

HOME INVESTMENT PARTNERSHIPS LOAN AGREEMENT

(4292 CEDAR STREET)

by and between

CITY OF RIVERSIDE

and

RIVERSIDE DEVELOPMENT HOUSING CORPORATION

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ATTACHMENTS

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ATTACHMENT NO. 2	SITE LEGAL DESCRIPTION
ATTACHMENT NO. 3	PROJECT DESCRIPTION
ATTACHMENT NO. 4	SCHEDULE OF PERFORMANCE
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ATTACHMENT NO. 10	RELEASE OF CONSTRUCTION COVENANTS
ATTACHMENT NO. 11	REQUEST FOR NOTICE OF DEFAULT

HOME INVESTMENT PARTNERSHIPS LOAN AGREEMENT

(4292 Cedar Street)

THIS HOME INVESTMENT PARTNERSHIPS LOAN AGREEMENT (Agreement”) dated for identification purposes only as of _____, 2022, is made and entered into by and between the **CITY OF RIVERSIDE**, a California charter city and municipal corporation (“City”), and **RIVERSIDE HOUSING DEVELOPMENT CORPORATION**, a California nonprofit public benefit corporation whose UEI Number is NGKMFABRZKW9 (“Developer”), with reference to the following:

RECITALS

The following Recitals are a substantive part of this Agreement. Capitalized terms used in these Recitals and not otherwise defined shall have the meaning set forth in Section 1.1.

A. The City is a municipal corporation, incorporated as a charter city under to the laws of the State of California. The City has adopted a Housing Element to its General Plan 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.

B. The City has received Home Investment Partnerships Act funds from the United States Department of Housing and Urban Development (“HUD”) pursuant to the Cranston-Gonzales National Housing Act of 1990 (the “HOME Funds”). The HOME Funds must be used in accordance with the HOME Regulations in order to increase housing for very low and low-income households.

C. The Developer is a California a California nonprofit public benefit corporation organized under the Internal Revenue Code of 1986 at Section 501(c)(3), whose purpose is to acquire, construct, operate and manage residential properties and who is an experienced affordable housing developer and has demonstrated effective control of projects similar in size, scope and level of complexity as the Project here and its commitment to employ professional staff having the knowledge, skills and experience necessary to undertake HOME funded projects.

D. The Developer wishes to acquire certain real property located at 4292 Cedar Street in the City of Riverside, California and further identified as Assessor Parcel No. (APN) 215-201-016 (“Site”) as depicted on the Site Plan (Attachment No. 1) and described in the Site Legal Description (Attachment No. 2).

E. Developer has successfully obtained the other necessary commitments for the funding of the Project and Developer stands ready to proceed with commencement of construction of the Project within the next 12 months.

F. Current market demand in the neighborhood in which the Project is located has been assessed and the City is satisfied that there exist reasonable, credible, and verifiable market support for the Project.

G. By this Agreement, and subject to the terms and conditions herein, the City desires to provide financial assistance to Developer for certain development costs in the form of a HOME Program loan in an amount not to exceed Two Hundred Fifty-Five Thousand Dollars (\$255,000) for the purpose of acquiring the Site, which will be rehabilitated from an existing single family residence to three HOME Assisted Units including one front unit, one Accessory Dwelling Unit, and one Junior Accessory Dwelling Unit for occupancy by Low and Very Low Income Households as permitted by and in accordance with the HOME Program.

H. The implementation of the Project pursuant to the terms and conditions of this Agreement are in the vital and best interest of the City of Riverside 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, the City and the Developer hereby 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, with respect to the HOME Assisted Units, the amount of monthly rent, including a reasonable utility allowance, to be charged by Developer and paid by a tenant household which does not exceed: (i) for a Very Low Income Household, the Low HOME Rent; and (ii) for a Low Income Household, the High HOME Rent. For purposes of calculating Affordable Rent a “reasonable utility allowance” shall be the allowance established by the Housing Authority of the County of Riverside or such lesser allowance reasonably permitted by the City.

“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 HOME Investment Partnerships Loan Agreement, including all of the Attachments hereto, by and between the Parties.

“Capital Replacement Reserve” is defined in Section 6.8.

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

“City Deed of Trust” means the Deed of Trust, Fixture Filing and Assignment of Rents in substantially the form attached as Attachment No. 7 to be executed by the Developer as Trustor, in favor of the City, as Beneficiary, and to be recorded as a lien against the Site securing the City Loan in accordance with the terms and conditions of this Agreement.

“City Loan” means the loan of HOME Program funds set aside for affordable housing activities to Developer in an amount not to exceed Two Hundred Fifty-Five Thousand Dollars (\$255,000).

“City Loan Documents” means the following documents evidencing the City Loan and required as consideration for the City to make the City Loan: (i) the City Promissory Note; (ii) the City Deed of Trust; (iii) the City Regulatory Agreement; (iv) this Agreement.

“City Loan Proceeds” is defined in Section 3.2.4.

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

“City Promissory Note” means the promissory note evidencing the City Loan in substantially the form shown in Attachment No. 6 hereto.

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

“Construction Contract” is defined in Section 5.1.7.

“Developer” means Riverside Housing Development Corporation, a California nonprofit public benefit corporation, and any permitted successors and assigns pursuant to Section 2.2.

“Disbursement Request” is defined in Section 3.2.4.

“Effective Date” means the date upon which this Agreement is executed by the City Manager.

“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 8.1.

“Evidence of Financing” is defined in Section 3.1.

“General Contractor” is defined in Section 5.1.7.

“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.

“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.

“High HOME Rent” means tenant paid rent that is in accordance with Section 92.252(a) of the HOME regulations.

“HOME Assisted Units” means the three (3) units in the Project which shall consist of three (3) 1-bedroom, units available to one Very Low Household and two Low Income Households for which all HOME Regulations apply, including without limitation, Affordable Rent, and HOME occupancy and monitoring requirements. Pursuant to Section 92.252(j) of the HOME Regulations, the HOME Assisted Units shall be a “fixed” designation such that the requirements of this Agreement will be satisfied so long as the total number of HOME Assisted Units remains the same throughout the Affordability Period and each substituted HOME Assisted Unit is comparable in terms of size, features, and number of bedrooms to the originally designated HOME Assisted Units.

“HOME Program” means the HOME Investment Partnerships Act, 42 U.S.C. Section 12701, *et seq.* and the implementing HOME Regulations as such now exist and as may hereafter be amended.

“HOME Regulations” mean the implementing regulations of the HOME Program set forth at 24 CFR 92.1, *et seq.* as such now exist and as may hereafter be amended.

“Household” means one or more persons occupying a HOME Assisted Unit.

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

“HUD” means the United States Department of Housing and Urban Development.

“Low HOME Rent” means tenant paid rent that is in accordance with Section 92.252(b) of the HOME regulations.

“Low Income Households” means households that are eligible as low-income families, with total, annual household incomes certified to be at or below 60% of the Area Median Income for Riverside County, according to data published by HUD annually. Annual household income is defined in regulations at 24 CFR 5.609 and shall be calculated using source documents or third party certifications of all income and assets held or generated by all members of the applicant or tenant household, in accordance with regulations published at 24 CFR 5.203(a)(1)(i) and 24 CFR 92.203(a)(1)(i), or 24 CFR 5.617 when calculating the income of persons with disabilities.

“Management Plan” means the plan for the management of the Project to be submitted by the Developer and approved by the City, as set forth in Section 6.7.2.

“Notice” means a notice in the form prescribed by Section 9.1.

“Operating Reserve” is defined in Section 6.9.

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

“Project” means predevelopment activities related to the Site, the acquisition of the Site, and the rehabilitation of an existing single family residence to create a front property rental unit, one Accessory Dwelling Unit, and one Junior Accessory Dwelling Unit all of which are HOME Assisted Units, and any improvements appurtenant thereto by the Developer upon the Site in accordance with Governmental Regulations and all applicable permits and entitlements and as described in Section 5.

“Project Budget” is attached hereto as Attachment 5.

“Project Costs” means Developer’s construction expenses consistent with those permitted by Section 92.206(a) of the HOME Regulations which are customarily incurred and shall have been actually incurred by Developer 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; property taxes and assessments; security services; off-site improvements and permits (if any); building permits; utility fees; insurance; legal and accounting fees; escrow fees and costs; title and title insurance; bonds; tests to determine the condition of the Site; and such other costs, fees and expenses, as agreed to in writing by the City; provided, however, that payment to parties related to Developer for Project Costs must not exceed reasonable and customary market rates.

“Project Description” means the scope of work for the Project set forth in Attachment No. 3.

“Property Manager” means the manager of the Project, as set forth in Section 6.7.1.

“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. 10.

“Rent Schedule” means the schedule showing the Affordable Rent of each of the HOME Assisted Units as of the Effective Date attached hereto as Attachment No. 9.

“Request for Notice of Default” means a request for notice of default to be recorded in accordance with Section 3.2.3 against the Site substantially in the form shown in Attachment No. 11.

“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 the Developer and the City. The City authorizes the City Manager to make such revisions to the Schedule of Performance as he/she deems reasonably necessary to effectuate the purposes of this Agreement.

“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, and shall be executed by the applicable contractor under penalty of perjury:

(i) “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.

(ii) 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.

(iii) 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.

(iv) 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.

(v) 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.

(vi) 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.

(vii) 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” means that certain real property referenced in Recital E 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 is attached hereto as Attachment No. 1.

“Title Company” is Lawyer’s Title, 3480 Vine Street #300, Riverside, California 92507, or other qualified title company approved in writing by the Parties.

“Unit” or ***“Units”*** means the three (3) individual dwelling units within the Project to be rehabilitated and operated by the Developer on the Site.

“Very Low Income Households” means households that are eligible as very low income families, with total, annual household incomes certified to be at or below 50% of the Area Median Income for Riverside County, according to data published by HUD annually. Annual household income is defined in regulations at 24 CFR 5.609 and shall be calculated using source documents or third party certifications of all income and assets held or generated by all members of the applicant or tenant household, in accordance with regulations published at 24 CFR 5.203(a)(1)(i) and 24CFR 92.203(a)(1)(i), or 24 CFR 5.617 when calculating the income of persons with disabilities.

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 Manager.

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. REPRESENTATIONS AND TRANSFERS

2.1. Representations by the Developer

The Developer hereby represents and warrants to the City as follows:

2.1.1. Organization

Developer is a duly organized, validly existing nonprofit public benefit corporation in good standing under the laws of the State of California and has the power and authority to own and lease property and carry on its business as now being conducted. The copies of the documents evidencing the organization of Developer delivered to the City are true and correct copies of the originals as of the Effective Date.

2.1.2. Authority

The Developer has the legal power, right and authority to execute, deliver and enter into this Agreement and any and all other agreements and documents required to be executed and delivered by the Developer in order to carry out, give effect to, and consummate the transactions contemplated by this Agreement, and to perform and observe the terms and provisions of all of the above. The parties who have executed this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement are authorized to execute and deliver the same on behalf of the Developer and all actions required under Developer's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered pursuant hereto, have been duly taken.

2.1.3. Valid Binding Agreements

This Agreement and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will constitute when so executed and delivered, legal, valid and binding obligations of Developer enforceable against it in accordance with their respective terms.

2.1.4. Contingent Obligations

The Developer does not have any material contingent obligations or any material contractual agreements (other than in connection with the development of the Project) which could materially adversely affect the ability of the Developer to carry out its obligations hereunder.

2.1.5. Litigation

To the Developer's best knowledge, no action, suit or proceedings are pending or threatened before any governmental department, commission, board, bureau, agency or instrumentality to which the Developer is or may be made a party or to which any of its property is or may become subject, which has not been disclosed to the City which could materially adversely affect the ability of the Developer to carry out its obligations hereunder.

2.1.6. No Conflict

Developer's execution and delivery of this Agreement and any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, and the performance of any provision, condition, covenant or other term hereof or thereof, do not or will not conflict with or result in a breach of any statute, rule or regulation, or

any judgment, decree or order of any court, board, commission or agency whatsoever binding on Developer, or any provision of the organizational documents of Developer, or will conflict with or constitute a breach of or a default under any agreement to which Developer is a party, or will result in the creation or imposition of any lien upon any assets or property of Developer, other than liens established pursuant hereto.

2.1.7. No Developer Bankruptcy

No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, receivership or other proceedings are pending or, to the best of Developer's knowledge, threatened against the Developer or any parties affiliated with Developer, nor are any of such proceedings contemplated by Developer or any parties affiliated with Developer.

Each of the foregoing representations shall be deemed to be an ongoing representation and warranty. The Developer shall advise the City in writing if there is any change pertaining to any matters set forth or referenced in the foregoing representations.

2.2. Limitation Upon Change in Ownership, Management and Control of Developer

2.2.1. Prohibition

The identity and qualifications of Developer's as an experienced and successful developer and operator/manager of affordable housing are of particular concern to the City. It is because of this identity and these qualifications that City has entered into this Agreement with the Developer. Prior to the expiration of the Affordability Period, no voluntary or involuntary successor in interest of Developer shall acquire any rights or powers under this Agreement by assignment or otherwise, nor shall Developer make any total or partial sale, transfer, conveyance, encumbrance to secure financing (including, without limitation, the grant of a deed of trust to secure funds necessary for construction and permanent financing of the Project), distribution, assignment or lease of the whole or any part of the Site or any material change in the management or control of Developer without the prior written approval of City, except as expressly set forth herein. Any purported transfer, voluntary or by operation of law, in violation of this Section 2.2 shall constitute a default hereunder and shall be void and City shall have the cumulative options to terminate this Agreement and to seek all remedies available at law or equity.

2.2.2. Permitted Transfers by Developer

Notwithstanding any other provision of this Agreement to the contrary, City approval of an assignment of this Agreement or conveyance of the Site or any part thereof shall not be required in connection with any of the following:

- i. the conveyance or dedication of any portion of the Site to the City or other appropriate governmental agencies, or the granting of easements or permits to public utilities to facilitate the development of the Project;
- ii. subject to the restrictions of Section 6.2 hereof and as set forth in the City Regulatory Agreement, the rental of the HOME Assisted Units to Low and Very Low Income Households;

iii. any requested assignment for financing purposes (subject to such financing being considered and approved by the City pursuant to Section 2.2 herein), including the grant of a deed of trust to secure funds necessary for construction and permanent financing of the Project;

iv. any transfer to a limited partnership in which Developer or an entity controlled by Developer, is the managing general partner. The term “control” as used in the immediately preceding sentence, means, with respect to an entity that is a corporation, the right to the exercise, directly or indirectly, of more than 50% of the voting rights attributable to the shares of the controlled corporation, and, with respect to an entity that is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled person.

2.2.3. City Consideration of Requested Transfer

Except for a transfer permitted pursuant to Section 2.2.2, Developer shall provide City with thirty (30) calendar days’ prior written notice of its intent to assign or transfer and shall request any approval sought for such assignment or transfer described in Section 2.2.1 above. Such notice shall be accompanied by evidence regarding the proposed assignee’s or purchaser’s development, operation and management qualifications and experience and its financial commitments and resources sufficient to enable the City to evaluate the proposed assignee or purchaser is qualified and capable to perform the Developer’s obligations pursuant to this Agreement.

Within thirty (30) calendar days, or, if board or council approval is required, forty-five (45) calendar days, after the receipt of Developer’s written request for City approval of an assignment or transfer pursuant to this Section 2.2.3, City shall respond in writing either approving the proposed assignee or transferee or requesting further information required by City in order to determine whether or not to grant the requested approval. Upon receipt of such a request for further information, Developer shall promptly furnish to City such requested information.

An assignment or transfer approved by the City pursuant to this Section 2.2.3 shall not be effective unless and until the proposed assignee or transferee executes and delivers to the City an agreement in form reasonably satisfactory to City’s legal counsel assuming the obligations of Developer under the City Loan Documents. Thereafter, the assignor shall remain responsible to City for performance of the obligations assumed by the assignee unless the City releases the assignor in writing.

2.2.4. Successors and Assigns

All of the terms, covenants and conditions of this Agreement shall be binding upon Developer and the permitted successors and assigns of Developer.

3. FINANCING

3.1. Sources of Financing

The Parties anticipate that Project Costs shall be paid with the City Loan and such other sources as set forth in this Section 3.

As a condition precedent to City's obligation to disburse the City Loan Proceeds, Developer shall submit to the City Manager evidence that Developer has obtained, or will obtain prior to the Closing, sufficient commitments for (a) financing the completion of the Project or (b) equity capital for completion of the Project, such that the City Manager is reasonably satisfied based upon the review and findings of the City's financial consultant that the Project can be constructed and operated in accordance with this Agreement. Such evidence (collectively, the "Evidence of Financing") shall include, at a minimum:

i. If the Project is financed by a third party lender, final construction loan documents along with evidence reasonably satisfactory to the City Manager that the lender intends to execute the same and provide an initial funding on the Closing. Any such agreement shall provide for notice of default to the City, and the right to cure required by Section 3.2.3.

ii. Evidence of such other loans or grants as may be required to pay (i) the amount of the "Construction Contract" (as defined in Section 5.1.7 below) for the Project, plus (ii) an amount equal to all consultant and loan fees, points, commissions, bond issuance costs, charges, furnishings, fixtures, taxes, interest, start-up costs, Developer's overhead and administration, and other costs and expenses of developing and completing the Project.

iii. A copy of the most recently prepared Annual Financial Statement for Developer.

A final Project Budget and Evidence of Financing, and such evidence as may be required to satisfy the City Manager that (a) Developer has obtained sufficient financing to construct and operate the Project during the Affordability Period, (b) that the interest rate to be charged on any financing is commercially reasonable, and (c) that the Project is financially feasible and able to meet its financial obligations as required hereby and by any other agreements binding upon the Project, and in accordance with the Project Budget.

3.2. City Loan

City hereby agrees to loan to Developer and Developer hereby agrees to borrow the City Loan in an amount not to exceed Two Hundred Fifty-Five Thousand Dollars (\$255,000) from City pursuant to the terms and conditions of the City Loan Documents.

3.2.1. Funding

City shall make the City Loan to Developer from available funds allocated to the City pursuant to the HOME Program and such other funds as reasonably determined by the City in its sole and absolute discretion. The City Loan shall be made in accordance with and subject to the terms and conditions set forth in the City Promissory Note, the City Deed of Trust and the Agreement.

3.2.2. Security for City Loan; Nonrecourse Obligation After Completion of Construction

The City Loan shall be evidenced by the City Promissory Note and shall be secured by the City Deed of Trust. Following the recordation of the Release of Construction Covenants, the City Loan shall constitute a nonrecourse obligation of Developer such that the City

shall resort only to the Site for repayment in the Event of Default by Developer and Developer shall have no further liability for repayment in the event the Site or portion thereof is foreclosed upon.

3.2.3. Subordination

The City Deed of Trust shall be subordinate to the liens of the City Regulatory Agreement, Construction Loan, the Permanent Loan 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 Deed of Trust to other loans obtained by Developer pursuant to Section 3 where City's interests are protected and secure. A Request for Notice of Default shall be recorded in the official records of Riverside County concurrent with any documents evidencing the subordination of the City Loan.

So long as the conditions set forth in this Section 3.2.3 are satisfied, the City Regulatory Agreement shall be subordinate to the liens of the Construction Loan and such exceptions to title as are approved by the City in writing.

The City Regulatory Agreement may be subordinated to any approved sources of permanent financing upon a finding by the City Manager and based upon evidence submitted by the Developer and/or lender that an economically feasible alternative method of financing on substantially comparable terms and conditions, but without subordination, is not reasonably available and the City obtains written commitments reasonably designed to protect the City's investment in the Event of Default.

The subordination by the City pursuant to this Section 3.2.3 shall be made in accordance with a subordination agreement in the form and substance approved by City's legal counsel which agreement shall include written commitments reasonably designed to protect the City's investment and covenants in the event of default, including, but not limited to, reasonable notice and cure rights ("Subordination Agreement").

3.2.4. Disbursement of City Loan Proceeds

The proceeds of the City Loan ("City Loan Proceeds") shall be used for Project Costs as approved by the City.

