) (24 CFR 982.401) occupancy standards for the Affordable Unit; and (iv) the occupancy and use of the Site shall comply with all other covenants and obligations of this Agreement (collectively, "Tenant Selection Covenants").

6.4 Income Certification Requirements

Upon the initial occupancy of the Affordable Units, and annually thereafter (on or before March 31st of each year), RHDC shall submit to the City, a written summary of the income, household size, and rent payable by each of the tenants of the Affordable Units. RHDC shall also provide to the City completed income computation, asset evaluation, and certification forms for any such tenant or tenants. RHDC shall obtain, or shall cause to be obtained, an annual certification from each household leasing an Affordable Unit demonstrating that such household is a Low Income Household or Moderate Income Household and meets the eligibility requirements established for the Affordable Unit. RHDC shall verify, or shall cause to be verified, the income certification of each tenant household.

6.4.1 Verification of Income of New and Continuing Tenants

RHDC shall verify the income and information provided in the income certification of the proposed tenant and shall verify the income of each proposed tenant of the Affordable Units by at least one the following methods as appropriate to the proposed tenant:

- (a) obtain two (2) paycheck stubs from the person's two (2) most recent

pay periods.

(b) obtain a true copy of an income tax return from the person for the most recent tax year in which a return was filed.

(c) obtain an income verification certification from the employer of the person.

(d) obtain an income verification certification from the Social Security Administration and/or the California Department of Social Services if the person receives assistance from such agencies.

(e) obtain an alternate form of income verification reasonably requested by the City, if none of the above forms of verification is available to RHDC.

6.5 Affordable Rent

6.5.1 Maximum Monthly Rent

The maximum monthly rent chargeable for the Affordable Units shall be annually determined by the City.

6.5.2 Annual Rent Adjustment

The City will review and approve the Affordable Rents proposed by RHDC for the Affordable Units, together with the monthly allowances proposed by RHDC for utilities and services to be paid by the tenant. RHDC must annually reexamine the income of each tenant household living in the Affordable Units in accordance with this Section 6. The maximum monthly rent must be recalculated by RHDC and reviewed and approved by the City annually and may change as changes in the applicable gross rent amounts, the income adjustments or the monthly allowance for utilities and services warrant. Any increase in rents for Affordable Units is subject to the provisions of outstanding leases. RHDC must provide all tenants not less than thirty (30) days' prior written notice before implementing any increase in rents.

6.5.3 Increases in Tenant Income

Units shall qualify as Affordable Units as required, despite a temporary noncompliance with this Section 6 if the noncompliance is caused by increases in the incomes of existing tenants and if actions are being taken to ensure that all vacancies are filled in accordance with this Section until the noncompliance is corrected. A household occupying an Affordable Unit whose income increases to an amount that exceeds the maximum qualifying income of a Low Income Household or the maximum qualifying income of a Moderate Income Household, as may be applicable, may continue to occupy his or her Unit. The tenant's rent may be adjusted to the appropriate income category of the household's income.

6.5.4 Most Restrictive Affordable Rent Covenants Govern

To the extent there is inconsistency between or among the foregoing covenants relating to Affordable Rent and other covenants or agreements applicable to the Site, the most restrictive covenants or agreement regarding the Affordable Rent for the Affordable Units in the Site shall prevail.

6.6 Lease Agreements for Affordable Units

RHDC shall submit a standard lease form, which shall comply with all requirements of this Agreement, to the City for approval. The City shall reasonably approve such lease form upon finding that such lease form is consistent with this Agreement and contains all required provisions. RHDC shall execute a written lease, in the form approved by the City, with each tenant/tenant household of an Affordable Unit.

6.6.1 General Maintenance

RHDC shall maintain the Site and all improvements thereon, including lighting and signage, in good condition, free of debris, waste and graffiti, and in compliance with the Riverside Municipal Code and HUD's Uniform Physical Conditions Standards ("UPCS," 24 CFR, Part 5 and 200). RHDC shall maintain the improvements and landscaping on the Site in accordance with the Maintenance Standards (as hereinafter defined). Such Maintenance Standards shall apply to all buildings, signage, lighting, landscaping, irrigation of landscaping, architectural elements identifying the Site and all other improvements on the Site. To accomplish the maintenance, RHDC shall either staff or contract with and hire licensed and qualified personnel to perform the maintenance work, including the provision of labor, equipment, materials, support facilities, and all other items necessary to comply with the requirements of this Agreement. RHDC and its maintenance staff, contractors or subcontractors shall comply with the following standards (collectively, "Maintenance Standards"):

(a) The Site shall be maintained in conformance and in compliance with the approved Rehabilitation Plans, as finalized, and reasonable maintenance standards for comparable first quality affordable housing projects, including, but not limited to, painting and cleaning of all exterior surfaces and other exterior facades comprising all private improvements and public improvements to the curb line. The Site shall be maintained in good condition and in accordance with the custom and practice generally applicable to comparable first quality affordable apartment complexes in the City.

(b) Landscape maintenance shall include, but not be limited to: watering/irrigation; fertilization; mowing; edging; trimming of grass; tree and shrub pruning; trimming and shaping of trees and shrubs to maintain a healthy, natural appearance and safe road conditions and visibility, and irrigation coverage; replacement, as needed, of all plant materials; control of weeds in all planters, shrubs, lawns, ground covers, or other planted areas; and staking for support of trees.

(c) Clean-up maintenance shall include, but not be limited to:

maintenance of all sidewalks, paths and other paved areas in clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris or other matter which is unsafe or unsightly; removal of all trash, litter and other debris from improvements and landscaping prior to mowing; clearance and cleaning of all areas maintained prior to the end of the day on which the maintenance operations are performed to ensure that all cuttings, weeds, leaves and other debris are properly disposed of by maintenance workers.

7. COMPLIANCE WITH LAWS AND REGULATIONS

7.1 General Compliance

In the construction, use and operation of the Project, RHDC shall comply with all Governmental Regulations, CDBG Regulations, and the statutes, regulations and Executive Orders set forth in Section 7.2, as well as any other federal, state, and local laws and regulations.

7.2 Miscellaneous Federal Mandates

7.2.1 CDBG Program

By executing this Agreement, RHDC hereby certifies that it will adhere to and comply with the obligations that the City has undertaken with HUD pursuant to its application and certifications for CDBG Funds, including, but not limited to, the following as they may be applicable pursuant to the U.S. Housing and Community Development Act of 1974, as amended:

(a) The Housing and Community Development Act of 1974, as amended, and legislative changes contained in the Housing and Urban-Rural Recovery Act of 1983, and the Housing and Community Development Act of 1987.

(b) Regulations of the Department of Housing and Urban Development relating to CDBG (24 CFR 570, et seq.).

(c) Regulations of the Department of Housing and Urban Development relating to environmental review procedures for the CDBG program.

(d) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and implementing regulations issued at 24 CFR Part 1; Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) as amended; Section 109 of the Housing and Community Development Act of 1974, as amended, and the regulations issued pursuant thereto; Section 3 of the Housing and Urban Development Act of 1968, as amended; Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations at 41 CFR Chapter 60; Executive Order 11063, as amended by Executive Order 12259, and implementing regulations at 24 CFR Part 107.

(e) Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112), as amended, and implementing regulations.

(f) The Age Discrimination Act of 1975 (P.L. 94-135), as amended, and

implementing regulations.

(g) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the implementing regulations at 24 CFR Part 42.

(h) The labor standard requirements as set forth in 24 CFR Part 570, Subpart K and HUD regulations issued to implement such requirements.

(i) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention control and abatement of water pollution.

(j) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234).

(k) Office of Management and Budget (OMB) Circulars, as applicable: OMB Circular A-21 (Cost Principles for Educational Institutions); OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments); OMB Circular A-102 (Grants and Cooperative Agreements with State and Local Governments); Common Rule, Subpart C for public agencies or OMB Circular A-110 (Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations); OMB Circular A-122 (Cost Principles for Non-Profit Organizations); OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations).

(l) The Lead-Based Paint Poisoning Act (42 U.S.C. § 1821-4846), the Residential Lead-Based Paint Hazard Act of 1992 (42 U.S.C. § 4851-4956) and the regulations of 24 CFR Part 35; and safety regulations.

(m) The Federal Accounting and Transparency Act of 2006, P.L. 109-282, as amended by Section 6202(a) of P.L. 110-252.

(n) The requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157).

(o) Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 255) which protects the comprehensive civil rights of individuals with disabilities.

(p) Section 104(f) of the Housing and Community Residence Act of 1974 and 24 CFR Part 58, which prescribe procedures for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4361), and the additional laws and authorities listed at 24 C.F.R. 58.5.

(q) 24 CFR Part 5 (prohibiting use of debarred, suspended or ineligible contractors or subrecipients).

(r) Violence Against Women Act (VAWA) (42 U.S.C. § 12291 et seq.)

which provides protections for victims of domestic violence, dating violence, sexual assault, and stalking.

(s) The Davis Bacon Act, 40 U.S.C. § 3141, et seq., and the regulations promulgated thereunder set forth at 29 CFR Part 1 (collectively, “Davis Bacon”) and, if and to the extent applicable, California law (Labor Code § 1720, et seq.).