Upon satisfaction of the conditions precedent to the disbursement of the City Loan Proceeds set forth in Section 4, *et seq.*, the proceeds shall be disbursed to Developer not later than thirty (30) days after receipt by the Housing Project Manager of a written disbursement request from the Developer (each, a "Disbursement Request"). The Disbursement Request shall (a) set forth the amount of the requested disbursement of City Loan Proceeds specifically identify the nature of each expense for which City Loan Proceeds are being requested, by reference to items in the approved final Project Budget and Construction Contract, (b) identify the percentage of the Project that has been completed as of the date of the Disbursement Request, and (c) certify that all applicable conditions precedent to disbursement of the City Loan Proceeds set forth in Section 4, *et seq.* have been and remain satisfied and that no Event of Default has occurred and is continuing under this Agreement. The City shall use commercially reasonable efforts to wire transfer such

disbursements when requested by Developer. All disbursements of City Loan Proceeds shall be recorded by the Housing Project Manager and acknowledged by the Developer.

3.2.4. Retention

Except as provided herein, as to each Disbursement Request made to City for Project Costs, disbursements of City Loan Proceeds shall be made for such item in the amount of ninety percent (90%) of the costs for such item properly incurred and substantiated by Developer during the course of the Project. Upon satisfaction of the conditions set forth in Section 4.1, City shall disburse City Loan Proceeds in the amount of Ninety Percent (90%) of each Disbursement Request for Project Costs, provided, however, that the amounts so retained on account of rough grading, wet and dry utilities, concrete foundations, and framing shall be released on a trade by trade basis, so long as (a) the construction of the trade improvements has been completed substantially in accordance with the Development Plans and has been fully paid for and is lien free, and (b) all work requiring inspection or certification by any governmental agency has been completed and all requisite certificates, approvals and other necessary authorizations have been obtained.

Notwithstanding the foregoing, as to each Disbursement Request made to City for Project Costs that constitute payment of City permits and development impact fees related to the Project or the payment of “soft costs,” disbursements of City Loan Proceeds shall be made for such item in the amount of one-hundred percent (100%) of the costs for such item properly incurred and substantiated by Developer during the course of the Project.

3.3. [RESERVED]

3.4. Permanent Loan

Developer has obtained or is in the process or obtaining a commitment for a permanent loan (“Permanent Loan”) in the amount of One Hundred Two Thousand Dollars (\$102,000).

3.5. Construction Loan

The Parties acknowledge that there is no construction loan on this Project.

3.6. [RESERVED]

3.7. Rights of Termination in the Event of Insufficiency of Funds

If at any time prior to the funding of the Permanent Loan and recordation of the Permanent Loan Documents, the Parties estimate that the aggregate amount of the sources of funds set forth in Section 3, *et seq.*, is less than the Project Costs necessary to complete the Project, the Parties shall meet to identify potential supplemental funding sources and shall diligently pursue such additional funds.

So long as the Developer demonstrates to the satisfaction of the City Manager that the Developer is diligently pursuing additional funds to complete the Project, times for performance as set forth in the Schedule of Performance shall automatically extend up to twelve

(12) months (“Extension Period”). During the Extension Period, the Developer shall continue to maintain the Site in accordance with the requirements of this Agreement.

In the event the Parties are unsuccessful in securing additional funds necessary for the Project, the Parties shall meet and confer in good faith to modify the Project to allow partial completion with available funding sources. If the Parties reasonably determine that modification and partial completion of the Project renders the Project financially infeasible, Developer may request that City provide additional funding for completion of the Project.

City shall have 45 days to consider and act upon such additional funding request. In the event that the City declines to provide a firm commitment by way of formal resolution to commit the necessary additional funds, Developer may terminate this Agreement.

In the event that Developer desires to terminate the Agreement, Developer shall promptly notify the City in writing of its intent. Notwithstanding the foregoing, Developer’s indemnification obligations under this Agreement shall remain in force following such termination with respect to any events occurring or claims accruing prior to the date of termination.

After the funding of the Permanent Loan and the City Loan and recordation of the liens thereto, Developer shall be solely responsible for all remaining Project Costs and shall be obligated to complete the Project substantially in accordance with this Agreement.

3.8. Obligation to Update Project Budget

Developer shall update the Project Budget in the event of a proposed material change to the Project Budget. In the event of a proposed material change to the Project Budget, Developer shall notify 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 City. City shall have the right to approve such change prior to Developer taking any action in furtherance of such change.

4. CITY LOAN DISBURSEMENTS/CONDITIONS PRECEDENT

4.1. Conditions Precedent to Disbursement of City Loan Proceeds

All disbursements of City Loan Proceeds shall be recorded by the Housing Project Manager and acknowledged by the Developer on “Exhibit ‘A’” to the City Promissory Note. City shall authorize the disbursement of City Loan Proceeds to or on behalf of Developer for Project Costs only upon satisfaction of the conditions precedent set forth in Section 4 *et seq.*

4.1.1. [RESERVED]

4.1.2. Recordation and Priority of City Regulatory Agreement

The City Regulatory Agreement will be executed and recorded as a lien against the Site before the liens of the City Loan and subordinate only to those liens permitted pursuant to Section 3.2.3.

4.1.3. Recordation of the City Deed of Trust

The City Deed of Trust shall have been recorded as a lien against the Site and subordinate only to those liens permitted pursuant to Section 3.2.3.

4.1.4. Title Policy

Concurrently with the recordation of the City Deed of Trust, the Title Company shall issue and deliver to the City an standard ALTA lender's policies of title insurance in an amount equal to the City Loan, together with such endorsements as requested by the City, insuring that fee simple title to the Site is vested in the owner identified in the City Deed of Trust or its affiliated entity and that the priority of the City Deed of Trust and the City Regulatory Agreement are consistent with Section 4.1.2 and Section 4.1.3. The Title Company shall provide Developer with copies of such title policy. The Title Company shall, if requested by either City, provide any extended coverage and any endorsements reasonably requested by City (collectively, the "Additional Endorsements"). The Developer shall pay the cost of such title policies.

4.1.5. Execution and Delivery of City Loan Documents

Developer shall have executed or caused to be executed and delivered or caused to be delivered via the Title Company to the City: this Agreement, a conformed copy of the recorded City Regulatory Agreement, the City Promissory Note, and a conformed copy of the recorded City Deed of Trust.

4.1.6. Title to Land

The Site owner identified in the City Deed of Trust and the City Regulatory Agreement shall have good and marketable fee title to the Site and there will exist thereon or with respect thereto no mortgage, lien, pledge or other encumbrance of any character whatsoever other than liens for current real property taxes and assessments not yet due and payable, the deeds of trust approved by the City and any other matters approved in writing by the City.

4.1.7. Evidence of Financing

The City Manager has approved the Evidence of Financing in accordance with Section 3.1.

4.1.8. Evidence of Insurance

Developer shall have furnished City with proper evidence of insurance as required by Section 5.2.

4.1.9. Construction Contracts

Developer shall have submitted to City and City shall have approved the Construction Contract entered into in connection with the development of the Project.

4.1.10. Construction Bonds; Completion Guaranty – Not applicable.

4.1.11. 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 as amended, 42 U.S.C. Sections 4321-4347, the California Environmental Quality Act, Public Resources Code Section 21000, *et seq.*, and §92.352 and 92.355 of the HOME Regulations, shall have been satisfied if and to the extent such satisfaction is required prior to disbursement of City Loan Proceeds. City shall have conducted its environmental review in accordance with 24 CFR Part 58 before any City Loan Proceeds are released to Developer.

4.1.12. Evidence of Eligible Project Costs

Developer shall have submitted to City paid invoices, receipts, canceled checks or other written documentation reasonably satisfactory to the City Manager, or his designee, evidencing Developer's expenditure for Project Costs. Developer shall have submitted a written request for payment to City in the form of the Disbursement Request as provided in Section 3.2.4.

4.1.13. Inspection of Work

City or its agent(s) shall have inspected the work for which the Disbursement Request is being requested and shall have determined, within seven (7) business days of receipt of a complete Disbursement Request that (a) such work has been completed substantially in accordance with this Agreement, the Project Description, and the approved Development Plans, (b) the amount requested for each line item corresponds to the percentage of work completed for such item, (c) there are adequate funds remaining from the City Loan Proceeds (and other approved funding sources, if applicable) to complete the development and pay all remaining unpaid Project Costs, (d) the development work for which payment is being requested has been completed in a good and workmanlike manner in accordance with the standards of the construction industry, and (e) the expenses are in accordance with the approved final Project Budget and Construction Contract (including approved change orders).

4.1.14. [RESERVED]

4.1.15. No Default

There shall exist no condition, event or act which would constitute an Event of Default by Developer (as defined in Section 8.1) hereunder or which, upon the giving of notice or the passage of time, or both, would constitute an Event of Default by Developer.

4.1.16. Representations and Warranties

All representations and warranties of Developer herein contained shall be true and correct in all material respects.

4.2. Conditions Precedent to Disbursement of Retention

Upon satisfaction or waiver of the conditions precedent set forth below, as reasonably determined by the City Manager, City shall disburse the retention withheld pursuant to Section 3.2.4.1 (“Retention”).

No disbursement of the City Loan Proceeds shall be made for the Retention until all of the following conditions precedent have been satisfied (as determined by City in its discretion) or waived:

4.2.1. Compliance With Previous Conditions

Developer shall be in compliance with the conditions precedent to disbursement of the City Loan Proceeds set forth in Section 4.1.

4.2.2. Completion of Construction

a. The construction of the Project shall be complete. The construction of the Project shall be considered complete for purposes of this Agreement only when (a) the construction of the Improvements has been completed substantially in accordance with the Plans and has been fully paid for, or will be fully paid for upon reimbursement of the retention and is lien free, (b) all work requiring inspection or certification by any governmental agency has been completed and all requisite certificates, approvals and other necessary authorizations have been obtained (including, without limitation, temporary certificate(s) of occupancy for the Improvements which shall be subject only to conditions reasonably acceptable to City), and (c) streets and offsite utilities located within or pertaining to the Project have been completed to the satisfaction of all applicable authorities.

b. Any portion of the Project requiring inspection or certification by any governmental agency shall have been inspected and certified as complete, a final certificate of occupancy shall have been issued covering the Project and all other necessary approvals, licenses, exemptions and other authorizations of governmental agencies shall have been duly obtained.

c. At least one of the following shall have occurred:

(i) 35 days shall have passed since the recording of a valid notice of completion for the construction of the Project and no mechanic’s or materialman’s lien shall be outstanding; or

(ii) 95 days shall have passed since actual completion of the construction of the Project and no mechanic’s or materialman’s lien shall be outstanding; or

(iii) City shall be satisfied that no mechanic’s or materialman’s lien will impair its interest in the Site, City hereby agrees to consider that a CLTA Form No. 101.1 Endorsement to the Title Policy, in form and substance reasonably satisfactory to City, may satisfy the requirement of this subparagraph (iii).

d. City shall be reasonably satisfied that the Project was completed in accordance with all applicable Governmental Regulations in all material respects, including, without limitation, all laws described in any Prevailing Wage Clause.

e. All requirements for release of retention set forth in this Agreement have been met.

f. City has issued and Developer has recorded a Release of Construction Covenants.

4.3. Conditions Precedent to Developer's Commencement of the Development

Developer shall only commence development of the Site upon the prior satisfaction by Developer or waiver by the City of the following conditions precedent, each of which, if it requires action by Developer, shall also be a covenant of Developer:

4.3.1. Approved Final Project Budget

Developer shall have submitted to City for its approval an updated and final pro forma and detailed final Project Budget for the development (consistent with the Project Description), and City shall have approved the final Project Budget in City's reasonable discretion. The use of City Loan Proceeds shall be consistent with the approved final Project Budget.

4.3.2. Recordation

City shall have recorded or confirmed the recordation (if previously recorded) of the City Regulatory Agreement and the City Deed of Trust.

4.3.3. 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 as amended, 42 U.S.C. Sections 4321-4347, the California Environmental Quality Act, Public Resources Code Section 21000, *et seq.*, and §92.352 and 92.355 of the HOME Regulations, shall have been satisfied if and to the extent such satisfaction is required prior to disbursement of City Loan Proceeds. City shall have conducted its environmental review in accordance with 24 CFR Part 58 before any City Loan Proceeds are released to Developer.

4.3.4. Environmental Condition

The environmental condition of the Site shall be reasonably acceptable to Developer.

4.3.5. Management Plan

Developer shall have submitted to City, and City shall have approved, the Management Plan for the Project, including without limitation, the tenant selection criteria hereinafter described.

4.3.6. Approval of Development Plans, Construction Contract, and General Contractor

City shall have approved the Development Plans for the Site prepared and submitted by Developer as being in substantial conformity with the Project Description, this Agreement, and the City of Riverside Municipal Code (“Riverside Municipal Code”), all pursuant to the City’s procedures set forth in more detail in Section 5.1. In addition, Developer shall have submitted to 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 City. In the time set in the Schedule of Performance, Developer shall have submitted a true and complete copy of the Construction Contract to City and both the Construction Contract and the identity of the General Contractor as well as all engineers and architects shall be reasonably acceptable to City.

4.3.7. Building Permits

Developer shall have obtained all Building Permits and other permits required for the full Development, and shall have provided true, correct and complete copies of all such Building Permits to City. Developer shall not commence any portion of the development until all applicable Building Permits and other permits required for such portion of the development have been obtained, with true, correct and complete copies of such Building Permits delivered to City.

(a) Developer acknowledges and agrees that the Development Plans shall be subject to the City’s normal development services, planning, and building review process, as applicable.

(b) 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.

4.3.8. Pre-Construction Meeting of General Contractor, City Representative(s) and Developer

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

4.3.9. Lease Agreement

Developer shall have submitted to City and City shall have approved the standard form lease/rental agreement in conformance with the Regulatory Agreement for rental of the HOME Assisted Units to eligible tenants in accordance with the terms of this Agreement.

4.3.10. Insurance

Developer shall have furnished City with proper evidence of insurance as required by Section 5.2.

4.3.11. Representations and Warranties

The representations and warranties of Developer contained in this Agreement shall be correct in all material respects as of the commencement of the development as though made on and as of that date, and City shall have received a certificate to that effect signed by an authorized officer of Developer.

4.3.12. No Default

No Event of Default by Developer shall have occurred, and no event shall have occurred which, with the giving of notice or the passage of time or both, would constitute an Event of Default by Developer, and City shall have received a certificate to that effect signed by an officer of Developer.

5. DEVELOPMENT OF THE SITE

5.1. Development Plans

Within the time set forth in the Schedule of Performance, Developer shall submit to City detailed plans, specifications, materials, and drawings describing the development of the Site (collectively, "Development Plans") pursuant to the Project, which are in conformity with the Project Description.

5.1.1. Submittal of Development Plans

Developer shall submit to City the Development Plans which may be required by City with respect to any permits and entitlements that are required to be obtained and with respect to evaluation of the quality, type, specifications, and materials for all of the development and any other improvements to the Site. Within ten (10) days after City's disapproval or conditional approval of such plans, which approval shall be in City's sole and absolute discretion, Developer shall revise the portions of such plans identified by City as requiring revisions and resubmit the revised Development Plans to City. City shall have all rights to review and approve or disapprove all Development Plans and other required submittals in accordance with the Riverside Municipal Code, and nothing set forth in this Agreement shall be construed as City's approval of any or all of the Development Plans. Any and all change orders or revisions required by the City and its inspectors which are required under the Riverside Municipal Code and all other applicable Uniform Codes (e.g., Building, Plumbing, Fire, Electrical, etc.) and under other applicable laws and regulations shall be included by Developer in its Development Plans and other required submittals and shall be completed during the development of the Site.

5.1.2. Approval of Development Plans

Developer acknowledges and agrees that City is entitled to approve or disapprove the Development Plans in order to satisfy City's obligation to promote the sound development of housing units, to promote a high level of design which will impact the surrounding

development, and to provide an environment for the social, economic and psychological growth and well-being of the citizens of the City and all residents of the Project. Developer shall perform all development at the Site in compliance with the approved Development Plans.

5.1.3. Consultation and Coordination

During the preparation of the Development Plans, City staff and authorized representatives of Developer shall hold joint progress meetings to coordinate the preparation and submission to City of the Development Plans by Developer and City's review of the Development Plans. City staff and authorized Developer representatives shall communicate and consult informally as frequently as is necessary to ensure that the formal submittal of any documents to City can receive prompt and thorough consideration. City shall designate a Community Development Department employee to serve as the project manager for this Project, and such project manager shall be responsible for the coordination of City's activities under this Agreement and for coordinating the land use approval and permitting process under this Agreement and for coordinating the land use approval and permitting process.

5.1.4. Revisions

If Developer desires to propose any substantial revisions to the approved Development Plans, it shall submit such proposed changes to City, and shall also proceed in accordance with any and all state and local laws and regulations regarding such revisions, within the time frame set forth in the Schedule of Performance for the submittal of the Development Plans. Any such change proposed in the approved Development Plans may be disapproved by City through City in City's sole and reasonable discretion.

5.1.5. Defects in Plans

City shall not be responsible either to Developer or to any third parties in any way for any defects in the Development Plans, or for any structural or other defects in any work done according to the approved Development Plans, or for any delays reasonably caused by the review and approval processes established by this Section 5, *et seq.* Developer 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 Development 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 Development Plans.

5.1.6. City and Other Governmental Permits

Before commencement of any portion of the development of the Site, Developer shall secure or shall cause its General Contractor to secure any and all permits and land use entitlements which may be required by the City or any other governmental authority with jurisdiction over such construction of the applicable portion of the development, including without limitation applicable Building Permits.

5.1.7. Construction Contract

Prior to the commencement of construction of the Project, Developer agrees to deliver to City, for its review and approval, a fixed price or guaranteed maximum cost construction contract(s) (“Construction Contract”) for all of the improvements necessary to complete the Project, which Construction Contract shall obligate a reputable and financially responsible general contractor(s) (“General Contractor”), capable of being bonded and licensed in California and with experience in completing the type of Project contemplated by this Agreement, to commence and complete the construction of those improvements in accordance with this Agreement and under the terms provided therein. Developer shall verify that the General Contractor is eligible to participate in Federal programs. The Construction Contract shall contain a schedule of values in such form as is reasonably satisfactory to City. City shall not unreasonably withhold its approval of the Construction Contract provided that such contract conforms to the requirements of this Agreement.

Each Construction Contract shall give City the right, but not the obligation, to cure defaults thereunder and to assume Developer's obligations and rights under the contract; provided that such right to cure and assume that contract shall be subject to the right, if any, of the Construction Loan lender. In addition, each Construction Contract shall provide, among other matters, that all change orders in excess of Fifty Thousand Dollars (\$50,000) must be approved by the City Manager within five (5) Business Days. Further, each Construction Contract shall set forth a reasonably detailed schedule for completion of each stage of construction.

City approval of the Construction Contract shall not constitute a waiver by 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.

5.1.8. Change Orders

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

5.1.9. Rights of Access

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. When conducting such inspections, City representatives shall comply with all safety rules.

5.1.10. Completion of Project

Not later than the Outside Completion Date as set forth in the Schedule of Performance, Developer shall commence and diligently proceed through completion the development of the Project. Developer's agreement to complete the development of the Project in accordance with the Project Description, approved Development 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 City's agreement to make the City Loan to Developer as

set forth herein. In the event Developer fails to satisfactorily perform the development in accordance with the Project Description, the approved Development Plans, and all other applicable requirements within the time set forth in the Schedule of Performance, City shall be entitled to exercise any and all remedies available to it under applicable laws and/or this Agreement.

5.1.11. Release of Construction Covenants

Promptly after the completion of the construction in conformity with this Agreement (as reasonably determined by the City), upon the written request of Developer, City shall furnish Developer with a Release of Construction Covenants which evidences and determines the satisfactory completion of the development of the Site in accordance with this Agreement. The issuance and recordation of the Release of Construction Covenants with respect to the Site shall not supersede, cancel, amend or limit the continued effectiveness of any obligations relating to the maintenance, uses, occupancy, payment of monies, or any other obligations with respect to the Site, the Project, or this Agreement or any covenants recorded in connection herewith, except for the obligation to complete the development of the Site.