(t) Lead-Based Paint Poisoning Prevention Act, Title X of the 1992 Housing and Community Development Act, 42 U.S.C. § 4800, et seq., specifically §§ 4821-4846, and the implementing regulations thereto, 24 CFR Part 35 (LBP Regs).

7.3 Conflict of Interest

No member, officer or employee of the City, or its designees or agents, no member of the governing body of the locality in which the CDBG Program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the CDBG Program during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the CDBG Funds, and RHDC, as developer, shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of the certification.

7.4 Certification Regarding Lobbying

RHDC certifies that:

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

(b) If any funds, other than federally appropriated funds, have been paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure form to Report Lobbying” in accordance with its instructions.

7.5 Religious Activity

RHDC represents that it is not, and may not be deemed to be, a religious or denominational institution or organization, or an organization operated for religious purposes,

which is supervised or controlled by or in connection with a religious or denominational institution or organization; and agrees that, in connection with the Project, it will not discriminate against any employee or applicant for employment to persons on the basis of religion and will not limit employment or give preference in employment on the basis of religion; it will not discriminate against any person applying for housing on the basis of religion and will not limit such services or give preference to persons on the basis of religion; it will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence on or in the Project; and the common portion of the Site shall contain no sectarian or religious symbols or decorations.

7.6 Disclosure of Confidential Tenant Information

To the extent allowed by law, the Parties agree to maintain the confidentiality of any information regarding tenants or applicants for residency under this Project, or their immediate families, pursuant to this Agreement, which may be obtained through application forms, interviews, tests, reports, from public agencies or counselors, or any other source. Without the written permission of the applicant, such information shall be divulged only as necessary for purposes related to the performance or evaluation of the services and work to be provided pursuant to this Agreement, and then only to persons having responsibilities under the Agreement, including those furnishing services under the Project through subcontracts.

7.7 Labor Regulations

RHDC shall be solely responsible for determining and effectuating compliance with all applicable federal, state, and local public works requirements, prevailing wage laws, labor laws and standards, and the City makes no representations, either legally or financially, as to the applicability or non-applicability of any federal, state, or local laws to the Project or any part thereof, either onsite or offsite. RHDC expressly, knowingly and voluntarily acknowledges and agrees that the City has not previously represented to RHDC or to any representative, agent or affiliate of RHDC or its General Contractor or any subcontractor(s) for the construction or development of the Project, in writing or otherwise, in a call for bids or otherwise, that the work and construction undertaken pursuant to this Agreement is (or is not) a “public work,” as defined in Section 1720 of the Labor Code or under Davis Bacon.

7.8 Section 3 Compliance

RHDC agrees to comply with and to cause the General Contractor, each subcontractor, and any other contractors and/or subcontractors or agents of RHDC to comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u, and the implementing regulations, in connection with the Project. RHDC shall submit to the City each construction contract with appropriate provisions providing for the rehabilitation of the Site in conformance with the terms of this Agreement, including the Section 3 Clause, in accordance with Section 206(d). The General Contractor, each subcontractor, and any other contractors or subcontractors or agents of RHDC (subject to compliance with 24 CFR Part 135) shall have provided to the City the certification in appendix B of 24 CFR Part 24 that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared

ineligible or voluntarily excluded from participation from this Project.

7.9 Duty to Prevent Release of Hazardous Substances

During the rehabilitation of the Site, RHDC shall take all necessary precautions to prevent the release of any Hazardous Substances (especially as to any asbestos or asbestos-containing materials, or lead-based paint or other lead containing products) into the environment or onto or under the Site. Such precautions shall include compliance with all Environmental Laws with respect to Hazardous Substances. In addition, RHDC shall install and utilize such equipment and implement and adhere to such procedures as are consistent with applicable Environmental Laws and then-prevailing industry standards as respects the disclosure, storage, use, abatement, removal, and disposal of Hazardous Substances.

8. RECORDS AND REPORTS

8.1 Records

RHDC shall maintain financial, programmatic, statistical, and other supporting records of its operations and financial activities, including, but not limited to, documentation of all CDBG Funds received from the City or other sources to complete the Project, documentation of expenses identified in the Budget, and any other related records as City may require from time to time. Such records shall be retained for a period five (5) years after termination of this Agreement or after final disposition of all pending matters. "Pending matters" include, but are not limited to, an audit, litigation or other actions involving records.

8.2 Reports

RHDC shall provide the City with weekly reports, beginning on December 31, 2022, and a closeout report upon issuance of a Certificate of Occupancy for the Project, as well as any other reports as the City may reasonably require. Such reports shall identify the Eligible Expenses paid from the CDBG Funds and the balance of the Grant Funds that Subrecipient has not spent.

8.3 Inspection

The City and its respective designees, have the right at all reasonable times, and upon reasonable advance notice of not less than 48 hours, to inspect the books and records and other related documents of RHDC pertaining to the satisfaction of their obligations hereunder as reasonably necessary for purposes of enforcing the provisions of this Agreement. Such books, records and related documents shall be maintained by RHDC at locations as agreed by the parties. Throughout the term of this Agreement, RHDC shall submit to the City reasonable written progress reports as and when reasonably requested by the City on all matters pertaining to the Project of the Site.

9. DEFAULTS, REMEDIES AND TERMINATION

9.1 Defaults – General

Failure or delay by any Party to perform, comply with or observe any of the conditions, provisions, terms, covenants, or representations of this Agreement, including any of the Attachments hereto, constitutes a default under this Agreement. As provided hereinbelow, the Party who so fails or delays must immediately commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with diligence. The injured Party shall give written notice of default to the Party in default, specifying the default complained of by the injured Party. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the date of default.

Except as required to protect against further damages, the injured Party may not institute legal proceedings against the party in default until an “Event of Default” (as such term is hereinafter defined) has occurred. For purposes of this Agreement, an “Event of Default” for purposes of instituting legal proceedings by a non-defaulting Party against the defaulting Party shall mean a failure to satisfy, perform, comply with or observe any of the conditions, provisions, terms, covenants or representations contained in this Agreement, including any Attachment hereto, and such failure having continued uncured or without the defaulting party commencing to diligently cure for five (5) days after notice thereof in writing is mailed by the injured party to the defaulting party; provided, however, that if such event of default cannot be cured within such five (5) day period and RHDC has diligently commenced efforts to cure, RHDC shall have such reasonable time to diligently prosecute such cure to completion. If a different period or notice requirement is specified for any particular default under any other provision of this Agreement, including any of the Attachments hereto, the specific provision shall control.

9.2 Legal Actions

(a) Institution of Legal Actions; Venue

In addition to any other rights or remedies and subject to the restrictions otherwise set forth in this Agreement, any Party may institute an action at law or equity to cure, correct or remedy any Event of Default, to recover damages as provided herein for any Event of Default or to obtain any other remedy consistent with the purpose of this Agreement. Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in the Superior Court for the State of California, County of Riverside, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

(b) Applicable Law

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

(c) Acceptance of Service of Process

In the event that any legal action is commenced by RHDC against the City, service of process on the City shall be made by personal service upon the City's Clerk, or in such other manner as may be provided by law. In the event that any legal action is commenced by the City against RHDC, service of process on RHDC shall be made by personal service upon any owner, general partner, officer or manager of RHDC or in such other manner as may be provided by law, whether made within or without the State of California.

(d) Rights and Remedies are Cumulative

To the extent permitted by law and except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by any Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same Event of Default or any other Event of Default by the other Party.

(e) Inaction Not a Waiver of Default

Any failures or delays by any Party 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 or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

(f) Specific Performance

Upon an Event of Default, the non-defaulting Party, at its option, may thereafter (but not before) commence an action seeking specific performance and/or other equitable relief to enforce the terms of this Agreement pertaining to such default.

(g) Attorneys' Fees

In the event that either party hereto brings any action or files any proceeding in connection with the enforcement of its respective rights under the CDBG Regulatory Agreement and all other documents contemplated by the Agreement, as a consequence of any breach by the other party of its obligations thereunder, the prevailing party in such action or proceeding shall be entitled to recover its reasonable attorneys' fees, costs, and out-of-pocket expenditures. The attorneys' fees so recovered shall include fees for prosecuting or defending any appeal and shall be awarded for any supplemental proceedings until the final judgment is satisfied in full. In addition to the foregoing award of attorneys' fees, the prevailing party in any lawsuit on the City Regulatory Agreement shall also be entitled to its attorneys' fees incurred in any post-judgment proceedings to collect or enforce the judgment. In addition to the foregoing, RHDC agrees to pay or reimburse the City, upon demand by the City, for all costs incurred by the City in connection with enforcement of the CDBG Regulatory Agreement, including without limitation, reasonable attorneys' fees and costs, if there shall be filed by or against RHDC any proceedings under any federal or state bankruptcy or insolvency laws, whether the City is a creditor in such proceedings

or otherwise.

9.3 Rights of Termination and Damages

(a) Termination by RHDC

Provided RHDC is not in default of any of the terms and conditions of this Agreement, then in the Event of Default by the City, RHDC shall have the right to terminate this Agreement by written notice to both in accordance with the provisions of Section 10.1. Upon termination by RHDC pursuant to this Section 9.3, the City may enter into a new agreement with respect to the rehabilitation of the Site and, except as expressly provided to the contrary herein with respect to obligations that survive the termination of this Agreement, there shall be no further rights or obligations between the Parties.

(b) Termination by the City

Provided the City is not in default of any of the terms and conditions of this Agreement, then upon an Event of Default by RHDC, the City shall have the right to terminate this Agreement by written notice to RHDC in accordance with the provisions of Section 10.1. In addition, the City may apply to a court of competent jurisdiction for relief at law or in equity as may be appropriate and permissible.

9.4 Limitation on Damages

Without limiting the generality of the foregoing, the Parties shall not in any event be entitled to, and the Parties hereby waive, any right to seek consequential damages of any kind or nature from any other Party or Parties arising out of or in connection with this Agreement, and in connection with such waiver, the Parties are familiar with and hereby waive the provision of § 1542 of the California Civil Code, which provides as follows:

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

10. GENERAL PROVISIONS

10.1 Notices, Demands and Communications Between the Parties

Unless otherwise specified in this Agreement, it shall be sufficient service or giving of any notice, request, certificate, demand, or other communication if the same is sent by (and all notices required to be given by mail will be given by) first-class registered or certified mail, postage prepaid, return receipt requested, or by private courier service which provides evidence of delivery. Unless a different address is given by any party as provided in this Section, all such

communications will be addressed as follows:

To RHDC: Riverside Housing Development Corporation
Attn: President
4250 Brockton Avenue
Riverside, CA 92501

To City: City of Riverside
Attn: City Manager
3900 Main Street
Riverside, CA 92522

Copy: City of Riverside – Office of the City Attorney
City Hall
3900 Main Street
Riverside, CA 92522

Any Notice shall be deemed received immediately if delivered by hand and shall be deemed received on the third (3rd) day from the date it is postmarked if delivered by registered or certified mail.

10.2 Conflicts of Interest

No member, official or employee of RHDC shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law.

10.3 Warranty Against Payment of Consideration of Agreement

RHDC warrants that it has not paid or given and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services, such as project managers, architects, engineers, attorneys, and public relations consultants.

10.4 Nonliability of Authority Officials and Employees

No member, official, employee, representative or agent of the Authority shall be personally liable to RHDC, or any successor in interest, in the event of any default or breach by the Authority or for any amount which may become due to RHDC or successor, or on any obligation under the terms of this Agreement.

10.5 Nonliability of City Officials and Employees

No member, official, employee, representative or agent of the City shall be

personally liable to RHDC, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to RHDC or successor, or on any obligation under the terms of this Agreement.

10.6 Approval by Parties

Approvals required of the Parties shall be given within the time set forth in the Schedule of Performance or, if no time is given, within a reasonable time. Wherever this Agreement requires the Parties to approve any contract, document, plan, proposal, specification, drawing or other matter, such approval shall not be unreasonably withheld or delayed. In the event that a Party declines to approve any contract, document, plan, proposal, specification, drawing or other matter, such denial shall be in writing and shall include the reasons for such denial. The Party considering the request for such approval shall use commercially reasonable efforts to respond to such request for approval within fifteen (15) days of receipt, unless expressly provided to the contrary herein.

10.7 Plans and Data

If this Agreement is terminated, the City shall have the right, but not the obligation, to purchase from RHDC all plans, drawings, studies and related documents concerning the Project within RHDC's possession and control, without representation or warranty. The purchase price for all or any part of such materials shall be their cost to RHDC, less amounts already disbursed to RHDC from the City CDBG Funds for such purposes.

10.8 Force Majeure

In addition to specific provisions of this Agreement, performance by any party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes, lock-outs; riots; floods; earthquakes, fires; casualties, acts of God or any other deity; acts of the public enemy; epidemics; pandemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation, including litigation challenging the validity of this transaction or any element thereof, including the acquisition of the Site, or any portion thereof; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or suppliers; acts of another party; acts or failure to act of any other public or governmental agency or entity; or any other causes beyond the control or without the fault of the party claiming an extension of time to perform or relief from default, including, without limitation, the allocation of City revenues to the State of California by a legislative act to fund deficits in the state budget. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by mutual agreement among the Parties. That notwithstanding, if said prevention or delay extends for one (1) year, any party, by notice in writing to the other, may terminate this Agreement.

10.9 Applicable Law; Interpretation

The laws of the State of California shall govern the interpretation and enforcement of this Agreement. This Agreement shall be construed as a whole and in accordance with its fair meaning and as though both of the parties participated equally in its drafting. Captions and organizations are for convenience only and shall not be used in construing meaning.

10.10 Mutual Cooperation

Each party agrees to cooperate with the other in this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful or appropriate to carry out the purposes and intent of this Agreement.

10.11 Groundbreaking and Grand Openings

To ensure proper protocol and recognition of the City Council, RHDC shall cooperate with City staff in the organization of any Project-related groundbreaking, grand openings or any other such inaugural events/ceremonies celebrating the development which is the subject of this Agreement.

10.12 Independent Contractor

The parties agree that RHDC, in the performance of this Agreement, shall act as and be an independent contractor and shall not act in the capacity of an agent, employee or partner of the City.

11. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

This Agreement includes thirty (30) pages and Attachment Nos. 1 through 8, referenced and incorporated into this Agreement herein, and which constitute the entire understanding and agreement of the Parties. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterpart shall constitute one and the same instrument. In the event that any signature is delivered by facsimile or electronic transmission, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as though such facsimile or electronic signature page were an original thereof.

Except as otherwise provided herein, this Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Parties and all amendments hereto must be in writing and signed by the appropriate authorities of the Parties.


[SIGNATURES ON FOLLOWING TWO (2) PAGES.]

IN WITNESS WHEREOF, the Parties have signed this Agreement as of the date set opposite their signatures.

Dated: 10/25/22

“RHDC”

RIVERSIDE HOUSING DEVELOPMENT CORPORATION, a California nonprofit corporation

By: 
Name: BRUCE KULPA
Its: CEO

By: _____
Name: _____
Its: _____

“CITY”

Dated: _____

CITY OF RIVERSIDE, a California
charter city and municipal corporation

By: _____
City Manager


ATTESTED TO:

By: _____
City Clerk

APPROVED AS TO FORM:

By: 
Deputy City Attorney

CERTIFIED AS TO FUNDS AVAILABILITY:

BY: 
Chief Financial Officer/ City Treasurer

ATTACHMENT NO. 1

SITE PLAN

SITE PLAN

4292 Cedar Street Housing Rehabilitation



ATTACHMENT NO. 2

SITE LEGAL DESCRIPTION

LEGAL DESCRIPTION

Address: 4292 Cedar Street
APN: 215-201-016

That certain real property located in the City of Riverside, County of Riverside, State of California, described as follows:

Lot 12 of Map of the Erdice Subdivision, as shown by map on file in Book 7, Page 8 of Maps, Records of Riverside County, California.

EXCEPTING THEREFROM that portion described in Grant Deed to the City of Riverside recorded August 10, 1990 as Instrument No. 298103 of Official Records of Riverside County, California.

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors Act.

Curtis C. Stephens 11/1/21 Prep. *CS*
Curtis C. Stephens, L.S. 7519 Date



ATTACHMENT NO. 3

PROJECT DESCRIPTION

PROJECT DESCRIPTION

4292 Cedar Street Housing Rehabilitation

Funding awarded in the amount of **\$471,000** will be utilized for planning, construction, inspection, contract administration and other related costs, as described in the Scope of Work below.

SCOPE OF WORK

a) Project Description

The Riverside Housing Development Corporation (RHDC) proposes to substantially renovate a 900 sq. ft., single-family house and detached 400 sq. ft., garage located at 4292 Cedar Street in Downtown Riverside which would convert the small front of the home into 450 square feet, the back part of the house into 450 square foot and convert the garage into an ADU consisting of 400 square feet ADU for a total of three affordable rental units.

b) Census Tract and Block Group:

Not Applicable. Project provides direct benefit to qualifying low- to moderate-income clientele.

c) Units of Service:

This project meets a CDBG National Objective as an **Activity Benefiting low- and moderate-income: Low-Moderate- Income Clientele (LM)** where at least 51% of the beneficiaries of an activity must be Low- to Moderate-Income (LMI) persons.

An estimated 3 low- to moderate-income (LMI) persons will benefit from the project.

d) List of Specific Activities to be completed:

Substantial renovation of existing structures (house and garage) into 3 affordable housing units. Project expenditures will include:

Site Acquisition will be completed utilizing a different funding source; not part of this funding.

Soft Costs (engineering, architectural, plan check fees, permit fees, lead paint testing and remediation)

Off Site Costs (sewer & water upgrades, utility line upgrades, concrete flatwork)

On Site Costs (complete interior and exterior renovation of existing structures, reconfiguring interior spaces into 3 separate affordable housing units – each unit to have 1 bedroom and 1 bathroom, and kitchen/kitchenette facilities. Exterior landscaping renovations included).