5.2. Bodily Injury and Property Damage Insurance; Indemnity

5.2.1. Insurance

Except as provided herein, prior to the commencement of any development, or any other work of improvement upon the Site and without limiting Developer's indemnity obligations set forth in the Agreement, Developer shall procure and maintain in full force during the term of this Agreement, the following forms of insurance coverage:

a. Workers' Compensation Insurance as required by California statutes and Employers' Liability Insurance in an amount not less than One Million Dollars (\$1,000,000);

b. Commercial General Liability Insurance, including coverage for Contractual Liability, Personal Injury Liability, Products/Completed Operations Liability, Broad-Form Property Damage, and Independent Contractor's Liability, in an amount of not less than One Million Dollars (\$1,000,000) per occurrence, combined single limit, Two Million Dollars (\$2,000,000) annual aggregate, written on an occurrence form;

c. Comprehensive Automobile Liability coverage, including - as applicable - owned, non-owned and hired autos, in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, combined single limit, written on an occurrence form; and

d. Prior to commencement of the development, "All risk" builder's risk (course of construction) insurance covering one hundred percent (100%) of the replacement cost of the improvements and equipment in the event of fire, lightning, windstorm, vandalism, earthquake (if available at commercially reasonable rates), off-site storage loss, transportation loss, malicious mischief and all other risks normally covered by "all risk" builder's risk policies in the area where the Site is located (including loss by flood if the Site is in an area designated as subject to danger of flood).

e. Developer shall cause the general contractor to maintain insurance of the types and in at least the minimum amounts described in subsections a, b, c, d, and above, and shall

require that such insurance shall meet all of the general requirements of subsections f, g, and h below. Unless waived by the City, liability insurance to be maintained by the general contractors pursuant to this subsection shall name as additional insured the City, and their officers, agents, employees and representatives.

f. The required insurance shall be provided under an occurrence form, and Developer shall maintain such coverage continuously throughout the term of this Agreement. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs to be included in such annual aggregate limit, such annual aggregate limit shall be three times the occurrence limits specified above.

g. Each insurance policy required by this Agreement shall contain the following clauses:

(1) "This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days prior written notice has been given to the City of Riverside."

(2) "It is agreed that the City of Riverside is self-insured and any insurance maintained by them shall apply in excess of and not contribute with insurance provided by this policy."

(3) "The City of Riverside, and its officers, agents, employees, representatives, and volunteers are added as additional insureds as respects operations and activities of, or on behalf of the named insured, performed under contract with the City of Riverside."

h. Prior to the disbursement of any portion of the City Loan Proceeds, Developer shall deliver to the City insurance endorsements evidencing the existence of the insurance policies required by this Agreement, and including the applicable clauses referenced above. Such endorsements shall be signed by an authorized representative of the insurance company and shall include the signator's company affiliation and title. Should it be deemed necessary by City, it shall be Developer's responsibility to see that the City receives documentation acceptable to the City which demonstrates that the individual signing said endorsements is indeed authorized to do so by the insurance company. Also, the City has the right to demand, and to receive within a reasonable time period, copies of any insurance policies required under this Agreement.

i. In addition to any other remedies the City may have if Developer fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, that City may at its sole option:

(1) Obtain such insurance and deduct and retain the amount of the premiums for such insurance from the City Loan Proceeds.

(2) Withhold any disbursement of the City Loan Proceeds until Developer demonstrates compliance with the requirements hereof.

(3) In the event Developer has failed to commence curing such default within thirty (30) days of notice or thereafter fails to diligently pursue such cure, declare Developer to be in default, terminate this Agreement and declare that prior disbursements of the City Loan is due and payable.

Exercise of any of the above remedies, however, is an alternative to other remedies the City may have and is not the exclusive remedy for Developer's failure to maintain insurance or secure appropriate endorsements. Nothing herein contained shall be construed as limiting in any way the extent to which Developer may be held responsible for payments of damages to persons or property resulting from Developer's performance of the work covered under this Agreement.

5.2.2. Developer's Indemnity

To the full extent permitted by law, Developer shall indemnify, defend and hold harmless 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 cost 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) Developer'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 Section 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 Developer, or by any individual or entity that Developer shall bear the legal liability thereof including but not limited to officers, agents, employees, or contractors of Developer.

Without affecting the rights of Indemnitees under any provisions of this Agreement, Developer 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 Developer 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 here is binding on the successors, assigns or heirs of Developer 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 Developer under this Section shall survive the expiration or termination, for any reason, of this Agreement excluded, however, from this Section 5.2.2 is any indemnity by Developer in favor of the City for

claims arising from Hazardous Substances on the Site except for Hazardous Substances introduced onto the Site by Developer.

5.3. Federal, State and Local Laws

Developer shall comply with all Governmental Regulations in the construction, use and operation of the Project, including all applicable federal, state and local statutes, ordinances, regulations and laws, including without limitation, the HOME Program, the statutes, regulations and Executive Orders set forth in Section 7, *et al.*, all applicable federal, state, and local labor standards, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the Riverside Municipal Code.

5.4. Nondiscrimination During Construction

The Developer, for itself and its successors and assigns, agrees that, in the development and rehabilitation of the Site provided for in this Agreement, the Developer will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, marital status, national origin or ancestry.

5.5. Liens and Stop Notices

The Developer 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, the Developer 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 City from the effect of such lien or bonded stop notice.

6. AFFORDABLE HOUSING COVENANTS; MAINTENANCE, PROPERTY MANAGEMENT, OPERATION OF PROJECT

Developer will manage the Site in a prudent and businesslike manner, consistent with property management standards for other comparable first quality, well-managed rental housing projects in Riverside, California. Accordingly, the Project shall be subject to, and the Developer shall in its administration of the Project comply with the forgoing covenants, maintenance and operation of the Site.

6.1. Duration of Affordability Requirements; Affordability Period

The HOME Assisted Units shall be subject to the requirements of this Section 6 for the full term of fifty-five (55) years from the date the Release of Construction Covenants is recorded against the Site.

6.2. Tenant Selection Covenants

6.2.1. Selection of Tenants

Developer shall be responsible for the selection of tenants for the HOME Assisted Units in compliance with the HOME Program, and all lawful and reasonable criteria, as set forth in the Management Plan that is required to be submitted to and approved by City pursuant to this Agreement. To the extent HOME Assisted Units are available, Developer 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, Developer's selection of tenant households to occupy the HOME Assisted Units shall be performed in accordance with all applicable fair housing laws.

6.2.2. Income and Occupancy Restrictions

As included in the annual income certification provided by Developer or as otherwise reasonably requested by City, Developer shall endeavor to make available for City's review and approval such information as Developer has reviewed and considered in its selection process, together with the statement by Developer that Developer has determined that each selected tenant will comply with all applicable terms and conditions of this Agreement in each tenant's occupancy of a HOME Assisted 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, Developer covenants and agrees that (i) each tenant of a HOME Assisted Unit shall and will be a Low or Very Low Income Household as defined herein, (ii) the cost to each tenant household for the corresponding HOME Assisted Unit on the Site shall be at and within the defined Affordable Rent for Low and Very Low Income Households, (iii) each tenant household shall meet Housing Quality Standards (HQS) (24 CFR 982.401) occupancy standards for the HOME Assisted 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").

6.3. Income Certification Requirements

Upon the initial occupancy of the HOME Assisted Units, and annually thereafter (on or before March 31st of each year), Developer shall submit to City, at Developer's expense, a written summary of the income, household size and rent payable by each of the tenants of the HOME Assisted Units. At City's request, but not less frequently than prior to each initial and subsequent rental of each HOME Assisted Unit to a new tenant household and annually thereafter, Developer shall also provide to City completed income computation, asset evaluation, and certification forms for any such tenant or tenants, which forms shall be reasonably acceptable to the City. Developer shall obtain, or shall cause to be obtained by the Property Manager, an annual certification from each household leasing a HOME Assisted Unit demonstrating that such

household is a Low or Very Low Income Household and meets the eligibility requirements established for the HOME Assisted Unit. Developer shall verify, or shall cause to be verified by the Property Manager, the income certification of each tenant household. This requirement is in addition to and does not replace or supersede Developer's obligation to annually submit the Certificate of Continuing Program Compliance to City.

6.3.1. Verification of Income of New and Continuing Tenants

Gross income calculations for prospective (and continuing) tenants shall be determined in accordance with Section 92.203 and 92.252(h) of the HOME Regulations. Developer shall verify the income and information provided in the income certification of the proposed tenant as set forth below.

(a) Developer shall verify the income of each proposed tenant of the HOME Assisted Units pursuant to the Tenant Selection Covenants set forth in Section 6.2 herein, and by at least one of the following methods as appropriate to the proposed tenant:

(i) obtain two (2) paycheck stubs from the person's two (2) most recent pay periods.

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

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

(iv) 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.

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

6.4. Affordable Rent

6.4.1. Maximum Monthly Rent

The maximum monthly rent chargeable for the HOME Assisted Units shall be annually determined by City in accordance the following:

(i) for a Very Low Income Household, the Low HOME Rent; and

(ii) for a Low Income Household, the High HOME Rent.

For purposes of calculating Affordable Rent a "reasonable utility allowance" shall be the allowance established by the Housing Authority of the County of Riverside or such lesser allowance reasonably permitted by the City.

The current projected Affordable Rent for the HOME Assisted Units at the Site is set forth in the Rent Schedule, Attachment No. 9. Such amounts as set forth therein are

subject to annual readjustment pursuant to income levels adopted and published by HUD as to the HOME Program.

For purposes of this Agreement, “Affordable Rent” means the total of monthly payments for (a) use and occupancy of each HOME Assisted Unit and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by Developer which are required of all tenants, other than security deposits, (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone service, or cable TV or internet services, and (d) possessory interest, taxes or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than Developer.

6.4.2. Annual Rent Adjustment

City will review and approve the Affordable Rents proposed by Developer for the HOME Assisted Units together with the monthly allowances proposed by Developer for utilities and services to be paid by the tenant. Developer must annually reexamine the income of each tenant household living in the HOME Assisted Units in accordance with Section 6.3.1. The maximum monthly rent must be recalculated by Developer and reviewed and approved by 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 the HOME Assisted Units is subject to the provisions of outstanding leases. Developer must provide all tenants not less than thirty (30) days prior written notice before implementing any increase in rents.

6.4.3. Increases in Tenant Income

Units shall qualify as HOME Assisted Units as required despite a temporary noncompliance with this Section 6.4 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 an HOME 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 subject to the requirements of Section 92.252(i) of the HOME Regulations.

6.4.4. Most Restrictive Affordable Rent Covenants Govern

To the extent of an 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 HOME Assisted Units in the Site shall prevail.

6.5. Lease Agreements for HOME Assisted Units

Developer shall submit a standard lease form, which shall comply with HOME Regulations (including Section 92.253), and all requirements of this Agreement, to City for approval. City shall reasonably approve such lease form upon finding that such lease form is consistent with this Agreement and contains all of the provisions required pursuant to the HOME

Program and the HOME Regulations. Developer shall enter into a written lease, in the form approved by City, with each tenant/tenant household of a HOME Assisted Unit. No lease shall contain any of the provisions that are prohibited pursuant to Section 92.253 of the HOME Regulations.

6.6. Maintenance

6.6.1. General Maintenance

Developer 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). Developer 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 any and all other improvements on the Site. 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 Agreement. Developer 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 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 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.

City agrees to notify Developer in writing if the condition of the Site 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 Site 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 Site, 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.

6.7. Management of the Project

6.7.1. Property Manager

Developer shall manage the Project with its own resources.

6.7.2. Management Plan

Prior to the initial or any subsequent disbursement of the City Loan 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.

6.8. Capital Replacement Reserve Requirements

The Developer shall set aside an amount equal to Two Hundred Fifty Dollars (\$250) per Unit per year (“Capital Replacement Reserve”). 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 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 6.8.

6.9. Operating Reserve Requirements

Developer shall not be required to set aside any Operating Reserves for this Project.

6.10. 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.

6.11. Monitoring and Recordkeeping

Developer shall comply with all applicable recordkeeping and monitoring requirements set forth in the HOME Program, including Section 92.508 of the HOME Regulations, 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 Site, upon at least twenty-four (24) hours' notice, to monitor compliance with this 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 Site and all HOME 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.

6.12. Regulatory Agreement

The requirements of this Agreement that are applicable after the completion of the development are set forth in the Regulatory Agreement. The execution and recordation of the Regulatory Agreement is a condition precedent to the initial or any subsequent disbursement of the City Loan Proceeds.

6.13. Successors and Assigns

All of the terms, covenants and conditions of this Agreement shall be binding upon Developer and its permitted successors and assigns. Whenever the term "Developer" is used in this Agreement, such term shall include any other permitted successors and assigns of Developer, as applicable, and as herein provided.

7. HOME PROGRAM LIMITATIONS; COMPLIANCE WITH LAWS

7.1. HOME Program

Because the City Loan to Developer will be provided with HOME Program funds, Developer shall carry out the development of the HOME Assisted Units and the operation of the Site in conformity with all requirements of the HOME Program. In the event Developer desires to change the affordable housing or maintenance requirements for the Site from the specific requirements set forth in this Agreement in order to comply with a subsequently enacted amendment to the HOME 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 HOME Program shall Developer be permitted to implement the proposed change.

7.2. HOME Laws and Regulations

Developer shall comply with all applicable laws and regulations governing the HOME Program and the use of the City Loan, including but not limited to, the requirements set forth in the Regulatory Agreement. In the event of any conflict between this Agreement and applicable laws and regulations governing the HOME Program and the use of the City Loan Proceeds, the applicable HOME Program laws and regulations shall govern. The Developer agrees to enter into any modification of this Agreement and/or the City Regulatory Agreement reasonably required by the City to attain compliance with the requirements of the HOME Program. The Developer acknowledges and agrees that it has received and reviewed a copy of the regulations regarding the HOME Program in effect as of the date of execution of this Agreement.

7.3. Specific Requirements

The laws and regulations governing the HOME Program and the use of the City Loan include (but are not limited to) the following, as may be amended from time to time:

7.3.1. Miscellaneous Federal Mandates

- i. Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601-20 (Public Law 90-284) and implementing regulations at 24 CFR Part 107;
- ii. Executive Order 11063 and regulations at 24 CFR Part 107;
- iii. Title VI of the Civil Rights Act of 1964 (Public Law 88-352) and regulations at 24 CFR Part 107;
- iv. The Age Discrimination Act of 1975, 42 U.S.C. 6101-07, and regulations at 24 CFR Part 146;
- v. Executive Order 12372 and implementing regulations at 24 CFR Part 52, regarding intergovernmental review of federal programs;
- vi. Flood Disaster Act of 1973, 42 U.S.C. 4001, *et seq.*;
- vii. Drug Free Workplace Act of 1988, P.L. 100-690, Title V, Subtitle D.
- viii. The Fair Housing Act (42 U.S.C. 3601-3620)(Pub. L. 90-284) as it ensures fair housing practices and prohibits housing discrimination based on race, color, religion, sex, national origin, disability, or familial status;
- ix. Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto at 24 CFR Section 470.601 as it relates to prohibiting discriminatory actions in activities funded by Community Development Funds;
- x. Executive Order 11246, as amended by Executive Orders 11375,

11478, 12086 and 12107 (Equal Employment Opportunity) and implementing regulations issued at 41 CFR Chapter 60 and Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), as amended and implementing regulations at 24 CFR Part 135 as they relate to equal employment opportunities;

xi. Executive Orders 11625 and 12432 (concerning minority business enterprise) and 12138 (concerning women's business enterprise) to encourage the use of women and minority owned businesses to the maximum extent possible.

xii. The applicable policies, guidelines, and requirements of OMB Circulars Nos. A-87, A-102 (Revised), A-110, A-122, and A-128, or successor regulations.

7.3.2. Environment and Historic Preservation

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.

7.3.3. Architectural Barriers

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

7.3.4. Americans With Disabilities Act

The requirements of the 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.

7.3.5. Relocation

The requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601-4655), and similar state laws. If and to the extent that development of the Project results in the permanent or temporary displacement of residential tenants, homeowners, or businesses, then the Developer shall comply with all applicable local, state and federal statutes and regulations with respect to relocation planning, advisory assistance and payment of monetary benefits. The Developer shall be solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with such relocation laws.

7.3.6. Disabled Discrimination

The requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), and federal regulations issued pursuant thereto (24 CFR Part 8), which prohibit discrimination against the disabled in any federally assisted program.

7.3.7. Future HOME Regulations

Any other U.S. Department of Housing and Urban Development regulations

currently in effect or as may be amended or added in the future pertaining to the HOME Program.

7.3.8. Ineligible Contractors

Use of debarred, suspended, or ineligible contractors or subrecipients is prohibited directly or indirectly as part of this award as set forth in 24 CFR Part 5.

7.3.9. Conflict of Interest

No member, officer or employee of the organization, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the 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 loan, and the 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.

7.3.10. Property Standards

The HOME Assisted Units must meet all applicable federal, state and local housing quality standards and code requirements, including the Uniform Physical Conditions Standards (“UPCS”, 24 CFR, Part 5 and 200) established by HUD for housing that is decent, safe, sanitary, and in good repair.

7.3.11. HUD Regulations

Any other HUD regulations present or as may be amended, added, or waived in the future pertaining to the use of HOME funds, including but not limited to HUD regulations as may be promulgated regarding subrecipients.

7.3.12. Successor Rules

In the event HUD ceases to provide definitions, determinations and calculations under the HOME Program related to Income Eligible Households or Annual Income, or both, the provisions of this Section shall be performed in accordance with definitions, determinations and calculations related to such matters as established by the City with a view toward establishing such definitions, determinations and calculations in a manner consistent, as nearly as possible, with those formerly promulgated by HUD under the HOME Program.

7.4. Certification Regarding Lobbying

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

i. 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

ii. 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

In addition to, and not in substitution for, other provisions of this Agreement regarding the provision of services with funds, pursuant to Title II of the Housing and Community Development Act of 1990, as amended, the Developer:

i. Represents that it is not, or 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,

ii. Agrees that, in connection with such services:

(a) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(b) 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;

(c) 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,

(d) 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, Developer and City 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. Layering Review

The amount of HOME funds provided in this agreement is contingent on a HOME Subsidy Layering analysis completed by City. The purpose of the layering analysis is to demonstrate that the HOME funds are reasonable and necessary to the Project and that federal sources of funds do not over-subsidize the Project. Developer shall notify the City promptly in writing should other local, state or federal government assistance be obtained in the future other than that contemplated under the existing Project Budget.

7.8. Compliance with Federal, State and Local Laws

Developer shall comply with all applicable federal, state and local statutes, ordinances, regulations and laws, (including the Governmental Requirements) with respect to the development and the operation and management of the Site by Developer (all of which comprises the Project hereunder). Developer shall carry out the design, construction, rehabilitation and completion of improvements, and operation and management of the Project, in conformity with all applicable laws, including all applicable federal, state, and local labor standards, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the Riverside Municipal Code.

7.8.1. Prevailing Wage Laws

Developer shall carry out the development through completion of the Project and the overall rehabilitation of the Site in conformity with all applicable federal, state and local labor laws and regulations, including without limitation, if and to the extent applicable, the requirements to pay prevailing wages under federal law (the Davis Bacon Act, 40 U.S.C. Section 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 Section 1720, *et seq.*).

Developer shall be solely responsible, expressly or impliedly, for determining and effectuating compliance with all applicable federal, state and local public works requirements, prevailing wage laws, labor laws and standards, and 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. Developer expressly, knowingly and voluntarily acknowledges and agrees that City has not previously represented to Developer or to any representative, agent or affiliate of Developer, 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.

7.8.2. Section 3 Compliance

Developer agrees to comply with and to cause the general contractor, each subcontractor, and any other contractors and/or subcontractors or agents of Developer 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 rehabilitation of the Site. Developer shall submit to City each Construction Contract with

appropriate provisions providing for the development 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 Developer (subject to compliance with 24 CFR Part 135) shall have provided to 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, and City shall be responsible for determining whether each contractor has been debarred.

City has prepared a Section 3 “checklist” and other forms related to Section 3 compliance; and as provided by City to Developer, and its contractor(s) or subcontractor(s), if any, and as applicable, such forms shall be utilized in all contracts and subcontracts to which Section 3 applies. Developer hereby acknowledges and agrees to take all responsibility for compliance with all Section 3 Clause federal requirements as to Developer, general contractor, subcontractors, or other contractor(s), subcontractor(s), and other agents. Developer shall provide or cause to be provided to the General Contractor and each subcontractor, and each of its other contractor(s), subcontractor(s) and agents the checklist for compliance with the Section 3 Clause federal requirements provided by City, to obtain from the General Contractor, each subcontractor, and other contractor(s), subcontractor(s), and agents all applicable items, documents, and other evidence of compliance with the items, actions, and other provisions within the checklist, and to submit all such completed Section 3 Clause documentation and proof of compliance to the City. To the extent applicable, Developer shall comply and/or cause compliance with all Section 3 Clause requirements for the Project. For example, when and if Developer or its contractor(s) hire(s) full time employees, rather than volunteer labor or materials, Section 3 is applicable and all disclosure and reporting requirements apply.

7.8.3. Labor Standards

In addition to compliance with Section 1304.1, the Construction Contract for the Project, as well as any other contract for the development work, shall be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. §3701, *et seq.*). Participating contractors, subcontractors, and other participants must comply with regulations issued under these Acts and with other federal laws and regulations pertaining to labor standards and HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs), as applicable. Developer shall supply to City certification, in form and substance satisfactory to HUD and City, as to compliance with the provisions of this Section before receiving any disbursement of federal funds for the development work.

7.9. Lead-Based Paint

City, as recipient(s) of federal funds, has modified and conformed all of its federally funded housing programs to the 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, which are aimed to take advantage of rehabilitation events as a cost-effective opportunity to reduce lead based paint and lead based paint hazards (LBP) in existing housing.

The implementing regulations to Title X, set forth in 24 CFR Part 35 (LBP Regs), were adopted by HUD on September 15, 1999 and are now effective for compliance by all recipients and subrecipients of federal funds. Subpart J of the LBP Regs focuses on the requirements for programs that provide assistance for housing rehabilitation, such as this Project. In this regard, Developer shall comply with the requirements, as and to the extent applicable, of Title X and the implementing LBP Regs for the Project.

The Development of the Site comprising the Project shall be undertaken and completed by qualified contractor(s) selected by Developer and, if applicable, meeting the requirements of the LBP Regs. All work relating to LBP and LBP hazards and the reduction and clearance thereof shall be undertaken using safe work practices and shall be conducted by qualified contractor(s) and inspectors(s) meeting the requirements of the LBP Regs. Under the LBP Regs, treatment and clearance shall be conducted by separate contractors. All treatment and clearance using safe work practices of LBP and LBP hazards at the Site shall be completed first and prior to any other part of the development work.

Prior to commencing any part of the development, if applicable, Developer shall cause each household in occupancy at the Site to receive (and shall obtain proof of receipt through signature) (1) a complete copy of the HUD issued informational pamphlet/brochure about LBP and LBP hazards, (2) any necessary disclosure forms relating to information about LBP and LBP Hazards, and (3) the results of any evaluation for LBP or LBP hazards at the applicable Unit within the Site.

7.10. Duty to Prevent Release of Hazardous Substances

During the development of the Site, Developer shall take all necessary precautions to prevent the release of any Hazardous Substances (with particular regard to any asbestos, or asbestos-containing materials, or lead-based paint or other lead containing products which are regulated by the HOME Program) 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, Developer 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. DEFAULTS, REMEDIES AND TERMINATION

8.1. Defaults - General

Subject to the extensions of time set forth in Section 9.7, failure or delay by either 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 herein below, 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 thirty (30) days after notice thereof in writing is mailed by the injured party to the defaulting party; provided, however, that 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.

8.2. Legal Actions

8.2.1. Institution of Legal Actions

In addition to any other rights or remedies and subject to the restrictions otherwise set forth in this Agreement, either 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. Such legal actions may be instituted in the Superior Court of the County of Riverside, State of California, in an appropriate municipal court in that County, or in the Federal District Court in the Central District of California.

8.2.2. Applicable Law

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

8.2.3. Acceptance of Service of Process

In the event that any legal action is commenced by Developer against City, service of process shall be made by personal service upon the City Clerk, or in such other manner as may be provided by law.

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

8.3. 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 either 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.

8.4. Inaction Not a Waiver of Default

Any failures or delays by either 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.

8.5. 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.

8.6. Rights of Termination and Damages

Provided a party is not in default of any of the terms and conditions of this Agreement, then upon an Event of Default by the other party, the non-defaulting party shall have the right to terminate this Agreement by written notice to the defaulting party in accordance with the provisions of Section 9.1. In addition, the non-defaulting party may exercise its rights under the Regulatory Agreement and/or apply to a court of competent jurisdiction for relief at law or in equity as may be appropriate and permissible.

9. GENERAL PROVISIONS

9.1. Notices, Demands and Communications Between the Parties

Any approval, disapproval, demand, document or other notice (“Notice”) required or permitted under this Agreement must be in writing and may be given by any commercially acceptable means to the party to whom the Notice is directed at the address of the party as set forth below, or at any other address as that party may later designate by Notice.

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

To City: City of Riverside
3900 Main Street, Seventh Floor
Riverside, California 92522
Attention: City Manager

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.

9.2. Conflicts of Interest

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

9.3. Warranty Against Payment of Consideration for Agreement

Developer 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.

9.4. Nonliability of City Officials and Employees

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

9.5. Approval by City and Developer

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 City or Developer to approve any contract, document, plan, proposal, specification, drawing or other matter, such approval shall not be unreasonably withheld or delayed, unless expressly provided to the contrary.

9.6. Plans and Data

If this Agreement is terminated by a Party, the City shall have the right but not the obligation to purchase from Developer all plans, drawings, studies and related documents concerning the Project. The purchase price for all or any part of said materials shall be their cost to Developer, less amounts already paid to the Developer by disbursement of City Loan Proceeds for such purposes. Upon delivery to the City, the City shall have the right to use such materials as it deems necessary and appropriate to fulfill the purposes of this Agreement without obligation to Developer.

9.7. 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; 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 the other party; acts or failure to act of the City or any other public or governmental agency or entity (other than that acts or failure to act of the City and/or City shall not excuse performance by the City); 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 between the Parties as otherwise provide in this Agreement. 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.

9.8. 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.

9.9. Inspection of Books and Records, Reports

The City or its designee has the right at all reasonable times to inspect the books and records and other related documents of the Developer 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 the Developer at locations as agreed by the parties. Throughout the term of this Agreement, the Developer shall submit to the City reasonable written progress reports as and when reasonably requested by City on all matters pertaining to the Project or the Site.

9.10. Administration

This Agreement shall be administered by the City Manager following approval of this Agreement.

Whenever a reference is made in this Agreement to an action, finding or approval to be undertaken by the City, the City Manager is authorized to act on behalf of the City, unless specifically provided otherwise or the context should require otherwise. The City Manager shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of the City, so long as such actions do not substantially change the uses or development permitted on the Site, or increase the amount of the City Loan specified herein or as agreed to by the City Council. Notwithstanding the foregoing, the City Manager may in his/her sole and absolute discretion refer any matter to the City Council for action, direction or approval.

9.11. 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.

9.12. Independent Contractor

The parties agree that the Developer, 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.

10. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

This Agreement includes 49 pages and Attachment Nos. 1 through 11 which constitute the entire understanding and agreement of the Parties. Two (2) duplicate originals of this Agreement shall be executed each of which shall be deemed to be an original. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

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 City or Developer, and all amendments hereto must be in writing and signed by the appropriate authorities of City and Developer.

[SIGNATURE PAGES FOLLOW]

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

“DEVELOPER”

RIVERSIDE HOUSING DEVELOPMENT CORPORATION, a California nonprofit public benefit corporation

Dated: 10/25/22

By: 
Name: BRUCE KULPA
Its: CEO

Dated: _____

By: _____
Name: _____
Its: _____

“CITY”

CITY OF RIVERSIDE, a California charter city and municipal corporation

Dated: _____

By: _____
City Manager

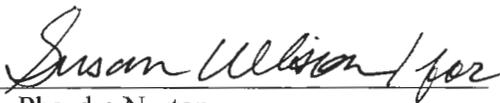
Attested To:

By: _____
Donesia Gause
City Clerk

CERTIFIED AS TO FUNDS AVAILABILITY:


BY: _____
Chief Financial Officer / City Treasurer

Approved As To Form:

By: 
Phaedra Norton
City Attorney

ATTACHMENT NO. 1

SITE PLAN

SITE PLAN

4292 Cedar Street Housing Rehabilitation



ATTACHMENT NO. 2
SITE LEGAL DESCRIPTION

EXHIBIT "A"
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. *[Signature]*
Curtis C. Stephens, L.S. 7519 Date



ATTACHMENT NO. 3

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 home into a 450 sq. ft., small front house, 450 sq. ft., junior ADU, and 400 sq. ft. ADU thereby converting a one-bedroom house into three small units.

ATTACHMENT NO. 4
SCHEDULE OF PERFORMANCE

Milestone	Date
NEPA Clearance	September 2022
Start Commitment of HOME Funds	October 2022
Historic Review Completed (Certificate of Appropriateness – Evergreen Quarter Historic District)	January 2023
Building Plans Submitted	March 2023
Permits Issued	June 2023
Construction Starts	July 2023
Construction Complete	November 2023

ATTACHMENT NO. 5

PROJECT BUDGET

Sources:

Funding Source	Amount
Permanent Private Bank Loan	\$102,000
City HOME Investment Partnerships Loan	\$255,000
City Community Development Block Grant	\$471,000
Total Sources	\$828,000

Uses:

Activity	Amount
Property acquisition	\$357,000
Rehabilitate one home into one rental unit, an ADU and a Junior ADU	\$276,980
Offsites	\$31,000
Soft costs (permits, engineering, etc.)	\$38,280
Interim holding costs (insurance, taxes, temporary fencing, etc.)	\$20,000
Contingency	\$44,740
Developer Fee	\$60,000
Total Project Cost	\$828,000

ATTACHMENT NO. 6

CITY PROMISSORY NOTE

Loan Amount: **\$255,000**

_____, 2022
Riverside, California

FOR VALUE RECEIVED, RIVERSIDE HOUSING DEVELOPMENT CORPORATION, a California nonprofit public benefit corporation (the “Borrower”) promises to pay to the **CITY OF RIVERSIDE**, a municipal corporation (“City”), or order, the principal sum of Two Hundred Fifty-Five Thousand Dollars (\$255,000), or so much of such principal as may be disbursed pursuant hereto and in accordance that certain Home Investment Partnerships Loan Agreement by and between the City and Borrower dated for identification purposes only as of _____, 2022 (“Agreement”). The record of such disbursements shall be recorded on Exhibit “A” to this Promissory Note by City and acknowledged by the Borrower. This Note evidences the obligation of Borrower to City for the repayment of certain funds (“City Loan”) loaned to Borrower by City and required to be paid by Borrower pursuant to the Agreement, in connection with construction of the Project and appurtenant improvements thereon located at 4292 Cedar Street, located in the City of Riverside, California and further identified as Assessor Parcel No. (APN) 215-201-016 (“Property”). All capitalized terms unless otherwise defined herein shall have the same meaning as set forth in the Agreement.

1. Source of Funds.

To fund the City Loan, City shall utilize certain funds allocated to and administered by the City pursuant to the HOME Program

2. Interest.

2.1 Basic Interest. Except as provided in Section 2.2 below, the disbursed and unpaid principal balance of the City Loan shall bear interest for the period of time commencing on the date on which the City Loan proceeds are first disbursed for the account of Borrower and ending on the date upon which the City Loan is repaid in full at the rate of zero percent (0 %) per annum, simple interest. Interest shall be computed on the basis of actual number of days elapsed and a 360-day year.

2.2 Default Rate. Any amounts (including but not limited to amounts of principal and interest on the City Loan) which Borrower does not pay when otherwise due under the terms of this Note, shall bear interest at the rate of ten percent (10%) per annum (“Default Rate”), simple interest, from the date which is ten (10) days after such amount would otherwise be due until the date paid.

3. Payment Dates and Amounts.

Except as otherwise provided in this City Promissory Note, Borrower shall repay the City Loan with interest in arrears in annual installments on May 1 of each calendar year for the previous calendar year, commencing on May 1 in the calendar year immediately following the calendar year

in which the Release of Construction Covenants is recorded in the official records of Riverside County. Absent prepayment or acceleration, the Borrower agrees to pay the indebtedness of the City Loan to the City in annual payments equal to fifty percent (50%) of the Residual Receipts (“City Share of Residual Receipts”) for the prior fiscal year.

3.1 Definition of Annual Project Revenue. “Annual Project Revenue” shall mean all gross income and all revenues of any kind from the development in a fiscal year, including without limitation, Project rents, Section 8 housing assistance payments, if any, late charges, vending machine income, and any other revenues of whatever kind or nature from the development, except that interest on security deposits, required reserves, capital contributions, insurance proceeds, and, condemnation proceeds, shall not be considered Annual Project Revenue.

3.2 Definition of Asset Management Fee. “Asset Management Fees” shall mean the asset management fee payable pursuant to the terms of the Developer’s limited partnership agreement.

3.3 Definition of Completion Loan. “Completion Loan” means a loan provided by any partner of the Developer or any party obligated to guaranty the obligations of the Developer to the Developer’s limited partners to pay for completion of the Project as may be required under the Developer’s limited partnership agreement, if applicable.

3.4 Definition of Debt Service. “Debt Service” means payments made in the fiscal year pursuant to the terms and conditions of the Construction and Permanent Loan or any subsequent promissory note and loan agreement with a private lender and excluding payments made pursuant to the City promissory note and notes made with other sources of subsidy financing.

3.5 Definition of Deferred Developer Fee. “Deferred Developer Fee” shall mean any developer fee remaining unpaid at the time the development receives its certificate of occupancy for a period not to exceed fifteen (15) years thereafter.

3.6 Definition of Investment Limited Partner Asset Management Fees. “Investment Limited Partner Asset Management Fees” shall mean the asset management fee, if any, payable to the investment limited partner of the Developer.

3.7 Definition of Operating Deficit Loan. “Operating Deficit loan” shall mean a loan, if any, provided by the general partner of the Developer, or any entity which is obligated to guaranty the obligations of the general partner to pay for Project operating deficits, as may be required by the Developer’s limited partnership agreement.

3.8 Definition of Operating Expenses. “Operating Expenses” shall mean actual, reasonable and customary costs, fees and expenses directly incurred, paid, and attributable to the operation, maintenance and management of the Project in a fiscal year, including, without limitation: painting, cleaning, repairs, alterations, landscaping, utilities, refuse removal, certificates, permits and licenses, sewer charges, real and personal property taxes, assessments, insurance, security, advertising and promotion, janitorial services, cleaning and building supplies, purchase, repair, servicing and installation of appliances, equipment, fixtures and furnishings which are not paid from the capital replacement reserve, fees and expenses of property management, fees and expenses of accountants, attorneys and other professionals, and other actual,

reasonable and customary operating costs and capital costs which are directly incurred and paid by the Borrower, but which are not paid from the operating reserve or other reserve accounts. The Operating Expenses shall not in any event include expenses not related to the development's operations, including without limitation, depreciation, amortization, non-cash expenses, and accrued principal and interest expense on deferred payment debt.

3.9 Definition of Residual Receipts. "Residual Receipts" means Annual Project Revenue less the sum of actual reasonable payments made on the following:

- (a) Operating Expenses;
- (b) Debt Service;
- (c) Reserve Deposits;
- (d) Reasonable and customary Asset Management Fee consistent with the Developer's pro forma upon the acquisition of the Project plus interest thereon;
- (e) Operating Deficit Loan plus interest thereon; plus
- (f) Completion Loan plus interest thereon.

3.10 Interest accrued on items set forth in Section 2.1 and in Section 6 shall not exceed a reasonable and customary rate of interest accrued on similar debt associated with similar affordable housing projects in Southern California.

4. Annual Financial Statement.

Not later than May 1, 2023, and each May 1st thereafter throughout the term, Borrower shall submit to City its Annual Financial Statement for the preceding year together with payments, if any, pursuant to Section 3 hereof. Residual Receipts shall be calculated by Borrower (and certified by an authorized officer of Borrower) and reported by Borrower to City annually for each calendar year no later than May 1st of the following calendar year on forms specified and provided by City from time to time but no later than June 30th of each year. All calculations and records shall be based upon Borrower's Annual Financial Statement and shall be subject to audit by City. In connection with any audit, Borrower shall provide to City for inspection and copying any records, receipts, account books, ledgers, checks, or other documents or other evidence requested by City for the purpose of verifying Borrower's calculation of Residual Receipts, and shall promptly pay to City any further amount due but not paid as a result of any miscalculation by Borrower. City shall promptly pay Borrower any overpayments made by Borrower as shown by such audit.

5. Maturity Dates.

Notwithstanding any other provision hereof, unless due sooner by virtue of the acceleration of the balance hereof in accordance with Section 7, the outstanding principal balance together with any accrued and unpaid interest due thereon and any other sums payable under this Note shall be due and payable in full on the date which is fifty-five (55) years from the date of the recording of the Release of Construction Covenants ("Maturity Date").

6. Additional Payments.

Unless waived by the City Manager, in addition to the payments provided in Section 3 above, and subject to the terms of any senior financing, Borrower shall pay to City towards (but not to exceed) any outstanding amounts related to the City Loan: (a) no later than the date of close of escrow or other consummation of any Assignment other than a Minor Assignment, the Net Proceeds of such Assignment multiplied by the City Percentage; and (b) no later than the recording of a Refinancing, (x) an amount equal to (i) fifty percent (50%) of the Net Refinancing Proceeds received from any such Refinancing, multiplied by (ii) the Applicable Percentage; multiplied by (y) the City Percentage.

A “Minor Assignment” means any lease of an individual unit in the Project for occupancy by a residential subtenant and in the ordinary course of business for operation of the Project.

“Applicable Percentage” means fifty percent (50%); provided, however, that the term “Applicable Percentage” means one hundred percent (100%) with respect to a payment on the City Loan attributable in whole or in part to a condemnation of, or event of damage, destruction or casualty with respect to, the Property, the Project or any portion of either.

“Assignment” means any voluntary or involuntary conveyance, disposition, assignment, taking, casualty, encumbrance (other than a Refinancing as defined below or the creation of the Senior Financing or any other Project Loan, the proceeds of which are used solely for initial acquisition of the Property by Borrower or initial development of the Project), sublease, sale or transfer of the Property, including, without limitation, any transfer by Borrower of all or any portion of its rights under or interest in the Project or the Property, any unpermitted change of ownership or control of Borrower, any condemnation or taking of the Property or the Project or any portion thereof, any event of damage to or destruction of the Property or the Project, any foreclosure of Borrower’s interest in the Project or the Property, whether by judicial proceedings, or by virtue of any power contained in a deed of trust, indenture or other instrument creating a lien against the Project or the Property, or any assignment of Borrower’s estate in the Project or the Property through, or in lieu of, foreclosure or other appropriate and bona fide proceedings in the nature thereof; provided, however, that the term “Assignment” as used herein shall not include (i) any permitted transfer as set forth in Section 2.2 of the Agreement or (ii) any bonafide transfers of an ownership interest in Borrower to any Affiliate of Borrower, so long as the consideration paid to the selling partner, member or shareholder on account of such transfer shall not exceed the actual amount paid by such partner, member or shareholder for its ownership interest plus reimbursement for any out-of-pocket expenses incurred by such partner, member or shareholder in connection with its acquisition of such ownership interest.