Holding costs (insurance, real estate taxes, temporary fencing, interim utility costs)

Contingency (possible unforeseen or unexpected project development related costs)

Developer fee (Developer staff time and oversight of project)

ATTACHMENT NO. 4

SCHEDULE OF PERFORMANCE

SCHEDULE OF PERFORMANCE

4292 Cedar Street Housing Rehabilitation

Activity	Due Date
NEPA Review Completed	September 2022
CDBG Commitment of Funds	October 2022
Historic Review Completed	January 203
Building Plans Submitted	March 2023
Permits Issued	June 2023
Construction Starts	July 2023
Construction Complete	November 2023
Lease Up	December 2023

ATTACHMENT NO. 5

PROJECT BUDGET

PROJECT BUDGET

4292 Cedar Street Housing Rehabilitation

BUDGET:

Land Acquisition: (different funding source)	\$357,000.00
Soft Costs:	\$38,280.00
Off Site Construction Costs:	\$31,000.00
On Site Construction Costs:	\$276,980.00
Holding Costs:	\$20,000.00
Contingency:	\$44,740.00
<u>Developer Fee:</u>	<u>\$60,000.00</u>
Total Project Cost:	\$828,000.00

EXPECTED FUNDING SOURCES:

CDBG Funds:	\$471,000.00
HOME Funds:	\$255,000.00
Bank Loan:	\$102,000.00
Other Funds:	\$0.00
Total Project Cost:	\$828,000.00

Note: Combined Total Cost for Design, Administration, Inspection, Consultants, Plan Check fees, etc., equals \$118,280 (combined total of Soft Costs, Holding Costs, and Developer Fee)

ATTACHMENT NO. 6

CDBG REGULATIONS

EXHIBIT C

CDBG ATTACHMENTS

- **C-1: SPECIAL EQUAL OPPORTUNITY PROVISIONS**
- **C-2: FEDERAL LABOR STANDARDS PROVISIONS**
- **C-3: SPECIAL CONDITIONS PERTAINING TO HAZARDS SAFETY STANDARDS AND ACCIDENT PREVENTION**
- **C-4: SAMPLE- SITE SIGN FOR HUD CDBG FUNDED PROJECTS**
- **C-5: PROJECT AREA TRAINEES, EMPLOYEES AND BUSINESSES**
- **C-6: NOTICE TO ALL EMPLOYEES REGARDING WAGE RATES (NOTICES IN SPANISH AND ENGLISH)**
- **C-7: DOL PAYROLL AND CERTIFICATION – FORM WH-347 (1 page, front and back; or 2 pages, one sided)**
- **C-8: FEDERAL (DAVIS BACON) WAGE DECISION**

SPECIAL EQUAL OPPORTUNITY PROVISIONS

A. Activities and Contracts Not Subject to Executive Order 11246, as Amended

(Applicable to Federally assisted construction contracts and related subcontracts of \$10,000 and under)

During the performance of this contract, the Contractor agrees as follows:

1. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
2. The Contractor shall post in conspicuous places, available to employees and applicants for Employment, notices to be provided by Contracting Officer setting forth the provisions of this nondiscrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. Contractors shall incorporate foregoing requirements in all subcontracts.

B. Executive Order 11246 (contracts/subcontracts above \$10,000)

1. Section 202 Equal Opportunity Clause

During the performance of this contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous place, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.
- c. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided to the Contract Compliance Officer advising the said labor union or workers' representatives of the Contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and others.
- f. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Contractor will include the provisions of the sentence immediately preceding paragraph (1) and the provision of paragraphs (1) through (7) in every subcontract or purchase order unless excepted by rules, regulations, or orders of the Secretary of labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

2. Notice or Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246). (Applicable to contracts, subcontracts exceeding \$10,000)

- a. The Offertory's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
- b. The goals and timetable for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation (See Vol. 45, No. 194, Federal Register, pages 65976-65991, 10/3/80)

Goals for female participation (6.9%, See Vol. 45, No. 251, Federal Register, pages 85750-85751, 12/3/80)

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area. If the Contractor performs construction work in a geographic area located outside of the covered area, it shall apply the goals established for such geographic area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its Federally involved and non-Federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.d (a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

- c. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
- d. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed, giving the State, County, and City, if any).

3. Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

a. As used in these specifications:

- (1) "Covered area" means the geographical area described in the solicitation from which this contract resulted;

"Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

- (2) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

- (3) "Minority" includes:

(4)

- (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
- (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or Origin, regardless of race);
- (iii) Asian and Pacific Islander (all persons having origins in Any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan native (all persons having Origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identifications).

- b. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
4. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations of all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades, which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees, The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
5. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing contracts in geographical areas where they do not have a Federal or Federally assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
6. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

7. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
8. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
 - d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee program relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meeting, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to school with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
 - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classifications, work assignment and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and supplier, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
9. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation shall not be a defense for the Contractor's noncompliance.

10. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
11. The Contractor shall not use the goals and timetables or affirmative actions standards to discriminate against any person because of race, color, religion, sex, or national origin.
12. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
13. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
14. The Contractor, in fulfilling its obligations under these specifications, shall implement Specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
15. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number where assigned, social security number, race, sex, status (e.g. mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
16. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

C. Certification of Non-segregated Facilities (Over \$10,000)

By the submission of this bid, the bidder, Offertory, applicant or subcontractor certifies that he/she does not maintain or provide for his/her establishments, and that he/she does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. He/she certifies further that he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, Offertory, applicant or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, transportation and housing facilities provided for employees which are segregated on the basis of race, color, religion, or are in fact segregated on the basis of race, color, religion, or otherwise (parking lots, drinking fountains, recreation or entertainment areas). He/she further agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certification from proposed subcontractors prior to the award of subcontract exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

D. Civil Rights Act of 1974

Under Title VI of the Civil Rights Act of 1974, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

E. Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

F. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities

1. The work to be performed under this contract is on a project assisted under the State CDBG program which provides Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

2. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 134, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
3. The contractor will send to each labor organization or representative or workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
4. The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns.
Failure to fulfill these requirements shall subject the applicant or recipient, its contractors or subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR part 135.

G. Age Discrimination Act of 1975

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits or, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

H. Section 504 Handicapped (if \$2,500 or over) Affirmative Action for Handicapped Workers

1. The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals

Without discrimination based upon their physical or mental handicap in all employment practices such as the following: layoff or termination, rates of pay or other forms of, compensation and selection for training, including apprenticeship.

2. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of labor issued pursuant to the Act.
3. In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of labor issued pursuant to the Act.
4. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
5. The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
6. The contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules; regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

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Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

SPECIAL CONDITIONS PERTAINING TO HAZARDS SAFETY STANDARDS AND ACCIDENT PREVENTION

A. Lead-Based Paint Hazards

(Applicable to contracts for construction or rehabilitation of residential structures)

The construction or rehabilitation of residential structures is subject to all HUD Lead-Based Paint regulations including The Lead-Based Paint Poisoning Prevention Act of 1971, The Residential Lead-Based paint Hazard Reduction Act of 1992, and 24 CFR Part 35 "Requirements for Notification, Evaluation and Reduction of Lead-Based paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance", effective September 15, 2000. In particular, but not limited to, the Consultant shall comply with the provisions for the notifications, evaluations, reductions, and abatement of lead-base hazards under Subpart J of said regulation pertaining to rehabilitation.

B. Use of Explosives (Modify as Required)

When the use of explosives is necessary for the prosecution of the work, the Consultant shall observe all local, state and Federal laws in purchasing and handling explosives. The Consultant shall take all necessary precaution to protect completed work neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable, timber, steel or rope mats.

The Consultant shall notify all owners of public utility property of intention to use explosives at least eight hours before blasting is done, close to such property.

Any supervision or direction of use of explosives by the Engineer does not in any reduce the responsibility of the Consultant or his Surety for damages that may be caused by such use.

C. Danger Signals and Safety Devices (Modify as Required)

The Consultant shall make all necessary precautions to guard against damages to property and injury to persons. He shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case the Consultant fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the Consultant. Such action by the Owner does not relieve the Consultant of any liability incurred under these specifications or contract.

INVESTING IN OUR FUTURE



City of Arts & Innovation

SIDEWALK IMPROVEMENTS BARCELONA WAY and CAPISTRANTO WAY

- HUD FUNDED PROJECT
- WARD 3
- CONSTRUCTION: JANUARY 2019 to MARCH 2019

Funded by: U.S. Department of Housing and Urban Development • Community Development Block Grant Program

Equal Opportunity - Affirmative Action Employer • Executive Order 11246 and Section 3 Housing and Urban Development Act of 1968

**WARD 3 PROJECT
RONALDO FIERRO
COUNCILMEMBER**

MAYOR

RUSTY BAILEY

COUNCIL MEMBERS

ERIN EDWARDS

ANDY MELENDREZ

RONALDO FIERRO

CHUCK CONDER

GABY PLASCENIA

JIM PERRY

STEVE HEMENWAY

CITY MANAGER

SCOTT BARBER

PROJECT AREA TRAINEES, EMPLOYEES AND BUSINESSES

The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Housing and Urban Development Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

The Contractor shall send to each labor organization or representative of workers with which Contractor has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or worker's representative of Contractor's commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment training.