“Net Proceeds” of an Assignment means (a) the proceeds received, directly or indirectly, by Borrower or any Affiliate or constituent member or partner, or majority shareholder, of Borrower as a result of such Assignment, including, without limitation, cash, the amount of any monetary lien or encumbrance assumed or taken subject to by the assignee, the fair market value of any non-cash consideration, including the present value of any promissory note received as part of the proceeds of such Assignment (such present value to be determined based upon a discount rate reasonably satisfactory to City), the entire condemnation award or compensation payable to Borrower or any Affiliate or constituent member or partner, or majority shareholder, of Borrower

in connection with a condemnation or taking in eminent domain of any part of the Property or the Project or any interest therein, all insurance proceeds or awards payable to Borrower or any Affiliate or constituent member or partner or majority shareholder of Borrower in connection with any damage to or destruction of the Property or the Project or any part thereof; less (b) the sum of (i) the actual, documented and reasonable expenses of effecting such Assignment, including reasonable brokerage commissions, title insurance premiums, documentary transfer taxes, and reasonable attorneys' fees, in each case actually paid in connection with the Assignment (provided that no deduction shall be allowed for payments to an Affiliate of the person or entity making the Assignment which are in excess of the amount that would be paid for the same or equivalent services in an arms' length transaction between unrelated parties acting reasonably), and (ii) the amount of any proceeds of the Assignment paid (excluding voluntary payments) towards the then-outstanding balance of the Senior Financing. Notwithstanding anything above which is or appears to be to the contrary, the permissible deductions for purposes of calculating the Net Proceeds of an Assignment shall not include any foreign, U.S., state or local income taxes, franchise taxes, or other taxes based on income.

"Refinancing" means creation or substantial modification of a loan secured by an encumbrance on the Property, the Project, or any portion thereof. The term "Refinancing" shall not include the creation of the financing and any other project loan, the proceeds of which are used solely for initial acquisition of the Property by Borrower or initial development of the Project or otherwise allowed in the Agreement ("Senior Financing").

"Net Refinancing Proceeds" means the gross face amount of the loan proceeds obtained in connection with a Refinancing, after: (a) payment of the actual, documented and reasonable expenses of such Refinancing, including escrow fees, title policy expenses, legal expenses, survey fees, recording fees, commissions, or other usual and reasonable expenses of any such Refinancing (provided, that no deduction shall be allowed for payments in connection with such Refinancing which are in excess of the amounts that would be paid for the same or equivalent services in an arms' length transaction between unrelated parties acting reasonably); (b) deduction of amounts for any necessary construction to the Project, as approved by City, which approval shall not be unreasonably withheld; (c) deduction of amounts repaid (excluding voluntary payments) in connection with the Refinancing towards amounts outstanding under the Senior Financing, , Operating Deficit Loan and Completion Loan plus interest thereon, if applicable.

7. Acceleration.

Notwithstanding the payment terms set forth in Section 3 above, upon the occurrence of any "Event of Default" as set forth in Section 14 below, the entire outstanding principal balance of the Note, together with any outstanding interest and other amounts payable thereunder, shall, at the election of City and upon notice to Borrower thereof, become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by Borrower.

8. Prepayment; Application of Payments.

At any time after the disbursement of the City Loan proceeds, Borrower may prepay all or a portion of the unpaid principal amount of the City Loan and accrued interest and any other sums

outstanding without penalty. All payments, including any prepayments or funds received upon acceleration pursuant to Section 7 above, shall be applied first toward any outstanding costs of collection or other amounts (excluding City Loan principal or interest thereon) due under this Note or the Agreement, then toward outstanding interest accrued at the Default Rate, if any, then toward outstanding interest accrued at the basic interest rate of zero percent (0%) per annum (simple interest), if any, then toward any deferred principal, and finally toward the remaining principal balance under the Note.

9. Security For Note.

Borrower's obligations under this Note and the Agreement shall, at all times during which any amount remains outstanding, be secured by that certain deed of trust, fixture filing and assignment of rents ("City Deed of Trust") of even date herewith, and of which City is the beneficiary, recorded against Borrower's fee interest in the Property and the Project (collectively, the "Property").

10. Obligation of Borrower Unconditional.

The obligation of Borrower to repay the City Loan and all accrued interest thereon shall be absolute and unconditional, and until such time as all of the outstanding principal of and interest on this Note shall have been fully paid, Borrower agrees that it: (a) will use the funds solely for the purposes set forth herein; and (b) will not terminate or suspend any payment or obligations under this Note, the Agreement, or any other document executed hereunder or in connection herewith for any cause, including without limitation, any acts or circumstances that may constitute failure of consideration, commercial frustration of purpose, or any duty, liability or obligation arising out of or in connection with this Note, the Agreement or any document executed hereunder or in connection herewith.

11. Purpose of City Loan.

The City Loan proceeds shall be used by Borrower only to pay Project Costs and such other uses previously approved in writing by City in accordance with the Agreement. In no event shall Borrower use or otherwise invest the proceeds of the City Loan except as expressly provided in this Note and the Agreement.

12. Covenants of Borrower.

As additional consideration for the making of the City Loan by City, Borrower covenants as follows:

12.1 Compliance with Agreement, the Regulatory Agreement and Deed of Trust. Borrower shall comply with all of its obligations under the Agreement, the Regulatory Agreement and the Deed of Trust. Any amounts payable by Borrower under the Agreement, the Regulatory Agreement or the Deed of Trust (other than amounts also payable hereunder) shall be deemed added to the principal amount of the City Loan payable hereunder.

12.2 Other Loans. Borrower shall comply with all monetary and non-monetary covenants associated with any loan secured by an interest in the Property or the Project. Borrower shall provide to City a copy of any notice of default within five business days after receiving any

notice of a default or alleged default of such covenants by Borrower, and Borrower shall promptly cure any such default and cooperate in permitting City, to the extent City in its sole discretion elects to do so, to cure or assist in curing the default. Any cost or expenditure incurred by City in providing or assisting in such a cure shall be deemed added to the outstanding principal amount of the City Loan.

13. Assignment of this Note.

This Note shall be assignable by Borrower in accordance with Section 2.2 of the Agreement. Notwithstanding anything which may be or appear to be herein to the contrary, no purported assignment of this Note and/or the City Loan shall be effective if such assignment would violate the terms, conditions and restrictions of any Governmental Regulations.

14. Events of Default and Remedies.

14.1 Borrower Events of Default. The occurrence of any of the circumstances described in this Section 14.1 shall constitute an event of default by Borrower hereunder (“Event of Default”). Notwithstanding anything herein to the contrary, the herein described notice requirements and cure periods shall not apply to any Event of Default described in Sections 14.1(c) through 14.1(h) below. Where notice is required, City shall notify the Investor concurrently with the notice delivered to the Borrower.

(a) The failure of Borrower to pay or perform any monetary covenant or obligation hereunder or under the terms of the Deed of Trust or the Agreement, without curing such failure within ten (10) days after receipt of written notice of such default from City (or from any party authorized by City to deliver such notice as identified by City in writing to Borrower).

(b) The failure of Borrower to perform any non-monetary covenant or obligation hereunder, or under the Deed of Trust or the Agreement, without curing such failure within thirty (30) days after receipt of written notice of such default from City (or from any party authorized by City to deliver such notice as identified by City in writing to Borrower) specifying the nature of the event or deficiency giving rise to the default and the action required to cure such deficiency. Provided, however, that if any default with respect to a non-monetary obligation is such that it cannot be cured within a 30-day period, it shall be deemed cured if Borrower commences the cure within said 30-day period and diligently prosecutes such cure to completion thereafter.

(c) The material falsity, when made, of any representation or breach of any material warranty or covenant made by Borrower under the terms of this Note, the Agreement or the Deed of Trust;

(d) Borrower or any constituent member or partner, or majority shareholder, of Borrower shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian or the like of its property, (ii) fail to pay or admit in writing its inability to pay its debts generally as they become due, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated a bankrupt or insolvent, or (v) commence a voluntary petition that is not withdrawn within ninety (90) days of the filing thereof or answer seeking an arrangement with creditors or an

order for relief or seeking to take advantage of any insolvency law or file an answer admitting the material allegations of a petition filed against it in any bankruptcy or insolvency proceeding;

(e) If without the application, approval or consent of Borrower, a proceeding shall be instituted in any court of competent jurisdiction, under any law relating to bankruptcy, in respect of Borrower or any constituent member or partner or majority shareholder of Borrower, for an order for relief or an adjudication in bankruptcy, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator or custodian or the like of Borrower or of all or any substantial part of Borrower's assets, or other like relief in respect thereof under any bankruptcy or insolvency law, and, if such proceeding is being contested by Borrower, in good faith, the same shall (i) result in the entry of an order for relief or any such adjudication or appointment, or (ii) continue undismissed, or pending and unstayed, for any period of ninety (90) consecutive days;

(f) Following completion of the construction of the Project, voluntary cessation of the operation of the Project for a continuous period of more than thirty (30) days or the involuntary cessation of the operation of the Project in accordance with this Note, the Regulatory Agreement and/or the Agreement for a continuous period of more than sixty (60) days;

(g) A transfer, in violation of Section 2.2.2 of the Agreement;

(h) If Borrower is in default under the terms of the Regulatory Agreement, Senior Financing or other financing, or any other secured or unsecured obligation relating to the Project, unless such default is cured within the cure period, if any, applicable thereto under the terms and obligation which is in default.

14.2 City Remedies. Upon the occurrence of an Event of Default hereunder, and subject to the rights of any senior lenders City may, in its sole discretion, take any one or more of the following actions:

(a) By notice to Borrower, except in the case of a default by Borrower under Section 14.1(d) or Section 14.1(e) in which event no notice shall be required, declare the entire then unpaid principal balance of the City Loan immediately due and payable, and the same shall become due and payable without further demand, protest or further notice of any kind, all of which are expressly waived. Upon such declaration, outstanding principal and (to the extent permitted by law) interest and any other sums outstanding in connection with the City Loan shall thereafter bear interest at the Default Rate, payable from the date of such declaration until paid in full;

(b) Subject to the nonrecourse provisions of Section 23 below, take any and all actions and do any and all things which are allowed, permitted or provided by law, in equity or by statute, in the sole discretion of City, to collect the amounts then due and thereafter to become due hereunder, to exercise its rights under the Deed of Trust, and to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Note, the Agreement or under any other document executed in connection herewith;

(c) Subject to the nonrecourse provision of Section 23 below, upon the occurrence of an Event of Default which is occasioned by Borrower's failure to pay money, City may, but shall not be obligated to, make such payment. If such payment is made by City, Borrower

shall deposit with City, upon written demand therefor, such sum plus interest at the Default Rate. In either case, the Event of Default with respect to which any such payment has been made by City shall not be deemed cured until such repayment (as the case may be) has been made by Borrower. Until repaid, such amounts shall have the security afforded disbursements under this Note;

(d) Subject to the nonrecourse provisions of Section 23 below, upon the occurrence of an Event of Default described in Section 14.1(d) or 14.1(e) hereof, City shall be entitled and empowered by intervention in such proceedings or otherwise to file and prove a claim for the whole amount owing and unpaid on the City Loan and, in the case of commencement of any judicial proceedings, to file such proof of claim and other papers or documents as may be necessary or advisable in the judgment of City and its counsel to protect the interests of City and to collect and receive any monies or other property in satisfaction of its claim.

14.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to City intended to be exclusive of any other available remedy or remedies, but each such remedy shall be cumulative and shall be in addition to every other remedy given under this Note or now existing at law or in equity or by statute; and may be exercised in such number, at such times and in such order as City may determine in its sole discretion. No delay or omission to exercise any right or power upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient by City. In order to entitle City to exercise any right or remedy reserved to it under this Note, no notice shall be required except as expressly provided herein.

14.4 City Default and Borrower Remedies. Upon fault or failure of City to meet any of its obligations under this Note without curing such failure within thirty (30) days after receipt of written notice of such failure from Borrower specifying the nature of the event or deficiency giving rise to the default and the action required to cure such deficiency, Borrower may, as its sole and exclusive remedies:

- (a) Demand and obtain payment from City of any sums due to or for the benefit of Borrower pursuant to the express terms of this Note;
- (b) Bring an action in equitable relief seeking the specific performance by City of the terms and conditions of this Note or seeking to enjoin any act by City which is prohibited hereunder; and/or
- (c) Bring an action for declaratory relief seeking judicial determination of the meaning of any provision of this Note.

Without limiting the generality of the foregoing, Borrower shall in no event be entitled to, and hereby waives, any right to seek consequential damages of any kind or nature from City arising out of or in connection with this Note, and in connection with such waiver Borrower is familiar with and hereby waives the provision of Section 1542 of the California Civil Code which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER

FAVOR AT THE TIME OF EXECUTING THE RELEASE WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

15. Agreement to Pay Attorneys’ Fees and Expenses.

In the event that either party hereto brings any action or files any proceeding in connection with the enforcement of its respective rights under this Note or any of the City Loan Documents, defined as the Agreement, this Note, the Deed of Trust, the Regulatory Agreement, the Request for Notice of Default 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 have its reasonable attorneys’ fees and out-of-pocket expenditures paid by the losing party. 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 this Note or any other City Loan Document 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, Borrower agrees to pay or reimburse City, upon demand by City, for all costs incurred by City in connection with enforcement of this Note, and any other City Loan Document, including without limitation, reasonable attorneys’ fees and costs, if there shall be filed by or against Borrower any proceedings under any federal or state bankruptcy or insolvency laws, whether City is a creditor in such proceedings or otherwise.

16. Conflict of Interest; No Individual Liability.

No official or employee of City shall have any personal interest, direct or indirect, in this Note, nor shall any official or employee of City participate in any decision relating to this Note which affects such official’s or employee’s pecuniary interest in any corporation, partnership or association in which such official or employee is directly or indirectly interested. No official or employee of City shall be personally liable in the event of a breach of this Note by City.

17. Amendments, Changes and Modifications.

This Note may not be amended, changed, modified, altered or terminated without the prior written consent of the parties hereto.

18. Notices.

All notices, demands, requests, elections, approvals, disapprovals, consents or other communications given under this Note shall be in writing and 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 Borrower: 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 pursuant to this Note. 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.

19. Severability.

The invalidity or unenforceability of any one or more provisions of this Note will in no way affect any other provisions.

20. Interpretation.

Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the paragraphs of this Note are for convenience only and do not define or limit any terms or provisions. Time is of the essence in the performance of this Note by Borrower. Each party hereto has been represented by counsel in the negotiation of this Note, and it shall not be interpreted in favor of or against any party on account of relative responsibilities in drafting. Notwithstanding any other provision of this Note, nothing herein or in this Note shall be deemed to require Borrower to pay interest in an amount in excess of any applicable usury law or other legal limitation on interest, and the terms of this Note shall be interpreted to require in each instance the lesser of (a) the amount stated in this Note, and (b) the maximum applicable legal limit.

21. No Waiver; Consents.

Any waiver by City must be in writing and will not be construed as a continuing waiver. No waiver will be implied from any delay or failure by City to take action on account of any default

of Borrower. Consent by City to any act or omission by Borrower will not be construed to be a consent to any other or subsequent act or omission or to waive the requirements for City's consent to be obtained in any future or other instance.

22. Governing Law.

This Note shall be governed by the laws of the State of California.

23. Nonrecourse Obligation After Completion of Construction.

This Note shall constitute a recourse obligation of the Borrower until recordation of the Release of Construction Covenants in the official records of the County of Riverside. Upon completion of construction of the Project as evidenced by the recordation of a Release of Construction Covenants, this Note shall be nonrecourse and neither Borrower nor any member, officer, partner or employee of Borrower shall have any personal liability for repayment of the sums evidenced hereby, and the City must resort only to the Property for repayment should the Borrower fail to repay the sums evidenced hereby.

Nothing contained in the foregoing limitation of liability shall (a) limit or impair the enforcement against all such security for this Note of all the rights and remedies of the City, or (b) be deemed in any way to impair the right of the City to assert the unpaid principal amount of this Note as a demand for money within the meaning and intendment of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto. The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on this Note; nothing contained therein is intended to relieve the Borrower and, if Borrower is a partnership, any general partner of Borrower of liability for (i) fraud or willful misrepresentation of the Borrower; (ii) the failure to pay taxes, assessments or other charges which may create liens on the real property described in the City Loan Documents that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the retention of any rental income or other income arising with respect to the Project collected by Borrower after the City has given any notice that Borrower is in default to the full extent of the rental income or other income retained and collected by Borrower after the giving of any such notice; (iv) the fair market value as of the time of the giving of any notice referred to in subparagraph (iii) above of any personal property or fixtures removed or disposed of by Borrower other than in accordance with the City Loan Documents after the giving of any notice referred to above; and (v) the misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Project; and (vi) breach of any environmental covenant or representation made by the Borrower relating to the Project.

24. Approvals.

Except with respect to those matters set forth hereinabove providing for City's approval, consent or determination to be at City's "sole discretion" or "sole and absolute discretion," City hereby agrees to act reasonably with regard to any approval, consent, or other determination given by City hereunder. City agrees to give Borrower written notice of its approval or disapproval following submission of items to City for approval, including, in the case of any disapproved item, the reasons for such disapproval.

Any review or approval of any matter by the City or any City official or employee under this Note shall be solely for the benefit of City, and neither Borrower nor any other person shall rely upon such review or approval as an indication of the wisdom, soundness, safety, appropriateness, or presence or absence of any matter. Without limiting the generality of the foregoing, Borrower and not City shall be solely responsible for assuring compliance with laws, the suitability of the Property for the Project, the adequacy of the plans, and the safety of the Project construction site, the completed Project, and the operation thereof.

25. Waiver.

Borrower agrees that it will still be liable for repayment of this Note, even if the holder hereof does not follow the procedures of presentment, protest, demand, diligence, notice of dishonor and of nonpayment, which requirements are hereby waived. Failure of City or other holder hereof to exercise any right or remedy hereunder shall not constitute a waiver of any future or other default. No acceptance of a past due installment or indulgence granted from time to time shall be construed to be a waiver of, or to preclude the exercise of, the right to insist upon prompt payment thereafter or to impose late charges retroactively or prospectively, or to waive or preclude the exercise of, the right to insist upon prompt payment thereafter or to impose late charges retroactively or prospectively, or to waive or preclude the exercise of any other rights which City may have.

IN WITNESS WHEREOF, Borrower has executed this Note as of the date and year first above written.

BORROWER:

RIVERSIDE HOUSING DEVELOPMENT CORPORATION, a California nonprofit public benefit corporation

Dated: _____

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

EXHIBIT "A"

DISBURSEMENT RECORD

	Disbursement Amount	Disbursement Date	Borrower's Acknowledgment of Receipt
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

FOR GOOD AND VALUABLE CONSIDERATION, including the financial assistance herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby irrevocably grants, transfers, conveys and assigns to Trustee, **IN TRUST, WITH POWER OF SALE**, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, the Property;

TOGETHER WITH any and all buildings and improvements now or hereafter erected on the Property including, without limitation, Trustor's interest in fixtures, tenements, attachments, appliances, equipment, building systems, machinery, and other articles now or hereafter attached to the buildings and improvements (collectively, "Improvements"), all of which shall be deemed and construed to be a part of the real property;

TOGETHER WITH all earnings, rents, issues, profits, revenue, royalties, income, proceeds and other benefits, including without limitation prepaid rents and security deposits (collectively, "Rents") derived from any lease, sublease, license, franchise or concession or other agreement (collectively, "Leases") now or hereafter affecting all or any portion of the Property or the Improvements or the use or occupancy thereof;

TOGETHER WITH all interests, estates or other claims, both in law and in equity, which Trustor now has or may hereafter acquire in the Property or the Improvements, including without limitation, all right, title and interest now owned or hereafter acquired by Trustor in and to any greater estate in the Property or the Improvements;

TOGETHER WITH all easements, tenements, hereditaments, appurtenances, rights-of-way and rights now owned or hereafter acquired by Trustor used or useful in connection with the Property or as a means of access thereto, including, without limiting the generality of the foregoing, all rights pursuant to any trackage agreement and all rights to the nonexclusive use of common drive entries, all oil and gas and other hydrocarbons and all other minerals and water and water rights and shares of stock evidencing the same;

TOGETHER WITH all leasehold estate, right, title and interest of Trustor in and to all leases, subleases, subtenancies, licenses, franchises, occupancy agreements and other agreements covering the Property, the Improvements or any portion thereof now or hereafter existing or entered into, and all right, title and interest of Trustor thereunder, including, without limitation, all cash or security deposits, prepaid or advance rentals, and deposits or payments of similar nature;

TOGETHER WITH all right, title and interest of Trustor, now owned or hereafter acquired in and to any Property lying within the right-of-way of any street, open or proposed, adjoining the Property and any and all sidewalks, vaults, alleys and strips and gores of property adjacent to or used in connection with the Property;

TOGETHER WITH all the estate, interest, right, title, other claim or demand, both in law and in equity, including claims or demands with respect to the proceeds of insurance in effect with respect to the Property, which Trustor now has or may hereafter acquire in the Property or the Improvements and any and all awards made for the taking by eminent domain, or by any

proceeding of purchase in lieu thereof, of the whole or any part of the interests described in this Deed of Trust, including, without limitation, any awards resulting from a change of grade of streets and awards for severance damages.