Contractor shall include this Section 3 clause in every subcontract for work in connection with the project and shall, at the direction of the City, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. Contractor shall not subcontract with any subcontractor where Contractor has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and shall not let any subcontract unless the subcontractor has first provided Contractor with a preliminary statement of ability to comply with the requirements of these regulations.

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Housing and Urban Development Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the City, its successors, and assigns. Failure to fulfill these requirements shall subject the City, its successors and assigns, and Contractor and Contractor's subcontractors, to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CF Part 135.

NOTE: The project area is defined as the city limits of the City of Riverside, California.

EMPLOYEE RIGHTS

UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

1-866-487-9243
TTY: 1-877-889-5627
www.dol.gov/whd



WH1321 REV 10/17

DERECHOS DEL EMPLEADO BAJO LA LEY DAVIS-BACON

PARA OBREROS Y MECÁNICOS EMPLEADOS EN PROYECTOS DE CONSTRUCCIÓN FEDERAL O CON ASISTENCIA FEDERAL

SALARIOS PREVALECIENTES

No se le puede pagar menos de la tasa de pago indicada en la Decisión de Salarios Davis-Bacon fijada con este Aviso para el trabajo que Ud. desempeña.

SOBRETIEMPO

Se le ha de pagar no menos de tiempo y medio de su tasa básica de pago por todas las horas trabajadas en exceso de 40 en una semana laboral. Existen pocas excepciones.

CUMPLIMIENTO

Se pueden retener pagos por contratos para asegurarse que los obreros reciban los salarios y el pago de sobretiempo debidos, y se podría aplicar daños y perjuicios si no se cumple con las exigencias del pago de sobretiempo. Las cláusulas contractuales de Davis-Bacon permiten la terminación y exclusión de contratistas para efectuar futuros contratos federales hasta tres años. El contratista que falsifique los registros certificados de las nóminas de pago o induzca devoluciones de salarios puede ser sujeto a procesamiento civil o criminal, multas y/o encarcelamiento.

APRENDICES

Las tasas de aprendices sólo se aplican a aprendices correctamente inscritos bajo programas federales o estatales aprobados.

PAGO APROPIADO

Si Ud. no recibe el pago apropiado, o precisa de información adicional sobre los salarios aplicables, póngase en contacto con el Contratista Oficial que aparece abajo:

o póngase en contacto con la División de Horas y Salarios del Departamento de Trabajo de los EE.UU.



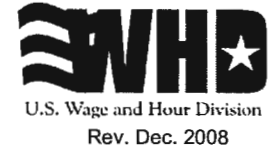
DIVISIÓN DE HORAS Y SALARIOS
DEPARTAMENTO DE TRABAJO DE LOS EE.UU.

1-866-487-9243
TTY: 1-877-889-5627
www.dol.gov/whd



PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)



Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

OMB No.: 1235-0008
Expires: 04/30/2021

NAME OF CONTRACTOR OR SUBCONTRACTOR ADDRESS

PAYROLL NO. FOR WEEK ENDING PROJECT AND LOCATION PROJECT OR CONTRACT NO.

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT. OR ST.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
				HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS		
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

Federal (Davis Bacon) Wage Decision

The most current Federal Wage Decision in effect 10 days prior to the bid opening date must be appended to the Bid Specification and Contract.

The most current Federal Wage Decision in effect 10 days prior to the bid opening date must be appended to the Bid Specification and Contract

Federal (Davis Bacon) Wage Decision

ATTACHMENT NO. 7

REGULATORY AGREEMENT

RECORDING REQUESTED BY)

AND WHEN RECORDED MAIL TO:)

City of Riverside)

3900 Main Street)

Riverside, CA 92522)

Attn: Housing Project Manager)

Project: 4292 Cedar Street)

(Space above for Recorder’s Use Only)

This document is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

REGULATORY AGREEMENT (CDBG)

THIS REGULATORY AGREEMENT (CDBG) (“Regulatory Agreement”) dated for identification purposes only as of _____, 2022, by and between the **CITY OF RIVERSIDE**, a California charter city and municipal corporation (“City”) and **RIVERSIDE HOUSING DEVELOPMENT CORPORATION**, a California not for profit corporation (“Developer”).

RECITALS

Capitalized terms used in these recitals and not otherwise defined shall have the meaning set forth in Section 1 of this Regulatory Agreement.

A. The City is a California charter city and municipal corporation.

B. The Developer is a California not for profit corporation.

C. In furtherance of the City’s affordable housing goals and activities, the City and Developer entered into that certain Community Development Block Grant (CDBG) Rehabilitation Agreement, dated for identification purposes only as of _____, 2022 (“CDBG Rehabilitation Agreement”), which is incorporated herein by this reference and a copy of which is on file as public record of the City at it offices located at 3900 Main Street, Riverside, CA 92522.

D. The Developer owns a fee interest in the parcels described in the Property Legal Description attached hereto as Exhibit “A”.

E. Pursuant to the CDBG Rehabilitation Agreement, the City has agreed to provide financial assistance (“City Grant”) in connection with the development of the Property (“Project”).

F. This Regulatory Agreement is intended to ensure that Developer, its successors, its assigns and every successor in interest to the Property or any part thereof, shall use, maintain and operate the Project in accordance with the terms and conditions of this Regulatory Agreement, including that the CDBG Assisted Units shall be available only to Low to Moderate Income Qualified Tenants at Affordable Rent as specified herein for not less than fifty-five (55) years.

G. The provision of the CDBG Funds to Developer and the completion and operation of the Project pursuant to the terms and conditions of the CDBG Rehabilitation Agreement and this Regulatory Agreement are in the vital and best interest of the health, safety and welfare of the residents of the City of Riverside, and are in accord with the public purposes and provisions of applicable state and local laws.

NOW, THEREFORE, the foregoing recitals are a substantive part of this Regulatory Agreement and in consideration of their mutual covenants and conditions, the Parties hereto agree as follows:

1. DEFINITIONS

The following terms of this Regulatory Agreement shall have the meanings set forth below. Any capitalized terms not defined below shall have the meaning set forth therefor in the Loan Agreement and attachments thereto:

“Affordability Period” means the period commencing upon the recordation of the Release of Construction Covenants and terminating on the fifty-fifth (55th) anniversary thereof.

“Affordable Rent” means amount of monthly rent, including a reasonable utility allowance, that does not exceed the lesser of the maximum allowable rent of thirty (30%) of the annual income of a family whose income equals 50 to 80 percent of the median income for the area as determined by HUD, or any applicable regulations pursuant to any other source of financing secured for the Project, and paid by the Low Income Household or Moderate Income Households, occupying the Affordable Units.

“Affordable Units” means the one (1) single family residence, attached JADU, and detached ADU, at 4292 Cedar Street, required to be maintained and available to, occupied by or held vacant for occupancy to one (1) Low Income Household and two (2) Moderate Income Households. Preference shall be given to households as identified in Section 6.1.

“CDBG Rehabilitation Agreement” is defined in Recital C.

“City” means the City of Riverside, a California charter city and municipal corporation.

“City Manager” means the City Manager of the City of Riverside or his/her designated representative.

“Effective Date” means the Effective Date of the CDBG Rehabilitation Agreement.

“Environmental Laws” means any and all present and future federal, state and local laws (whether under common law, statute, ordinance, rule, regulation or otherwise), court or administrative orders or decrees, requirements of permits issued with respect thereto, and other requirements of governmental authorities relating to the environment or to any Hazardous Substance or Hazardous Substance Activity (including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9601, *et seq.*), as heretofore or hereafter amended from time to time (“CERCLA”), and the applicable provisions of the California Health & Safety Code and the California Water Code, and any and all successor statutes and regulations, orders, decrees, guidelines, or pronouncements promulgated thereunder).

“Event of Default” means the failure of a party to perform any action or covenant required by this Regulatory of Agreement within the time periods provided herein following notice and opportunity to cure, as set forth in Section 9.1 of the CDBG Rehabilitation Agreement.

“Governmental Regulations” means any local, state, and federal laws, ordinances, rules, requirements, resolutions, policy statements and regulations (including, without limitation, those relating to land use, subdivision, zoning, environmental, labor relations, prevailing wage, notification of sale to employees, Hazardous Substance, occupational health and safety, water, earthquake hazard reduction and building and fire codes) bearing on the demolition, alteration, replacement, repair, refurbishing, improvement, construction, maintenance, management, use, or operation of the Project.

“Hazardous Substance” means (i) any chemical, compound, material, mixture or substance that is now or hereafter defined or listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101), as amended from time to time, or now or hereafter otherwise classified or regulated pursuant to any Environmental Laws as a “hazardous substance”, “hazardous material”, “hazardous waste”, “extremely hazardous waste”, “infectious waste”, “toxic substance”, “toxic pollutant” or any other formulation intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, or “EP toxicity”, (ii) any asbestos or asbestos containing material, (iii) any polychlorinated biphenyls (PCB’s), (iv) any ureaformaldehyde, and (v) any petroleum, natural gas, natural gas liquid, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas), ash produced by a resource recovery facility utilizing a municipal solid waste stream, and drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal resources. Notwithstanding the foregoing, “Hazardous Substances” shall not include any chemical, compound, material, mixture or substance used in the normal course of operating an apartment complex, so long as such chemical, compound, material, mixture or substance is used in accordance with Environmental Laws.