The entire estate, property and interest hereby conveyed to Trustee may hereafter be collectively referred to as the "Trust Estate".

FOR THE PURPOSE OF SECURING:

(a) the payment of the sum of Two Hundred Fifty-Five Thousand Dollars (\$255,000), or so much of such principal as may be disbursed pursuant to the Note, with simple interest at zero percent (0.0%) per annum according to the terms of the Note, and any and all additions, modifications or extensions thereof;

(b) performance of every obligation, covenant and agreement of Trustor contained in the Agreement, the Note, and that certain Regulatory Agreement by and between Trustor and Beneficiary dated and recorded concurrently herewith ("Regulatory Agreement") which includes among other covenants and restrictions, covenants of affordability, maintenance of the Project and restrictions on transfer of ownership of the Project and all modifications, extensions, renewals, and replacements thereof or any other agreement now or hereafter executed by Trustor which recites that the obligations thereunder are secured by this Deed of Trust and the Notice of Default (collectively, "Loan Documents");

(c) payment of all sums advanced by Beneficiary or its successors and assigns, or Trustee, to enforce the Note, the Agreement, the Regulatory Agreement or this Deed of Trust to protect the Trust Estate upon an Event of Default, with interest thereon at the rate of ten percent (10%) per annum ("Default Rate") pursuant to the terms of the Note;

(d) payment and performance of all other obligations of Trustor arising from any and all existing and future agreements with Beneficiary, or its successors or assigns, when such agreement recites that the obligations thereunder are secured by this Deed of Trust.

All initially capitalized terms used herein which are defined in the Agreement shall have the same meaning herein unless the context otherwise requires.

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

ARTICLE 1. COVENANTS AND AGREEMENTS OF TRUSTOR

1.1 Payment of Secured Obligations. Trustor shall immediately pay when due all amounts secured hereby.

1.2 Maintenance, Repair, Alterations. Subject to normal wear and tear, Trustor (a) shall keep the Property and the Improvements thereon in good condition and repair in accordance

with the Loan Documents, including without limitation the Regulatory Agreement; (b) shall not remove, demolish or substantially alter any of the Improvements except upon the prior written consent of Beneficiary; (c) shall complete promptly and in a good and workmanlike manner any Improvement which may be now or hereafter constructed on the Property and promptly restore in like manner any portion of the Improvements which may be damaged or destroyed thereon from any cause whatsoever, and pay when due all claims for labor performed and materials furnished therefore; (d) shall comply in all material respects with all laws, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the Trust Estate or any part thereof or requiring any alterations or improvements; (e) shall not commit or permit any waste or deterioration of the Property or the Improvements; (f) shall not allow changes in the use for which all or any part of the Property or the Improvements were intended; and (g) shall not initiate or acquiesce in a change in the zoning classification of the Property and the Improvements without Beneficiary's prior written consent.

1.3 Required Insurance.

(a) Trustor shall at all times provide, maintain and keep in force or cause to be provided, maintained and kept in force, at no expense to Trustee or Beneficiary, policies of insurance in accordance with the terms of the Loan Documents in form and amounts, providing for deductibles, and issued by companies, associations or organizations covering such casualties, risks, perils, liabilities and other hazards as required by the Loan Documents or by Beneficiary pursuant thereto.

(b) Trustor shall not obtain separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Beneficiary is included thereon under a standard, non-contributory mortgagee clause or endorsement acceptable to Beneficiary. Trustor shall immediately notify Beneficiary whenever any such separate insurance is obtained and shall promptly deliver to Beneficiary the original policy or policies of such insurance.

(c) Within 90 days following the end of each fiscal year of Trustor, at the request of Beneficiary, Trustor at Trustor's expense shall furnish such evidence of replacement costs as the insurance carrier providing casualty insurance for the building(s) and other improvements on the Property may require to determine, or which such carrier may provide in determining, the then replacement cost of the building(s) and other improvements on the Property.

1.4 Delivery of Policies, Payment of Premiums.

(a) At Beneficiary's option Trustor shall furnish Beneficiary with a copy of all policies of insurance required under Section 1.3 above or evidence of insurance issued by the applicable insurance company for each required policy setting forth the coverage, the limits of liability, the name of the carrier, the policy number and the period of coverage, and otherwise in form and substance satisfactory to Beneficiary in all respects.

(b) In the event Trustor fails to provide, maintain, keep in force or deliver to Beneficiary the policies of insurance required by this Deed of Trust or by any Loan Documents, Beneficiary may (but shall have no obligation to) procure such insurance or single-interest insurance for such risks covering Beneficiary's interest and Trustor will pay all premiums thereon and reimburse Beneficiary for all amounts paid or incurred by it in connection therewith promptly upon demand by Beneficiary and, until such payment and reimbursement is made by Trustor, the amount of all such premiums and amounts paid or incurred by Beneficiary shall become indebtedness secured by this Deed of Trust and bear interest at the Default Rate. Following an Event of Default for failure to maintain insurance in accordance with this Section 1.4 and upon written request by Beneficiary, Trustor shall deposit with Beneficiary in monthly installments, an amount equal to 1/12 of the estimated aggregate annual insurance premiums on all policies of insurance required by the Loan Documents or this Deed of Trust. In such event Trustor further agrees to cause all bills, statements or other documents relating to the foregoing insurance premiums to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements or other documents evidencing that a premium for a required policy is then payable, and providing Trustor has deposited sufficient funds with Beneficiary pursuant to this Section 1.4, Beneficiary shall timely pay such amounts as may be due thereunder out of the funds so deposited with Beneficiary. If at any time and for any reason the funds deposited with Beneficiary are or will be insufficient to pay such amounts as may be then or subsequently due, Beneficiary shall notify Trustor and Trustor shall immediately deposit an amount equal to such deficiency with Beneficiary. Notwithstanding the foregoing, nothing contained herein shall cause Beneficiary to be deemed a trustee of the funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary pursuant to this Section 1.4, nor shall anything contained herein modify the obligation of Trustor set forth in Section 1.3 hereof to maintain and keep such insurance in force at all times. Beneficiary may commingle the reserve with its own funds and Trustor shall be entitled to no interest thereon.

1.5 Casualties; Insurance Proceeds. Trustor shall give prompt written notice thereof to Beneficiary after the happening of any casualty to or in connection with the Property, the Improvements, or any part thereof, whether or not covered by insurance subject to the provisions of any senior liens, in the event of such casualty, all proceeds of insurance shall be payable to Beneficiary, whether required by the Loan Documents or otherwise, and Trustor hereby authorizes and directs any affected insurance company to make payment of such proceeds directly to Beneficiary. If Trustor receives any proceeds of insurance resulting from such casualty, whether required by the Loan Documents or otherwise, Trustor shall promptly pay over such proceeds to Beneficiary, except where the insurance proceeds for such casualty are less than \$50,000. Beneficiary is hereby authorized and is empowered by Trustor to settle, adjust or compromise any and all claims for loss, damage or destruction under any policy or policies of insurance. In the event of any damage or destruction of the Property or the Improvements, Beneficiary shall apply all loss proceeds remaining after deduction of all expenses of collection and settlement thereof, including, without limitation, fees and expenses of attorneys and adjustors, to the restoration of the Improvements, but only as repairs or replacements are effected and continuing expenses become due and payable and provided all applicable conditions specified in the Loan Documents with respect thereto have been satisfied. If any one or more of such conditions in the Loan Documents has not been met, Beneficiary shall not be obligated to make any further disbursements

pursuant to the Note and Beneficiary shall apply all loss proceeds, after deductions as herein provided, to the repayment of any indebtedness thereunder, together with all accrued interest thereon, notwithstanding that the outstanding balance may not be due and payable and the Agreement shall terminate. Nothing herein contained shall be deemed to excuse Trustor from repairing or maintaining the Property and the Improvements as provided in Section 1.2 hereof or restoring all damage or destruction to the Property or the Improvements, regardless of whether or not there are insurance proceeds available to Trustor or whether any such proceeds are sufficient in amount, and the application or release by Beneficiary of any insurance proceeds shall not cure or waive any Event of Default nor any notice of default under this Deed of Trust or invalidate any act done pursuant to such notice.

1.6 Indemnification; Subrogation; Waiver of Offset.

(a) If Beneficiary is made a party to any litigation concerning this Deed of Trust or any of the Loan Documents, the Trust Estate or any part thereof or interest therein, or the occupancy of the Property or the Improvements by Trustor, then Trustor shall indemnify, defend and hold Beneficiary harmless from all liability by reason of that litigation, including reasonable attorneys' fees and expenses incurred by Beneficiary as a result of any such litigation, whether or not any such litigation is prosecuted to judgment, except to the extent that such liability is caused by the sole negligence or willful misconduct of Beneficiary. Beneficiary may employ an attorney or attorneys selected by it to protect its rights hereunder, and Trustor shall pay to Beneficiary reasonable attorneys' fees and costs incurred by Beneficiary, whether or not an action is actually commenced against Trustor by reason of its breach.

(b) Trustor waives any and all right to claim or recover against Trustee, Beneficiary, and their respective officers, employees, agents and representatives, for loss of or damage to Trustor, the Trust Estate, Trustor's property or the property of others under Trustor's control from any cause insured against or required to be insured against by the provisions of this Deed of Trust.

(c) All sums payable by Trustor in accordance with the terms of this Deed of Trust, the Note or the Agreement shall be paid upon notice and demand and without counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Trustor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Trust Estate or any part thereof; (ii) any restriction or prevention of or interference by any third party with any use of the Trust Estate or any part thereof; (iii) any title defect or encumbrance or any eviction from the Improvements or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Beneficiary, or any action taken with respect to this Deed of Trust by any trustee or receiver of Beneficiary, or by any court, in any such proceeding; (v) any claim which Trustor has or might have against Beneficiary, which does not relate to the City Loan; or (vi) any other occurrence whatsoever, whether similar or dissimilar to the foregoing; whether or not Trustor shall have notice or knowledge of any of the foregoing. Except as expressly provided herein and subject to any

limitation thereon provided by law, Trustor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Trustor.

1.7 Taxes and Impositions.

(a) As used herein, "Impositions" shall mean all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever, including, without limitation, nongovernmental levies or assessments such as maintenance charges, levies or charges resulting from covenants, conditions and restrictions affecting the Trust Estate, which are assessed or imposed upon the Trust Estate or any portion of it, or become due and payable, and which create, may create or appear to create a lien upon the Trust Estate, or any part thereof, or upon any person, property, equipment or other facility used in the operation or maintenance thereof, or any tax or assessment on the Trust Estate, or any part of it, in lieu thereof or in addition thereto, or any license fee, tax or assessment imposed on Beneficiary and measured by or based in whole or in part upon the amount of the outstanding obligations secured hereby. Trustor shall pay all Impositions prior to delinquency. Trustor shall deliver to Beneficiary proof of the payment of the Impositions within thirty (30) days after such Impositions are due.

(b) After an Event of Default by Trustor and upon written request by Beneficiary, Trustor shall pay to Beneficiary, unless the Property and Improvements have received an ad valorem property tax exemption pursuant to subdivision (f) or (g) of Section 214 of the California Revenue and Taxation Code, an initial cash reserve in an amount adequate to pay all Impositions for the ensuing tax fiscal year and shall thereafter continue to deposit with Beneficiary, in monthly installments, an amount equal to 1/12 of the sum of the annual Impositions reasonably estimated by Beneficiary, for the purpose of paying the installment of Impositions next due on the Property and the Improvements (funds deposited for this purpose shall hereinafter be referred to as "Impounds"). In such event Trustor further agrees to cause all bills, statements or other documents relating to Impositions to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements or other documents, and providing Trustor has deposited sufficient Impounds with Beneficiary pursuant to this Section 1.8(b), Beneficiary shall timely pay such amounts as may be due thereunder out of the Impounds so deposited with Beneficiary. If at any time and for any reason the Impounds deposited with Beneficiary are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary may notify Trustor and upon such notice Trustor shall deposit immediately an amount equal to such deficiency with Beneficiary. If after the payment of the Impositions there shall be an excess amount held by Beneficiary, such excess amount shall be refunded to Trustor in any manner and in such amount as Beneficiary may elect. Beneficiary may commingle Impounds with its own funds and shall not be obligated to pay or allow any interest on any Impounds held by Beneficiary pending disbursement or application hereunder. Beneficiary may reserve for future payment of Impositions such portion of the Impounds as Beneficiary may in its absolute discretion deem proper.

(c) Upon an Event of Default under any of the Loan Documents or this Deed of Trust, Beneficiary may apply the balance of the Impounds upon any indebtedness or obligation

secured hereby in such order as Beneficiary may determine, notwithstanding that the indebtedness or the performance of the obligation may not yet be due according to the terms thereof. Should Trustor fail to deposit with Beneficiary (exclusive of that portion of the payments which has been applied by Beneficiary upon any indebtedness or obligation secured hereby) sums sufficient to fully pay such Impositions before delinquency thereof, Beneficiary may, at Beneficiary's election, but without any obligation so to do, advance any amounts required to make up the deficiency, which advances, if any, shall bear interest at the Default Rate, shall be secured hereby and shall be repayable to Beneficiary as herein elsewhere provided, or at the option of Beneficiary the latter may, without making any advance whatever, apply any Impounds held by it upon any indebtedness or obligation secured hereby in such order as Beneficiary may determine, notwithstanding that the indebtedness or the performance of the obligation may not yet be due according to the terms thereof. Should any Event of Default occur or exist on the part of the Trustor in the payment or performance of any of Trustor's obligations under the terms of the Loan Documents, Beneficiary may, at any time at Beneficiary's option, apply any sums or amounts in its possession received pursuant to Sections 1.4(b) and 1.8(b) hereof, or as Rents of the Property or the Improvements, or any portion thereof, or otherwise, to any indebtedness or obligation of the Trustor secured hereby in such manner and order as Beneficiary may elect, notwithstanding the indebtedness or the performance of the obligation may not yet be due according to the terms thereof. The receipt, use or application of any such Impounds paid by Trustor to Beneficiary hereunder shall not be construed to affect the maturity of any indebtedness secured by this Deed of Trust or any of the rights or powers of Beneficiary or Trustee under the terms of the Loan Documents or any of the obligations of Trustor or any guarantor under the Loan Documents.

(d) Trustor shall not suffer, permit or initiate the joint assessment of any real and personal property which may constitute any portion of the Trust Estate or suffer, permit or initiate any other procedure whereby the lien of the real property taxes and the lien of the personal property taxes shall be assessed, levied or charged to the Trust Estate, or any portion of it, as a single lien.

(e) If requested by Beneficiary, Trustor shall cause to be furnished to Beneficiary a tax reporting service covering the Property and the Improvements of the type, duration and with a company satisfactory to Beneficiary.

(f) If, by the laws of the United States of America, or of the State of California or any political subdivision thereof having jurisdiction over Trustor, Beneficiary or the Trust Estate or any portion thereof, any tax, assessment or other payment is due or becomes due in respect of the issuance of the Note or the recording of this Deed of Trust, Trustor covenants and agrees to pay each such tax, assessment or other payment in the manner required by any such law. Trustor further covenants to defend and hold harmless and agrees to indemnify Beneficiary, its successors or assigns, against any liability incurred by reason of the imposition of any tax, assessment or other payment on the issuance of the Note or the recording of this Deed of Trust.

1.8 Utilities. Trustor shall pay or shall cause to be paid when due all utility charges which are incurred by Trustor for the benefit of the Property or the Improvements and all other

assessments or charges of a similar nature, whether or not such charges are or may become liens thereon.

1.9 Actions Affecting Trust Estate. Trustor shall promptly give Beneficiary written notice of and shall appear in and contest any action or proceeding purporting to affect any portion of the Trust Estate or the security hereof or the rights or powers of Beneficiary or Trustee; and shall pay all costs and expenses, including the cost of evidence of title and attorneys' fees, in any such action or proceeding in which Beneficiary or Trustee may appear.

1.10 Actions By Trustee or Beneficiary to Preserve Trust Estate. During the continuation of an event of default, Beneficiary and/or Trustee, each in its own discretion, without obligation so to do, without releasing Trustor from any obligation, and without notice to or demand upon Trustor, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. In connection therewith (without limiting their general powers, whether conferred herein, in any other Loan Documents or by law), Beneficiary and Trustee shall have and are hereby given the right, but not the obligation, (a) to enter upon and take possession of the Property and the Improvements; (b) to make additions, alterations, repairs and improvements to the Property and the Improvements which they or either of them may consider necessary or proper to keep the Property or the Improvements in good condition and repair; (c) to appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Beneficiary or Trustee; (d) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of either may affect or appears to affect the security of this Deed of Trust or be prior or superior hereto; and (e) in exercising such powers, to pay necessary expenses, including reasonable attorneys' fees and costs or other necessary or desirable consultants. Trustor shall, immediately upon demand therefor by Beneficiary and Trustee or either of them, pay to Beneficiary and Trustee an amount equal to all respective costs and expenses incurred by such party in connection with the exercise of the foregoing rights, including, without limitation, reasonable costs of evidence of title, court costs, appraisals, surveys and receiver's, trustee's and attorneys' fees, together with interest thereon from the date of such expenditures at the Default Rate.

1.11 Transfer of Trust Estate by Trustor. Subject to the provisions of the Agreement, in the event the Trust Estate or any part thereof, or any interest therein is sold, transferred or leased in violation of Section 2 of the Agreement, Beneficiary shall have the absolute right at its option, upon notice and demand in accordance with Section 9 of the Agreement, to declare all sums secured hereby immediately due and payable. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. As a condition of the City Loan, Trustor agrees for itself, its successors and assigns that the use of the Property shall be subject to the restrictions on rent and occupancy and use of the Property set forth in the Loan Documents, including without limitation, the Regulatory Agreement.

1.12 Survival of Warranties. All representations, warranties and covenants of Trustor contained in the Loan Documents or incorporated by reference therein, shall survive the execution and delivery of this Deed of Trust and shall remain continuing obligations, warranties and

representations of Trustor so long as any portion of the obligations secured by this Deed of Trust remains outstanding.

1.13 Eminent Domain.

(a) Subject to the provisions of any senior liens, in the event that any proceeding or action be commenced for the taking of the Trust Estate, or any part thereof or interest therein, for public or quasi-public use under the power of eminent domain, condemnation or otherwise, or if the same be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner, or should Trustor receive any notice or other information regarding such proceeding, action, taking or damage, Trustor shall give prompt written notice thereof to Beneficiary. Beneficiary shall be entitled at its option, without regard to the adequacy of its security, to commence, appear in and prosecute in its own name any such action or proceeding so long as the probable compensation exceeds \$50,000. Beneficiary shall also be entitled to make any compromise or settlement in connection with such taking or damage. All compensation, awards, damages, rights of action and proceeds awarded to Trustor by reason of any such taking or damage (the "Condemnation Proceeds") are hereby assigned to Beneficiary and Trustor agrees to execute such further assignments of the Condemnation Proceeds as Beneficiary or Trustee may require. After deducting therefrom all costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit), including reasonable attorneys' fees, incurred by it in connection with any such action or proceeding, subject to any applicable terms of the Agreement, Beneficiary shall apply all such Condemnation Proceeds to the restoration of the Improvements, provided that (i) the taking or damage will not, in Beneficiary's reasonable judgment, materially and adversely affect the contemplated use and operation of Property and the Improvements; and (ii) all applicable conditions set forth in the Agreement are met. If all of the above conditions are met, Beneficiary shall disburse the Condemnation Proceeds only as repairs or replacements are effected and continuing expenses become due and payable.

(b) If any one or more of such conditions is not met, Beneficiary shall apply all of the Condemnation Proceeds, after deductions as herein provided, to the repayment of the outstanding balance of the Note, together with all accrued interest thereon, notwithstanding that the outstanding balance may not be due and payable; and Beneficiary shall have no further obligation to make disbursements pursuant to the Agreement or the other Loan Documents. If the Condemnation Proceeds are not sufficient to repay the Note in full, Trustor shall have no obligation to pay any remaining balance. Application or release of the Condemnation Proceeds as provided herein shall not cure or waive any Event of Default or notice of default hereunder or under any other City Document or invalidate any act done pursuant to such notice.

1.14 Additional Security. No other security now existing, or hereafter taken, to secure the obligations secured hereby shall be impaired or affected by the execution of this Deed of Trust and all additional security shall be taken, considered and held as cumulative. The taking of additional security, execution of partial releases of the security, or any extension of the time of payment of the indebtedness shall not diminish the force, effect or lien of this Deed of Trust and shall not affect or impair the liability of any Trustor, surety or endorser for the payment of the indebtedness. In the event Beneficiary at any time holds additional security for any of the

obligations secured hereby, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before, concurrently, or after a sale is made hereunder.

1.15 Successors and Assigns. This Deed of Trust applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Beneficiary" shall mean the owner and holder of the Note, whether or not named as Beneficiary herein. In exercising any rights hereunder or taking any actions provided for herein, Beneficiary may act through its employees, agents or independent contractors authorized by Beneficiary.

1.16 Inspections. Beneficiary, or its agents, representatives or employees, are authorized to enter upon or in any part of the Property and the Improvements at any reasonable time following reasonable written notice of no less than 48 hours in advance thereof for the purpose of inspecting the same and for the purpose of performing any of the acts it is authorized to perform hereunder or under the terms of any of the Loan Documents. Without limiting the generality of the foregoing, Trustor agrees that Beneficiary will have the same right, power and authority to enter and inspect the Property and the Improvements as is granted to a secured lender under Section 2929.5 of the California Civil Code, and that Beneficiary will have the right to appoint a receiver to enforce this right to enter and inspect the Property and the Improvements to the extent such authority is provided under California law, including the authority given to a secured lender under Section 564(c) of the California Code of Civil Procedure.

1.17 Liens. Trustor shall pay and promptly discharge, at Trustor's cost and expense, all liens, encumbrances and charges upon the Trust Estate, or any part thereof or interest therein, subject to Trustor's right to contest in good faith any such liens, encumbrances and charges. The Trustor shall remove or have removed any levy or attachment made on any of the Property or any part thereof, or assure the satisfaction thereof within a reasonable time. Despite the foregoing, Trustor shall not be required to prepay any consensual lien or encumbrance against the Trust Estate which has been consented to in writing by Beneficiary. If Trustor shall fail to remove and discharge any such lien, encumbrance or charge, then, in addition to any other right or remedy of Beneficiary, Beneficiary may, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge of such lien, encumbrance or charge by depositing in a court a bond or the amount claimed or otherwise giving security for such claim, or by procuring such discharge in such manner as is or may be prescribed by law. Trustor shall, immediately upon demand therefor by Beneficiary, pay to Beneficiary an amount equal to all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing right to discharge any such lien, encumbrance or charge, together with interest thereon from the date of such expenditure at the Default Rate.

1.18 Trustee's Powers. At any time, or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the Note secured hereby for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby or the effect of this Deed of Trust upon the remainder of the Trust Estate, Trustee may (a) reconvey any part of the Trust Estate, (b) consent

in writing to the making of any map or plat thereof, (c) join in granting any easement thereon, or (d) join in any extension agreement or any agreement subordinating the lien or charge hereof.

1.19 Beneficiary's Powers. Without affecting the liability of any other person liable for the payment of any obligation herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Trust Estate not then or theretofore released as security for the full amount of all unpaid obligations, Beneficiary may, from time to time and without notice (a) release any person so liable, (b) extend the maturity or alter any of the terms of any such obligation, (c) grant other indulgences, (d) release or reconvey, or cause to be released or reconveyed at any time at Beneficiary's option any parcel, portion or all of the Trust Estate, (e) take or release any other or additional security for any obligation herein mentioned, or (f) make compositions or other arrangements with debtors in relation thereto.

1.20 Personal Liability. The security interest in the Property granted to Beneficiary pursuant to this Deed of Trust shall be subordinate only to the senior financing to which Beneficiary has expressly subordinated and such exceptions to title shown in the title report for the Property which are approved in writing by Beneficiary. Neither the Trustor nor any partner or officer of the Trustor shall have any direct or indirect personal liability for payment of the principal of, or interest on, the Note. The Note constitutes a recourse obligation of Trustor until recordation of the Release of Construction Covenants in the official records of the County of Riverside, California.

Subsequent to the recordation of the Release of Construction Covenants in the official records of the County of Riverside, California, the sole recourse of the Beneficiary with respect to the principal of, or interest on, the Note shall be to the Property securing the indebtedness evidenced by the Note. No judgment, or execution thereon, entered in any action, legal or equitable, on the Note or this Deed of Trust securing the Note shall be enforced personally against the Trustor or, if the Trustor shall be a partnership, any partner of the Trustor, but shall be enforced only against the Trustor and such other or further security as, from time to time, may be hypothecated for the Note; provided, however, that nothing contained in the foregoing limitation of liability shall (a) limit or impair the enforcement against all such security for the Note of all the rights and remedies of the Beneficiary, or (b) be deemed in any way to impair the right of the Beneficiary to assert the unpaid principal amount of the Promissory Note as a demand for money within the meaning and intent of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto. The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the Promissory Note; nothing contained therein is intended to relieve the Trustor and, if Trustor is a partnership, any general partner of Trustor of liability for (i) fraud or willful misrepresentation; (ii) the failure to pay taxes, assessments or other charges which may create liens on the real property described in the Loan Documents that are payable or applicable prior to any foreclosure under this Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the retention of any rental income or other income arising with respect to the Project collected by Trustor after the Beneficiary has given any notice that Trustor is in default to the full extent of the rental income or other income retained and collected by Trustor after the giving of any such notice; (iv) the fair market value as of the time of the giving of any notice referred to in subparagraph (iii) above of

any personal property or fixtures removed or disposed of by Trustor other than in accordance with the Loan Documents after the giving of any notice referred to above; and (v) the misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Project; and (vi) breach of any environmental covenant or representation made by the Trustor relating to the Project.

1.21 Indemnity. In addition to any other indemnities to Beneficiary specifically provided for in this Deed of Trust and/or in the Agreement, Trustor hereby indemnifies, and shall defend and save harmless, Beneficiary and its authorized representatives from and against any and all losses, liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including, without limitation, architects', engineers' and attorneys' fees and all disbursements which may be imposed upon, incurred by or asserted against Beneficiary and its authorized representative by reason of: (a) the construction of any improvements on the Property, (b) any capital improvements, other work or things done in, on or about the Property or any part thereof, (c) any use, nonuse, misuse, possession, occupation, alteration, operation, maintenance or management of any portion of the Trust Estate or any part thereof or any street, drive, sidewalk, curb, passageway or space comprising a part thereof or adjacent thereto, (d) any negligence or willful act or omission on the part of Trustor and its agents, contractors, servants, employees, licensees or invitees, (e) any accident, injury (including death) or damage to any person or property occurring in, on or about the Property or any part thereof, (f) any lien or claim which may be alleged to have arisen on, against, or with respect to any portion of the Trust Estate under the laws of the local or state government or any other governmental or quasi-governmental authority or any liability asserted against Beneficiary with respect thereto, (g) any tax attributable to the execution, delivery, filing or recording of this Deed of Trust, the Note or the Agreement, (h) any contest due to Trustor's actions or failure to act, permitted pursuant to the provisions of this Deed of Trust, (i) subject to the nonrecourse provisions set forth in Section 1.21, any Event of Default under the Note, the Regulatory Agreement, this Deed of Trust or the Agreement, or (j) any claim by or liability to any contractor or subcontractor performing work or any party supplying materials in connection with the Property or the Improvements, except to the extent caused by the Beneficiary's sole negligence or willful misconduct.

ARTICLE 2. ASSIGNMENT OF RENTS, ISSUES AND PROFITS

2.1 Assignment. Trustor hereby irrevocably, absolutely, presently and unconditionally assigns and transfers to Beneficiary all the Rents of or from any portion of the Trust Estate, and hereby gives to and confers upon Beneficiary the right, power and authority to collect such Rents. Trustor irrevocably appoints Beneficiary its true and lawful attorney-in-fact, at the option of Beneficiary at any time and from time to time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Trustor, Trustee or Beneficiary, for all such Rents, and apply the same to the indebtedness secured hereby; provided, however, that so long as an Event of Default shall not have occurred hereunder and be continuing, Trustor shall have the right to collect such Rents. Upon the request of Beneficiary, Trustor shall execute and deliver to Beneficiary, in recordable form, a specific assignment of any leases now or hereafter affecting the Trust Estate or any portion thereof to evidence further the assignment hereby made.

The Assignment of Rents in this Article 2 is intended to be an absolute assignment from Trustor to Beneficiary and not merely an assignment for security only.

2.2 Election of Remedies. Subject to Trustor's right to collect the Rents pursuant to Section 2.1, Beneficiary may, either in person, by agent or by a receiver appointed by a court, enter upon and take possession of all or any portion of the Property and the Improvements, enforce all Leases, in its own name sue for or collect all Rents, including those past due and unpaid, and apply the same to the costs and expenses of operation and collection, including, without limitation, attorneys' fees, and to any indebtedness then secured hereby, in such order as Beneficiary may determine. The collection of such Rents, or the entering upon and taking possession of the Property or the Improvements, or the application thereof as provided above, shall not cure or waive any Event of Default or notice of default hereunder or under any of the Loan Documents or invalidate any act done in response to such Event of Default or pursuant to such notice of default.

ARTICLE 3. REMEDIES UPON DEFAULT

3.1 Events of Default. For all purposes hereof, the term "Event of Default" shall mean (a) at Beneficiary's option, the failure of Trustor to pay any amount due hereunder or under the Note when the same is due and payable, whether by acceleration or otherwise; (b) the failure of Trustor to perform any non-monetary obligation hereunder, or the failure to be true in any material respect when made of any representation or warranty of Trustor contained herein, without curing such failure within ten (10) days after receipt of written notice from City (or from any party authorized by City to deliver such notice as identified by City in writing to Borrower), and the continuance of such failure for thirty (30) days after notice, provided that such default cannot reasonably be cured within thirty (30) days, Trustor shall have such additionally time as may be reasonably necessary if Trustor commences to cure such default within such thirty (30) day period and thereafter diligently prosecutes such cure to completion, or (c) the existence of any Event of Default under the Loan Documents.

3.2 Acceleration Upon Default, Additional Remedies. Upon the occurrence of an Event of Default, Beneficiary may, at its option, declare all indebtedness secured hereby to be immediately due and payable upon notice and demand. Thereafter Beneficiary may:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Property and the Improvements, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of any portion of the Trust Estate, including, without limitation (i) taking possession of Trustor's books and records with respect to the Property and Improvements, (ii) completing the construction of the Improvements, (iii) maintaining or repairing the Improvements or any other portion of the Trust Estate, (iv) increasing the income from the Trust Estate, with or without taking possession of the Property or the Improvements, (v) entering into, modifying, or enforcing Leases, (vi) suing for or otherwise collecting the Rents or other amounts owing to Trustor, including those past due and unpaid, and (vii) applying the same, less costs and expenses of operation and collection including, without limitation, attorneys'

fees, upon any indebtedness secured hereby, all in such order as Beneficiary may determine. The entering upon and taking possession of the Property or the Improvements, the collection of such Rents and the application thereof as provided above, shall not cure or waive any Event of Default under the Loan Documents or this Deed of Trust or notice of default hereunder;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

(c) Deliver to Trustee a written declaration of default and demand for sale and a written notice of default and election to cause Trustor's interest in the Trust Estate to be sold, which notice Trustee or Beneficiary shall cause to be duly filed of record in the Official Records of the county in which the Property is located; or

(d) Exercise all other rights and remedies provided herein, in any of the Loan Documents or other document now or hereafter securing all or any portion of the obligations secured hereby, or by law.

3.3 Foreclosure by Power of Sale. Should Beneficiary elect to foreclose by exercise of the power of sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust and the Note and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

(a) Beneficiary or Trustee shall give such notice of default and election to sell as is then required by applicable law. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such notice of default and after notice of sale having been given as required by law, sell the Trust Estate at the time and place of sale fixed by it in the notice of sale, either as a whole, or in separate lots or parcels or items as Beneficiary shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof a trustee's deed conveying the property so sold, which shall not contain any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale and Beneficiary shall be entitled to pay the purchase price by crediting the purchase price of the property against the obligations secured hereby. Trustor hereby covenants to warrant and defend the title of such purchaser or purchasers.

(b) After deducting all costs, fees and expenses of Trustee and of this Trust, including costs of evidence of title in connection with sale, Trustee shall apply the proceeds of sale in the following priority, to payment of: (i) first, all sums expended under the terms hereof, not then repaid, with accrued interest at the Default Rate; (ii) second, all other sums then secured hereby; and (iii) the remainder, if any, to the person or persons legally entitled thereto.

(c) Subject to California Civil Code ' 2924g, Trustee may postpone sale of all or any portion of the Trust Estate by public announcement at such time and place of sale, and from

time to time thereafter may postpone such sale by public announcement or subsequently noticed sale, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale.

3.4 Appointment of Receiver. Upon the occurrence of an Event of Default hereunder, Beneficiary, as a matter of right and without notice to Trustor or anyone claiming under Trustor, and without regard to the then value of the Trust Estate or the adequacy for any security for the obligations then secured hereby, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Trust Estate, and Trustor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry as provided herein.

3.5 Remedies Not Exclusive. Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Deed of Trust or under any Loan Documents or other agreement or any laws now or hereafter in force, notwithstanding some or all of the indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Documents to Trustee or Beneficiary or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary and either of them may pursue inconsistent remedies.

3.6 Request for Notice. Trustor hereby requests a copy of any notice of default and that any notice of sale hereunder be mailed to it at the address set forth in Section 4.3 of this Deed of Trust.

3.7 Forbearance by Lender Not a Waiver. Any forbearance by Beneficiary in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Beneficiary of payment of any sum secured by this Deed of Trust after the due date of such payment shall not be a waiver of Beneficiary's right either to require prompt payment when due of all other sums so secured or to declare an Event of Default for failure to make prompt payment. The procurement of insurance or this payment of taxes or other liens or charges by Beneficiary shall not be a waiver of Beneficiary's right to accelerate the maturity of the indebtedness secured by this Deed of Trust

nor shall Beneficiary's receipt of any awards, proceeds or damages under this Deed of Trust operate to cure or waive any Event of Default with respect to any payment secured by this Deed of Trust.

3.8 Environmental Provisions. Without limiting any of the remedies provided in the Loan Documents, Trustor acknowledges and agrees that portions of Section 4 of the Agreement and Section 1.2 of this Deed of Trust are environmental provisions (as defined in Section 736(f)(2) of the California Code of Civil Procedure) made by the Trustor relating to the real property security (the "Environmental Provisions"), and that Trustor's failure to comply with the Environmental Provisions is a breach of contract such that Beneficiary shall have the remedies provided under Section 736 of the California Code of Civil Procedure ("Section 736") for the recovery of damages and for the enforcement of the Environmental Provisions. Pursuant to Section 736, Beneficiary's action for recovery of damages or enforcement of the Environmental Provisions shall not constitute an action within the meaning of Section 726(a) of the California Code of Civil Procedure or constitute a money judgment for a deficiency or a deficiency judgment within the meaning of Sections 580a, 580b, 580d, or 726(b) of the California Code of Civil Procedure. Other than the remedy provided under Section 736, all remedies provided for by the Loan Documents are separate and distinct causes of action that are not abrogated, modified, limited or otherwise affected by the remedies provided under Section 736(a) of the California Code of Civil Procedure.

ARTICLE 4. MISCELLANEOUS

4.1 Amendments. This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

4.2 Trustor Waiver of Rights. Trustor waives to the extent permitted by law, (a) the benefit of all laws now existing or that may hereafter be enacted providing for any appraisalment before sale of any portion of the Trust Estate, (b) all rights of redemption, valuation, appraisalment, stay of execution, notice of election to mature or declare due the whole of the secured indebtedness and marshalling in the event of foreclosure of the liens hereby created, (c) all rights and remedies which Trustor may have or be able to assert by reason of the laws of the State of California pertaining to the rights and remedies of sureties, (d) the right to assert any statute of limitations as a bar to the enforcement of the lien of this Deed of Trust or to any action brought to enforce the Agreement or any other obligation secured by this Deed of Trust, and (e) any rights, legal or equitable, to require marshalling of assets or to require upon foreclosure sales in a particular order, including any rights under California Civil Code Sections 2899 and 3433. Beneficiary shall have the right to determine the order in which any or all of the Trust Estate shall be subjected to the remedies provided herein. Beneficiary shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Nothing contained herein shall be deemed to be a waiver of Trustor's rights under Section 2924c of the California Civil Code.

4.3 Notices. All notices and demands given under the terms hereof shall be in writing and 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 communication will be addressed as follows:

If to Trustor: Riverside Housing Development Corporation
4250 Brockton Avenue
Riverside, California 92501
Attn: Executive Director

If to Beneficiary: 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.

4.4 Acceptance by Trustee. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law.

4.5 Captions. The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Deed of Trust.

4.6 Invalidity of Certain Provisions. Every provision of this Deed of Trust is intended to be severable. In the event any term or provision hereof is declared to be illegal, invalid or unenforceable for any reason whatsoever by a court of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

4.7 Subrogation. To the extent that proceeds of the Note are used to pay any outstanding lien, charge or prior encumbrance against the Trust Estate, such proceeds have been or will be advanced by Beneficiary at Trustor's request and Beneficiary shall be subrogated to any and all rights and liens held by any owner or holder of such outstanding liens, charges and prior encumbrances, irrespective of whether the liens, charges or encumbrances are released.

4.8 Attorneys' Fees. If any payment secured hereby is not paid when due, Trustor promises to pay all costs of enforcement and collection, including but not limited to, reasonable attorneys' fees, whether or not such enforcement and collection includes the filing of a lawsuit. As used herein, the terms "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties hereto (including, without limitation, in-house counsel employed by Beneficiary) which may include printing, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and others not admitted to the bar but performing services under the supervision of an attorney. The terms "attorneys' fees" or "attorneys' fees and costs" shall also include, without limitation, all such fees and expenses incurred with respect to appeals, arbitrations and bankruptcy proceedings, and whether or not any action or proceeding is brought with respect to the matter for which said fees and expenses were incurred.