“Hazardous Substance Activity” means any actual, proposed or threatened storage, holding, existence or suspected existence, release or suspected release, emission, discharge,

generation, processing, abatement, removal, disposition, treatment, handling or transportation of any Hazardous Substance from, under, into, on, above, around or across the Property or surrounding property or any other use of or operation on the Property or the surrounding property that creates a risk of Hazardous Substance contamination of the Property.

“Housing Project Manager” means that person designated by the City Manager to manage affordable housing projects within the City of Riverside.

“Low Income Household” means a Households whose aggregate gross income is less than fifty percent (50%) of AMI and qualifies as a “low income household” pursuant to 24 CFR § 570.3 or any successor statute.

“Management Plan” means the plan for the management of the Project and marketing of the CDBG units to be submitted by the Developer, as set forth in Section 3.C. of this Regulatory Agreement.

“Moderate Income Household” means a Household whose aggregate gross income is less than eighty percent (80%) of AMI and qualifies as a “moderate income household” pursuant to 24 CFR § 570.3 or any successor statute.

“Notice” means a notice in the form prescribed by Section 10.

“Operating Reserve” is defined in Section 3.E. of this Regulatory Agreement.

“Parties” means the City and Developer; **“Party”** means the City or the Developer.

“Project” means predevelopment activities related to the Site and the rehabilitation of a residential unit into a single unit, an ADU and Junior ADU all of which are CDBG Assisted Units, and any improvements appurtenant thereto by the Developer upon the Site in accordance with Governmental Regulations and all applicable permits and entitlements.

“Property” means that certain real property described in the Property Legal Description.

“Property Legal Description” means the legal description of the fee interest in the Property which is attached hereto as Exhibit “A”.

“Property Manager” means the resident Project manager selected and retained by Developer.

“Qualified Tenant” means those households seeking to rent a CDBG Assisted Unit who satisfy all of the following requirements:

a. Upon execution of a lease with Developer each member of the household will occupy the CDBG Assisted Unit as his or her principal residence, and each member intends thereafter continuously to occupy such CDBG Assisted Unit as his or her principal residence.

b. The household is qualified under the CDBG Regulations and is a Low Income Household or a Moderate Income Household.

c. The household has been selected in accordance with the Management Plan.

“Regulatory Agreement” means this Regulatory Agreement, including all of the Attachments hereto, by and between the Parties.

“Section 3 Clause” means and refers to Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, as amended. For purposes of this Section 3 Clause and compliance thereto, whenever the word “contractor” is used it shall mean and include, as applicable, Developer, contractor(s), and subcontractor(s). The particular text to be utilized in (a) any and all contracts of any contractor doing work covered by Section 3 entered into on or after the Effective Date and (b) notices to contractors doing work covered by Section 3 pursuant to contracts entered into prior to the Effective Date shall be in substantially the form of the following, as reasonably determined by City, or as directed by HUD or its representative:

a. “The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (“Section 3”). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons [inclusive of Very Low-Income Persons, Very Low Income Households, and Very Low Income Tenants served by the Project], particularly persons who are recipients of HUD assistance for housing.

b. The parties to this contract agree to comply with HUD’s regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

c. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the contractor’s commitments under this Section 3 clause, and will post copies of notices in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number of job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

d. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

e. The contractor will certify that any vacant employment positions, including training positions, that are filled (a) after the contractor is selected but before the contract is executed, and (b) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

f. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

g. With respect to work performed in connection with Section 3 covered Indian Housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible, (a) preference and opportunities for training and employment shall be given to Indians, and (b) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b)."

"Site Plan" means the map of the Property which is attached as Attachment No. 1 to the CDBG Rehabilitation Agreement.

"Unit" or **"Units"** means the three (3) dwelling units within the Project to be rehabilitated and operated by the Developer on the Property.

2. USE RESTRICTIONS

A. **Permitted Uses.** Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that Developer, and such successors and assigns, shall (i) construct the Project; and (ii) make available, restrict occupancy to, and rent the CDBG Assisted Units at an Affordable Rent to Qualified Tenants.

During the Affordability Period, all uses undertaken by Developer on the Property shall conform to this Regulatory Agreement and to all applicable provisions of the Riverside Municipal Code and Governmental Regulations. None of the CDBG Assisted Units on the Property shall at any time be utilized on a transient basis (unless consistent with the CDBG Regulations), nor shall the Property or any portion thereof ever be used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing home, sanitarium or rest home. Developer shall not convert the Property to condominium ownership during the Affordability Period without the prior written approval of City, which approval City may grant, withhold or deny in its sole and absolute discretion.

B. **Affordable Housing.** Commencing upon and throughout the Affordability Period, Developer covenants and agrees that all of the CDBG Assisted Unit in the Project shall be operated

and maintained for affordable housing purposes available for occupancy exclusively to Qualified Tenants at an Affordable Rent in accordance with the provisions of this Regulatory Agreement.

In the event Developer desires to change the affordable housing, maintenance, or operation requirements for the Project from the specific requirements set forth in this Regulatory Agreement in order to comply with a subsequently enacted amendment to the CDBG Program, Developer shall notify City in writing of such proposed change and the amendment related thereto at least thirty (30) days prior to implementing such change. In the event City disapproves of such change and Developer's interpretation of the amendment related thereto, City shall notify Developer of its disapproval in writing and the parties shall seek clarification from the appropriate HUD Field Office. Only if HUD concurs with Developer's interpretation of the CDBG Program shall Developer be permitted to implement the proposed change.

C. **Income Requirements.** Prior to leasing a CDBG Assisted Unit and annually thereafter, Developer shall certify the eligibility of each tenant applicant as a Qualified Tenant. The Developer shall, upon request by City, complete such certification on forms provided by the City. Developer shall submit such income certification and such additional information as may be required prospectively by City, the State of California or HUD. Such supporting documentation shall include true copies of income tax returns from the tenant applicant for the most recent tax year in which a return was filed and at least one of the following:

- (1) two (2) paycheck stubs from the tenant's two (2) most recent pay periods;
- (2) an income verification certification from the tenant's employer;
- (3) an income verification certification from the Social Security Administration and/or the California Department of Social Services if the tenant receives assistance from such agencies, or
- (4) an alternate form of income verification reasonably requested by City if none of the above forms of verification is available to Developer.

D. **Determination of Affordable Rent.** All CDBG Assisted Units shall be rented at Affordable Rent.

(1) **Rent Schedule and Utility Allowance.** The Developer will use the Riverside County Housing Authority Utility Allowance Calculator to establish maximum monthly allowances for utilities and services to be used by the Developer in calculating Affordable Rent. The Developer shall submit to the Housing Project Manager for review and approval the Affordable Rent proposed by Developer for all of the CDBG Assisted Units. The maximum monthly rent must be recalculated by Developer and reviewed and approved by the City annually.

(2) **Increases in Tenant Income.** Units shall qualify as CDBG Assisted Units as required by this Regulatory Agreement despite a temporary noncompliance with this Section D, if the noncompliance is caused by increases in the incomes of existing tenants and if actions satisfactory to HUD are being taken to ensure that all vacancies are filled in accordance with this Section until the noncompliance is corrected.

A Household occupying a CDBG Assisted Unit whose income increases to an amount that exceeds the maximum qualifying income of a Qualified Tenant may continue to occupy his or her Unit.

(3) **Adjustment of Affordable Rent.** Affordable Rent may change as changes in the applicable gross rent amounts, the income adjustments, or the monthly allowance for utilities and services warrant. Any increase in rents is subject to the provisions of outstanding leases. Developer must provide Households occupying the CDBG Assisted Units not less than thirty (30) days prior written notice before implementing any rent increase.

E. **Tenant Protections.**

(1) **Rental Agreement/Lease.** Prior to rental of any of the CDBG Assisted Units, the Developer shall submit a standard lease form to the Housing Project Manager for approval, which approval shall not unreasonably be withheld or delayed, and must be for not less than six (6) months, unless otherwise mutually agreed by the tenant and the Developer. The Developer shall enter into a lease, in the form approved by the Housing Project Manager, with each Qualified Tenant of a CDBG Assisted Unit.

(2) **Prohibited Rental Agreement/Lease Terms.** Developer shall not permit the lease to contain any provision that is prohibited by Section 24 CFR § 966.6.

F. **Termination of Tenancy.** The Developer may not terminate the tenancy of a tenant of the Project except for an uncured violation(s) of the terms and conditions of the lease; for violation of applicable federal, state, or local law; or for other good cause. Any termination or refusal to renew must be preceded by not less than thirty (30) day's notice, or as permitted by state law, by the Developer's service upon the tenant of a written notice specifying the grounds for the action.

G. **Tenant Selection.** No later than six (6) months prior to the date construction of the Project is anticipated to be completed, Developer shall submit to City, for its review and approval, Developer's written tenant selection plan (the "Tenant Selection Plan").

H. **Compliance with Use and Occupancy Laws.** Developer agrees that for each lease, the Developer shall comply with all applicable state and local laws, statutes, ordinances, rules and regulations, which in any way restrict the use and occupancy and resale of the Property.

3. **OPERATION AND MANAGEMENT OF THE PROJECT**

A. **General Maintenance.** Developer shall maintain the Property and all improvements thereon, including lighting and signage, in good condition, free of debris, waste and graffiti, and in compliance with the Riverside Municipal Code and HUD's Uniform Physical Conditions Standards ("UPCS", 24 CFR, Part 5 and 200). Developer shall maintain the improvements and landscaping on the Property in accordance with the Maintenance Standards (as hereinafter defined). Such Maintenance Standards shall apply to all buildings, signage, lighting, landscaping, irrigation of landscaping, architectural elements identifying the Property and any and all other improvements on the Property. To accomplish the maintenance, Developer shall either

staff or contract with and hire licensed and qualified personnel to perform the maintenance work, including the provision of labor, equipment, materials, support facilities, and any and all other items necessary to comply with the requirements of this Regulatory Agreement. Developer and its maintenance staff, contractors or subcontractors shall comply with the following standards (collectively, "Maintenance Standards"):

(1) The Property shall be maintained in conformance and in compliance with the approved Development Plans, as finalized, and reasonable maintenance standards for comparable first quality affordable housing projects, including but not limited to painting and cleaning of all exterior surfaces and other exterior facades comprising all private improvements and public improvements to the curblin. The Property shall be maintained in good condition and in accordance with the custom and practice generally applicable to comparable first quality affordable apartment complexes in the City.

(2) Landscape maintenance shall include, but not be limited to: watering/irrigation; fertilization; mowing; edging; trimming of grass; tree and shrub pruning; trimming and shaping of trees and shrubs to maintain a healthy, natural appearance and safe road conditions and visibility, and irrigation coverage; replacement, as needed, of all plant materials; control of weeds in all planters, shrubs, lawns, ground covers, or other planted areas; and staking for support of trees.

(3) Clean-up maintenance shall include, but not be limited to: maintenance of all sidewalks, paths and other paved areas in clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris or other matter which is unsafe or unsightly; removal of all trash, litter and other debris from improvements and landscaping prior to mowing; clearance and cleaning of all areas maintained prior to the end of the day on which the maintenance operations are performed to ensure that all cuttings, weeds, leaves and other debris are properly disposed of by maintenance workers.

City agrees to notify Developer in writing if the condition of the Property does not meet with the Maintenance Standards and to specify the deficiencies and the actions required to be taken by Developer to cure the deficiencies. Upon notification of any maintenance deficiency, Developer shall have thirty (30) days within which to correct, remedy or cure the deficiency. If the written notification states the problem is urgent relating to the public health and safety of the City, then Developer shall have twenty-four (24) hours to rectify the problem. In the event Developer does not maintain the Property in the manner set forth herein and in accordance with the Maintenance Standards, City shall have, in addition to any other rights and remedies hereunder, the right to maintain the Property, or to contract for the correction of such deficiencies, after written notice to Developer, and Developer shall be responsible for the payment of all such costs incurred by City.

B. Management of the Project.

(1) **Property Manager.** Developer shall cause the Project to be managed in a prudent and business-like manner, consistent with property management standards for other comparable first quality, well-managed rental housing projects in Riverside County, California. If

Developer contracts with a property management company or property manager to operate and maintain the Project (“Property Manager”), the selection and hiring of the Property Manager shall be subject to prior written approval of the City Manager, which approval shall not be unreasonably withheld provided that the Property Manager has prior experience with rental housing projects and properties comparable to the Project.

(2) **Management Plan.** Prior to the initial or any subsequent disbursement of the City Grant Proceeds, Developer shall prepare and submit to the City for review and approval an updated and supplemented management plan which includes a detailed plan and strategy for long term operation, maintenance, repair, security, social/supportive services for, and marketing of the Project, method of selection of tenants, rules and regulations for tenants, and other rental and operational policies for the Project (“Management Plan”). Following the approval of the Management Plan shall not be unreasonably withheld or delayed. Subsequent to approval of the Management Plan by the City the ongoing management and operation of the Project shall be in compliance with the approved Management Plan. Developer may from time to time submit to the City proposed amendments to the Management Plan, which are also subject to the prior written approval of the City.

C. **Capital Replacement Reserve Requirements.** The Developer shall, or shall cause the Property Manager to set aside an amount equal to Two Hundred Fifty Dollars (\$250) per Unit per year (“Capital Replacement Reserve” ”), or as otherwise approved by the equity investor and/or other lenders. Funds in the Capital Replacement Reserve shall be used for capital replacements to the Project fixtures and equipment which are normally capitalized under generally accepted accounting principles. Interest on funds in the Capital Replacement Reserve shall remain in the Capital Replacement Reserve. The non-availability of funds in the Capital Replacement Reserve does not in any manner relieve the Developer of the obligation to undertake necessary capital repairs and improvements and to continue to maintain the Project in the manner prescribed herein. Developer, at its expense, shall submit to the Housing Project Manager annually an accounting for the Capital Replacement Reserve. City approval is not required for withdrawals from the Capital Replacement Reserve in accordance with this Regulatory Agreement. Not less than once per year, Developer, at its expense, shall submit to City an accounting for the Capital Replacement Reserve, preferably set forth in an annual financial statement, demonstrating compliance with this Section 3.D.

D. **Operating Reserve Requirements.** Developer shall not be required to maintain and Operating Reserve for this Project

E. **Operating Budget.** Developer shall submit to City on not less than an annual basis the Operating Budget for the Project that sets forth the projected Operating Expenses for the upcoming year. City shall not unreasonably withhold, condition, or delay City’s approval of the annual Operating Budget, or any amendments thereto.

F. **Monitoring and Recordkeeping.** Developer shall comply with all applicable recordkeeping and monitoring requirements set forth in the CDBG Program, and shall annually complete and submit to City a Certification of Continuing Program Compliance in such form as

provided by City. Representatives of City shall be entitled to enter the Property, upon at least twenty-four (24) hours' notice, to monitor compliance with this Regulatory Agreement, to inspect the records of the Project, and to conduct an independent audit or inspection of such records. Developer agrees to cooperate with City in making the Property and all CDBG Assisted Units thereon available for such inspection or audit. Developer agrees to maintain records in a businesslike manner, to make such records available to City upon seventy-two (72) hours' notice, and to maintain such records for the entire Affordability Period.

G. **Units Available to the Disabled.** Borrower shall construct the Development in compliance with all applicable federal and state disabled persons accessibility requirements including but not limited to the Federal Fair Housing Act; Section 504 of the Rehabilitation Act of 1973; Title II and/or Title III of the Americans with Disabilities Act; and Title 24 of the California Code of Regulations.

H. **Right To Enter To Cure.** If at any time the Developer fails to maintain the Property in accordance with this Section 3 and such condition is not corrected within seventy-two (72) hours after written notice from the City to Developer with respect to graffiti, debris, waste material, and general maintenance, or sixty (60) days after written notice from the City with respect to landscaping and building improvements with such additional time as may be reasonably necessary to diligently prosecute the cure to completion, then the City, in addition to whatever remedies it may have at law or at equity, shall have the right to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Property, and to attach a lien upon the Property, or to assess the Property, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by the City and/or costs of such cure, including a fifteen percent (15%) administrative charge, which amount shall be promptly paid by the Developer upon demand.

I. **Damage and Destruction; Developer's Duty to Rebuild.** If all or any portion of the Property and the improvements thereon is damaged or destroyed by fire or other casualty, it shall be the duty of the Developer to rebuild, repair or construct said portion of the Property and/or the improvements in a timely manner which will restore it to Riverside Municipal Code or Building Code compliance condition as approved by the City, but only to the extent of available insurance proceeds.

In furtherance of the requirements of this Section 3.J., Developer shall keep the improvements on the Property insured by carriers at all times satisfactory to the City against loss by fire, rent loss and such other hazards, casualties, liabilities and contingencies as included within an all risk extended coverage hazard insurance policy as required by the Loan Agreement. In the event of loss, Developer shall give prompt notice to the insurance carrier and the City.

If the Property is abandoned by the Developer, or if Developer fails to respond to the City within thirty (30) days from the date notice is mailed by City to Developer that the insurance carrier offers to settle a claim for insurance benefits, City is authorized to collect and apply the insurance proceeds at its option either to restoration or repair of the Property.

J. **Time Limitation.** Upon damage to the Property or the improvements thereon, the Developer shall be obligated to proceed with all due diligence hereunder and commence reconstruction within two (2) months after the receipt of insurance proceeds and complete reconstruction within a term deemed acceptable by the parties after damage occurs, or if appropriate, to demolition and vacation of the Property within two (2) months, unless prevented by causes beyond its reasonable control.

4. MISCELLANEOUS PROJECT REQUIREMENTS

A. **Equal Opportunity.** As set forth in The Fair Housing Act as currently exists or as may be amended from time to time, no person shall be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with CDBG funds.

B. **Displacement, Relocation and Acquisition.** Developer shall take all reasonable steps to minimize the displacement of persons from the Property as a result of implementation of this Regulatory Agreement and shall comply with all applicable relocation laws.

C. **Conflict of Interest.** Developer will hereby comply with all requirements set forth regarding conflict of interest provisions as they apply in 24 CFR 570 of the CDBG Regulations as currently exists or as may be amended from time to time.

5. COVENANTS

A. **Affordability Period.** The provisions of this Regulatory Agreement shall apply to the Property throughout the Affordability Period. This Regulatory Agreement shall bind any successor or assign of the Developer whether a change in interest occurs voluntarily or involuntarily, by operation of law or otherwise, with or without the approval of City, except as expressly released by the City. City makes the City Grant on the condition, and in consideration of, this provision, and would not do so otherwise.

B. **Covenants to Run with the Land.** City and Developer hereby declare their express intent that the covenants and restrictions set forth in this Regulatory Agreement shall run with the land, and shall bind all successors to Developer. Each and every contract, deed or other instrument hereafter executed covering or conveying an interest in the Property or any portion thereof shall be held conclusively to have been executed, delivered and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless City expressly releases such conveyed portion of the Property from the requirements of this Regulatory Agreement.

6. ENFORCEMENT AND REMEDIES

A. **Remedies.** Subject to the notice and cure rights of the Developer set forth in Section 8.1 of the CDBG Rehabilitation Agreement, in the Event of Default of any of the terms or conditions of this Regulatory Agreement by Developer, its administrators or assigns, City may pursue the remedy thereof by any and all means of enforcement, both in equity and at law, as

provided by the laws of the State of California, including, but not limited to, injunctive relief and/or specific performance.

B. **Rights of the City.** The City has the right to enforce all of the provisions of this Regulatory Agreement. This Regulatory Agreement does not in any way infringe on the right or duties of the City to enforce any of the provisions of the Riverside Municipal Code including, but not limited to, the abatement of dangerous buildings. In addition to the general rights of enforcement, the City shall have the right, through its agents and employees, to enter upon any part of the Property for the purpose of enforcing the Riverside Municipal Code, and the ordinances and other regulations of the City, and for maintenance and/or repair of any or all publicly owned utilities.

C. **Jurisdiction and Venue.** Legal actions must be instituted and maintained in the Superior Court of the County of Riverside, State of California. Developer specifically waives any rights provided to it pursuant to California Code of Civil Procedure Section 394 or state statutes or judicial decisions of like effect.

D. **Right of Entry.** The City has the right of entry at reasonable hours and upon and after reasonable attempts to contact Developer, to effect emergency repairs or maintenance which the Developer has failed to perform. Subsequent to sixty (60) days written notice to the Developer specifically outlining the noncompliance, the City shall have the right of entry at reasonable hours to enforce compliance with this Regulatory Agreement which the Developer has failed to perform.

E. **Costs of Repair.** The costs borne by the City of any such repairs or maintenance emergency and/or non-emergency, shall become a charge for which Developer shall be responsible; and may, if unpaid, be assessed as a lien against the Property.

F. **Cumulative Remedies.** The remedies herein provided for breach of the covenants contained in this Regulatory Agreement shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

G. **Failure to Enforce.** The failure to enforce any of the covenants contained in this Regulatory Agreement shall not constitute a waiver of the right to enforce the same thereafter.

7. **HOLD HARMLESS**

Developer agrees to defend and to hold City and its respective officers, agents, employees, representatives, elected and appointed boards and officials harmless from liability for damage or claims for any type of damage including, but not limited to, personal injury and claims for property damage, which may arise from the activities of Developer or those of Developer's contractors, subcontractors, agents, employees or other persons acting on Developer's behalf and which relate to the Project. Developer agrees to and shall defend City and its respective officers, agents, employees, representatives, elected and appointed boards and officials from any action for damages caused or alleged to have been caused by reason of Developer's activities in connection with the Project.

8. THIRD PARTY BENEFICIARIES

This Regulatory Agreement is made and entered into for the sole protection and benefit of the City, its successors and assigns, and Developer, its permitted successors and assigns, and no other person or persons shall have any right of action hereon.

9. RECORDATION

Developer agrees that this Regulatory Agreement and any amendment or cancellation hereof shall be recorded in the official records of Riverside County by Developer within ten (10) days of the date of this Regulatory Agreement and within ten (10) days after any amendment or cancellation hereof.

10. NOTICE

Written notice, demands and communications between City and Developer shall be sent by first-class registered or certified mail, postage prepaid, return receipt requested, or by private courier service which provides evidence of delivery. Unless a different address is given by any party as provided in this Section, all such communications will be addressed as follows:

To Developer: Riverside Housing Development Corporation
4250 Brockton Avenue
Riverside, California 92501
Attn: Executive Director

To City: City of Riverside
Attn: City Manager
3900 Main Street
Riverside, California 92522

Copies to: City of Riverside
Attn: City Attorney
3900 Main Street
Riverside, California 92522

Any Notice shall be deemed received immediately if delivered by hand and shall be deemed received on the third day from the date it is postmarked if delivered by registered or certified mail. Each party shall promptly notify the other party of any change(s) of address to which notice shall be sent. Any address for service of notice on any party may be changed by that party serving a notice upon the other of the new address, except that any change of address to a post office box shall not be effective unless a street address is also specified for use in effectuating personal service.

11. WAIVER

Failure by a party to insist upon the strict performance of any of the provisions of this Regulatory Agreement by the other party or the failure by the party to exercise its rights under or upon a default by the other party herein shall not constitute a waiver of such party's right to demand strict compliance from such other party in the future.

12. SEVERABILITY

If any one or more of the provisions contained in this Regulatory Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Regulatory Agreement, and this Regulatory Agreement shall be construed as if such invalid, illegal or unenforceable provision(s) had never been contained herein.

13. CAPTION AND PRONOUNS

The captions and headings of the various sections of this Regulatory Agreement are for convenience only, and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular, and masculine, feminine and neuter shall be freely interchangeable.

14. MODIFICATION OF AGREEMENT

This Regulatory Agreement may be modified or amended by mutual consent of the Developer and City provided that all amendments are in writing and signed by all of the parties hereto.

15. SOLE AND ONLY AGREEMENT

This Regulatory Agreement, the Loan Agreement and all of the attachments thereto and incorporated therein integrate all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the Property. In the event of a conflict between this Regulatory Agreement and Loan Agreement, the provisions of this Regulatory Agreement shall control.

City and Developer acknowledge and agree that neither of them has made any representation with respect to the subject matter of this Regulatory Agreement or any representations inducing the execution and delivery, except representations set forth herein, and each party acknowledges that it has relied on its own judgment in entering this Regulatory Agreement. City and Developer further acknowledge that all statements or representations that heretofore may have been made by either of them to the other are void and of no effect, and that neither of them has relied thereon in its dealings with the other.

IN WITNESS WHEREOF, the parties hereto have executed this Regulatory Agreement as of the date and year set forth below.

“DEVELOPER”

RIVERSIDE HOUSING DEVELOPMENT CORPORATION, a California nonprofit public benefit corporation

Dated: _____

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

“CITY”

CITY OF RIVERSIDE, a California charter city and municipal corporation

Dated: _____

By: _____
City Manager

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

EXHIBIT "A"
LEGAL DESCRIPTION

LEGAL DESCRIPTION

Address: 4292 Cedar Street
APN: 215-201-016

That certain real property located in the City of Riverside, County of Riverside, State of California, described as follows:

Lot 12 of Map of the Erdice Subdivision, as shown by map on file in Book 7, Page 8 of Maps, Records of Riverside County, California.

EXCEPTING THEREFROM that portion described in Grant Deed to the City of Riverside recorded August 10, 1990 as Instrument No. 298103 of Official Records of Riverside County, California.

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors Act.

Curtis C. Stephens 11/1/21 Prep. CS
Curtis C. Stephens, L.S. 7519 Date



D. The City has conclusively determined that the construction of the Project required by the Agreement, and the Regulatory Agreement on the Site has been satisfactorily completed.

NOW, THEREFORE, City hereto certifies as follows:

1. As provided in the Regulatory Agreement, the City does hereby certify that all of the construction of the Project on the Site has been fully and satisfactorily performed and completed in accordance with the Agreement and the Regulatory Agreement.

2. After the recordation of this Release any person or entity then owning or thereafter purchasing, or otherwise acquiring any interest in the Site will not (because of such ownership, purchase, or acquisition) incur any obligation or liability under the Disposition Agreement, or the Regulatory Agreement to construct the Project, however, such party shall be bound by any and all of the covenants, conditions, and restrictions concerning the use, maintenance and operation of the Site which survive such recordation.

3. This Release is not a notice of completion as referred to in Section 3093 of the California Civil Code.

IN WITNESS WHEREOF, the City has executed this Release as of the date set forth above.

CITY OF RIVERSIDE, a California charter city and municipal corporation

By: _____
City Manager

ATTEST:

By: _____
City Clerk

EXHIBIT "A"
LEGAL DESCRIPTION

Address: 4292 Cedar Street
APN: 215-201-016

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This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors Act.

Curtis C. Stephens 11/1/21 Prep. *CS*
Curtis C. Stephens, L.S. 7519 Date