4.9 No Merger of Lease. If both the lessor's and lessee's estate under any lease or any portion thereof which now or hereafter constitutes a part of the Trust Estate shall at any time become vested in one owner, this Deed of Trust and the lien created hereby shall not be destroyed or terminated by application of the doctrine of merger unless Beneficiary so elects as evidenced by recording a written declaration so stating, and, unless and until Beneficiary so elects, Beneficiary shall continue to have and enjoy all of the rights and privileges of Beneficiary as to the separate estates. In addition, upon the foreclosure of the lien created by this Deed of Trust on the Trust Estate pursuant to the provisions hereof, any leases or subleases then existing and affecting all or any portion of the Trust Estate shall not be destroyed or terminated by application of the law of merger or as a matter of law or as a result of such foreclosure unless Beneficiary or any purchaser at such foreclosure sale shall so elect. No act by or on behalf of Beneficiary or any such purchaser shall constitute a termination of any lease or sublease unless Beneficiary or such purchaser shall give written notice thereof to such tenant or subtenant.

4.10 Governing Law. This Deed of Trust shall be governed by and construed in accordance with the laws of the State of California.

4.11 Joint and Several Obligations. Should this Deed of Trust be signed by more than one party, all obligations herein contained shall be deemed to be the joint and several obligations of each party executing this Deed of Trust. Any married person signing this Deed of Trust agrees that recourse may be had against community assets and against his or her separate property for the satisfaction of all obligations contained herein.

4.12 Interpretation. In this Deed of Trust the singular shall include the plural and the masculine shall include the feminine and neuter and vice versa, if the context so requires.

4.13 Completion of Construction. This Deed of Trust is a construction deed of trust within the meaning of California Commercial Code Section 9313. For purposes of subdivision (6) of that statute, "completion of construction" shall not be deemed to occur prior to completion of all work, and installation or incorporation into the Improvements of all materials, for which sums secured hereby are disbursed by Beneficiary.

4.14 Reconveyance by Trustee. Upon written request of Beneficiary stating that all sums secured hereby have been paid or that all obligations under the Regulatory Agreement have been satisfied, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment by Trustor of Trustee's fees, Trustee shall reconvey to Trustor, or to the person or persons legally entitled thereto, without warranty, any portion of the Trust Estate then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the person or persons legally entitled thereto." Such grantee shall pay Trustee a reasonable fee and Trustee's costs incurred in so reconveying the Trust Estate.

4.15 Counterparts. This document may be executed and acknowledged in counterparts, all of which executed and acknowledged counterparts shall together constitute a single document. Signature and acknowledgment pages may be detached from the counterparts and attached to a single copy of this document to physically form one document, which may be recorded.

4.16 Nonforeign Entity. Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code") and Sections 18805, 18815 and 26131, as applicable, of the California Revenue and Taxation Code ("CRTC") provide that a transferee of a U.S. real property interest must withhold tax, in the case of the Code, if the transferor is a foreign person, or if, in the case of the CRTC, the transferor is not a California resident. To inform Beneficiary that the withholding of tax will not be required in the event of the disposition of the Property or the Improvements, or any portion thereof or interest therein, pursuant to the terms of this Deed of Trust, Trustor hereby certifies, under penalty of perjury, that: (a) Trustor is not a foreign corporation, foreign partnership, foreign trust or foreign estate, as those terms are defined in the Code and the regulations promulgated thereunder; and (b) Trustor's U.S. employer identification number 90-1001541; and (c) Trustor's principal place of business is 1230 Columbia Street, San Diego, CA 92101. It is understood that Beneficiary may disclose the contents of this certification to the Internal Revenue Service and the California Franchise Tax Board, and that any false statement contained herein could be punished by fine, imprisonment or both. Trustor covenants and agrees to execute such further certificates, which shall be signed under penalty of perjury, as Beneficiary shall reasonably require. The covenant set forth herein shall survive the foreclosure of the lien of this Deed of Trust or acceptance of a deed in lieu thereof.

4.17 Substitute Trustee. Beneficiary at any time and from time to time, by instrument in writing, may substitute and appoint a successor Trustee (either corporate or individual) to any Trustee named herein or previously substituted hereunder, which instrument when executed, acknowledged, and recorded in the Official Records of the Office of the Recorder of the county or counties where the Property is located shall be conclusive proof of the proper substitution and appointment of each successor trustee or trustees, who shall then have all the title, powers, duties and rights of the predecessor Trustee, without the necessity of any conveyance from such predecessor. Trustee shall not be obligated to notify any party hereto of pending sale under any other Deed of Trust, or, unless brought by Trustee, or any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party.

4.18 Fixture Filing. This Deed of Trust constitutes a financing statement filed as a fixture filing in the Official Records of the County Recorder in the county in which the Property is located with respect to any and all fixtures included within the term "Trust Estate" as used herein and with respect to any goods or other personal property that may now be or hereafter become such fixtures.

4.19 Waiver of Jury Trial. TRUSTOR AND BENEFICIARY EACH HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS DEED OF TRUST OR ANY OTHER LOAN DOCUMENTS OR RELATING THERETO OR ARISING FROM THE RELATIONSHIP WHICH IS THE SUBJECT OF THE AGREEMENT AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

TRUSTOR ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THIS DEED OF TRUST WITHOUT CHARGE.

TRUSTOR PLEASE NOTE: UPON THE OCCURRENCE OF AN EVENT OF DEFAULT, CALIFORNIA PROCEDURE PERMITS TRUSTEE TO SELL THE TRUST ESTATE AT A SALE HELD WITHOUT SUPERVISION BY ANY COURT AFTER EXPIRATION OF A PERIOD PRESCRIBED BY LAW. UNLESS YOU PROVIDE AN ADDRESS FOR THE GIVING OF NOTICE, YOU MAY NOT BE ENTITLED TO NOTICE OF THE COMMENCEMENT OF ANY SALE PROCEEDINGS. BY EXECUTION OF THIS DEED OF TRUST, YOU CONSENT TO SUCH PROCEDURE. BENEFICIARY URGES YOU TO GIVE PROMPT NOTICE OF ANY CHANGE IN YOUR ADDRESS SO THAT YOU MAY RECEIVE PROMPTLY ANY NOTICE GIVEN PURSUANT TO THIS DEED OF TRUST.

4.20 Request for Notice. Pursuant to California Government Code Section 27321.4(b) Trustor hereby requests that a copy of any notice of default or notice of sale given under this Deed of Trust be mailed to Trustor at the address for Trustor set forth herein.

4.21 Reconveyance. Except upon the Event of Default by Trustor, Beneficiary shall reconvey this Deed of Trust upon termination of the Affordability Period as that term is defined in the Agreement.

4.22 Subordination. This Deed of Trust and the provisions contained herein shall be subordinate to any senior financing approved by Beneficiary in accordance with the Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above written.

TRUSTOR:

**RIVERSIDE HOUSING DEVELOPMENT
CORPORATION**

Dated: _____

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

EXHIBIT "A"

LEGAL DESCRIPTION

[Attached]

ATTACHMENT NO. 8

CITY 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 (HOME)

THIS REGULATORY AGREEMENT (HOME) (“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 HOME Investment Partnerships Loan Agreement, dated for identification purposes only as of _____, 2022 (“Loan 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 Loan Agreement, the City has agreed to provide financial assistance (“City Loan”) 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 HOME Assisted Units shall be available only to Qualified Tenants at Affordable Rent as specified herein for not less than fifty-five (55) years.

G. The provision of the City Loan to Developer and the completion and operation of the Project pursuant to the terms and conditions of the Loan 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:

“Act” means the Housing Act of 1959, as amended or the Cranston-Gonzales National Affordable Housing Act.

“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, with respect to the HOME Assisted Units the amount of monthly rent, including a reasonable utility allowance, to be charged by Developer and paid by a tenant household in the Project which does not exceed: (i) for a Very Low-Income Household, the Low HOME Rent; and (ii) for a Low-Income Household, the High HOME Rent. For purposes of calculating Affordable Rent a “reasonable utility allowance” shall be the allowance established by the Housing Authority of the County of Riverside or such lesser allowance reasonably permitted by the City.

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

“City Loan” means the grant from the City in an amount not to exceed Two Hundred Fifty-Five Thousand Dollars (\$255,000) as provided in the Loan Agreement.

“City Loan Documents” means the following documents evidencing the City Loan and required as consideration for the City to make the City Loan: (i) Loan Agreement and (ii) the Regulatory Agreement.

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

“Effective Date” means the Effective Date of the Loan 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 8.1 of the Loan 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.

“High HOME Rent” means tenant paid rent that is in accordance with Section 92.252(a) of the HOME regulations.

“HOME Assisted Units” means the three (3) units in the Project which shall consist of three (3) one (1)-bedroom units available to one (1) Very Low Household and two (2) Low Income Households for which all HOME Regulations apply, including without limitation, Affordable Rent and HOME occupancy and monitoring requirements. Pursuant to Section 92.252(j) of the HOME Regulations, the HOME Assisted Units shall be a “floating” designation such that the requirements of this Regulatory Agreement will be satisfied so long as the total number of HOME Assisted Units remains the same throughout the Affordability Period and each substituted HOME Assisted Unit is comparable in terms of size, features, and number of bedrooms to the originally designated HOME Assisted Units.

“HOME Program” means the HOME Investment Partnerships Act, 42 U.S.C. Section 12701, *et seq.* and the implementing HOME Regulations as such now exist and as may hereafter be amended.

“HOME Regulations” means the implementing regulations of the HOME Program set forth at 24 CFR 92.1, *et seq.* as such now exist and as may hereafter be amended.

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

“HUD” means the United States Department of Housing and Urban Development.

“Loan Agreement” is defined in Recital C.

“Low HOME Rent” means tenant paid rent that is in accordance with Section 92.252(b) of the HOME regulations.

“Low Income Household” means households that are eligible as low-income families, with total, annual household incomes certified to be at or below 60% of the Area Median Income for the County, according to data published by HUD annually. Annual household income is defined in regulations at 24 CFR 5.609 and shall be calculated using source documents or third party certifications of all income and assets held or generated by all members of the applicant or tenant household, in accordance with regulations published at 24 CFR 5.203(a)(1)(i) and 24CFR 92.203(a)(1)(i), or 24 CFR 5.617 when calculating the income of persons with disabilities.

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

“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, the acquisition of the Site, the rehabilitation of a residential unit into a single unit, an ADU and Junior ADU all of which are HOME 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 an HOME 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 HOME Assisted Unit as his or her principal residence, and each member intends thereafter continuously to occupy such HOME Assisted Unit as his or her principal residence.

b. The household is qualified under the HOME Regulations and is a Very Low Income Household or a Low 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 Loan Agreement.

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

“Very Low Income Household” means households that are eligible as very low-income families, with total, annual household incomes certified to be at or below 50% of the Area Median Income for the Riverside County, according to data published by HUD annually. Annual household income is defined in regulations at 24 CFR 5.609 and shall be calculated using source documents or third party certifications of all income and assets held or generated by all members of the applicant or tenant household, in accordance with regulations published at 24 CFR 5.203(a)(1)(i) and 24CFR 92.203(a)(1)(i), or 24 CFR 5.617 when calculating the income of persons with disabilities.

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) acquire the Property and construct the Project; and (ii) make available, restrict occupancy to, and rent the HOME 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 HOME Assisted Units on the Property shall at any time be utilized on a transient basis (unless consistent with the HOME 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 HOME 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.

The HOME Assisted Units shall be a “fixed” designation as defined in Section 92.252(j) of the HOME Regulations. Each substituted HOME Assisted Unit shall be comparable in terms of size, features, and number of bedrooms to the originally designated HOME Assisted Units. 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 HOME 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 HOME Program shall Developer be permitted to implement the proposed change.

C. **Income Requirements.** Prior to leasing a HOME 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 HOME 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 HOME 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 HOME 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 an HOME 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 subject to the requirements of Section 92.252(i) of the HOME Regulations.

(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 HOME 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 HOME 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 HOME Assisted Unit.

(2) **Prohibited Rental Agreement/Lease Terms.** Developer shall not permit the lease to contain any provision that is prohibited by Section 92.253(b) of the HOME Regulations.

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"). The Tenant Selection Plan must, at a minimum, meet the requirements of tenant selection set out in Section 92.252(h) of the HOME Regulations.

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 Loan 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 HOME Program, including Section 92.508 of the HOME Regulations, 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 HOME 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 Section 92.350 of the HOME Regulations 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 HOME 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. **Compliance with Law.** Developer shall comply with all applicable Federal, State and Local Law and such other rules and regulations designated in Exhibit “C” attached hereto.

D. **Conflict of Interest.** Developer will hereby comply with all requirements set forth regarding conflict of interest provisions as they apply in Section 92.356 of the HOME 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 Loan 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 Loan 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: [CBA] 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.

[Signatures on following page]

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

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

[Attached]

EXHIBIT “B”

HOME PROGRAM RELATED FEDERAL LAWS AND REGULATIONS

10.1. HOME Laws and Regulations

Developer shall comply with all applicable laws and regulations governing the HOME Program and the use of the City Loan, including but not limited to, the requirements set forth in this Regulatory Agreement. In the event of any conflict between the Regulatory Agreement and applicable laws and regulations governing the HOME Program and the use of the City Loan Proceeds, the applicable HOME Program laws and regulations shall govern. The Developer agrees to enter into any modification of this Regulatory Agreement reasonably required by the City to attain compliance with the requirements of the HOME Program. The Developer acknowledges and agrees that it has received and reviewed a copy of the regulations regarding the HOME Program in effect as of the date of execution of this Regulatory

10.2. Specific Requirements

The laws and regulations governing the HOME Program and the use of the City Loan include (but are not limited to) the following, as may be amended from time to time:

10.2.1. Miscellaneous Federal Mandates

xiii. Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601-20 (Public Law 90-284) and implementing regulations at 24 CFR Part 107;

xiv. Executive Order 11063 and regulations at 24 CFR Part 107;

xv. Title VI of the Civil Rights Act of 1964 (Public Law 88-352) and regulations at 24 CFR Part 107;

xvi. The Age Discrimination Act of 1975, 42 U.S.C. 6101-07, and regulations at 24 CFR Part 146;

xvii. Executive Order 12372 and implementing regulations at 24 CFR Part 52, regarding intergovernmental review of federal programs;

xviii. Flood Disaster Act of 1973, 42 U.S.C. 4001, *et seq.*;

xix. Drug Free Workplace Act of 1988, P.L. 100-690, Title V, Subtitle D.

xx. The Fair Housing Act (42 U.S.C. 3601-3620)(Pub. L. 90-284) as it ensures fair housing practices and prohibits housing discrimination based on race, color, religion, sex, national origin, disability, or familial status;

xxi. Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto at 24 CFR Section 470.601 as it relates to prohibiting discriminatory actions in activities funded by Community Development Funds;

xxii. Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086 and 12107 (Equal Employment Opportunity) and implementing regulations issued at 41 CFR Chapter 60 and Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), as amended and implementing regulations at 24 CFR Part 135 as they relate to equal employment opportunities;

xxiii. Executive Orders 11625 and 12432 (concerning minority business enterprise) and 12138 (concerning women's business enterprise) to encourage the use of women and minority owned businesses to the maximum extent possible.

xxiv. The applicable policies, guidelines, and requirements of OMB Circulars Nos. A-87, A-102 (Revised), A-110, A-122, and A-128, or successor regulations.

10.2.2. Environment and Historic Preservation

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.

10.2.3. Architectural Barriers

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

10.2.4. Americans With Disabilities Act

The requirements of the 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.

10.2.5. Relocation

The requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601-4655), and similar state laws. If and to the extent that development of the Project results in the permanent or temporary displacement of residential tenants, homeowners, or businesses, then the Developer shall comply with all applicable local, state and federal statutes and regulations with respect to relocation planning, advisory assistance and payment of monetary benefits. The Developer shall be solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with such relocation laws.

10.2.6. Disabled Discrimination

The requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), and federal regulations issued pursuant thereto (24 CFR Part 8), which prohibit discrimination against the disabled in any federally assisted program.

10.2.7. Future HOME Regulations

Any other Department of Housing and Urban Development regulations

currently in effect or as may be amended or added in the future pertaining to the HOME Program.

10.2.8. Ineligible Contractors

Use of debarred, suspended, or ineligible contractors or subrecipients is prohibited directly or indirectly as part of this award as set forth in 24 CFR Part 5.

10.2.9. Conflict of Interest

No member, officer or employee of the organization, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the 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 loan, and the 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.

10.2.10. Property Standards

The HOME Assisted Units must meet all applicable federal, state and local housing quality standards and code requirements, including the Uniform Physical Conditions Standards (“UPCS”, 24 CFR, Part 5 and 200) established by HUD for housing that is decent, safe, sanitary, and in good repair.

10.2.11. HUD Regulations

Any other HUD regulations present or as may be amended, added, or waived in the future pertaining to the use of HOME funds, including but not limited to HUD regulations as may be promulgated regarding subrecipients.

10.2.12. Successor Rules

In the event HUD ceases to provide definitions, determinations and calculations under the HOME Program related to Income Eligible Households or Annual Income, or both, the provisions of this Section shall be performed in accordance with definitions, determinations and calculations related to such matters as established by the City with a view toward establishing such definitions, determinations and calculations in a manner consistent, as nearly as possible, with those formerly promulgated by HUD under the HOME Program.

10.3. Certification Regarding Lobbying

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

iii. 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

iv. 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.

10.4. Religious Activity

In addition to, and not in substitution for, other provisions of this Regulatory Agreement regarding the provision of services with funds, pursuant to Title II of the Housing and Community Development Act of 1990, as amended, the Developer:

iii. Represents that it is not, or 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,

iv. Agrees that, in connection with such services:

(a) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(b) 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;

(c) 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,

(d) The common portion of the Property shall contain no sectarian or religious symbols or decorations.

10.5. Disclosure of Confidential Tenant Information.

To the extent allowed by law, Developer and City agree to maintain the confidentiality of any information regarding Tenants or applicants for residency under this Project, or their immediate families, pursuant to this Regulatory 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 Regulatory Agreement, and then only to persons having responsibilities under the Agreement, including those furnishing services under the Project through subcontracts.

10.6. Compliance with Federal, State and Local Laws

Developer shall comply with all applicable federal, state and local statutes, ordinances, regulations and laws, (including the Governmental Requirements) with respect the development and the operation and management of the Property by Developer (all of which comprises the Project hereunder). Developer shall carry out the design, construction, rehabilitation and completion of improvements, and operation and management of the Project, in conformity with all applicable laws, including all applicable federal, state, and local labor standards, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the Riverside Municipal Code.

10.7. Prevailing Wage Laws

Developer shall carry out the development through completion of the Project and the overall rehabilitation of the Property in conformity with all applicable federal, state and local labor laws and regulations, including without limitation, if and to the extent applicable, the requirements to pay prevailing wages under federal law (the Davis Bacon Act, 40 U.S.C. Section 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 Section 1720, *et seq.*).

Developer shall be solely responsible, expressly or impliedly, for determining and effectuating compliance with all applicable federal, state and local public works requirements, prevailing wage laws, labor laws and standards, and 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. Developer expressly, knowingly and voluntarily acknowledges and agrees that City has not previously represented to Developer or to any representative, agent or affiliate of Developer, 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 Regulatory Agreement is (or is not) a "public work," as defined in Section 1720 of the Labor Code or under Davis Bacon.

10.8. Section 3 Compliance

Developer agrees to comply with and to cause the general contractor, each subcontractor, and any other contractors and/or subcontractors or agents of Developer 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 rehabilitation of the Property. Developer shall submit to City each Construction Contract with appropriate provisions providing for the development of the Property in conformance with the terms of this Regulatory 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 Developer (subject to compliance with 24 CFR Part 135) shall have provided to 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, and City shall be responsible for determining whether each contractor has been debarred.

City has prepared a Section 3 “checklist” and other forms related to Section 3 compliance; and as provided by City to Developer, and its contractor(s) or subcontractor(s), if any, and as applicable, such forms shall be utilized in all contracts and subcontracts to which Section 3 applies. Developer hereby acknowledges and agrees to take all responsibility for compliance with all Section 3 Clause federal requirements as to Developer, general contractor, subcontractors, or other contractor(s), subcontractor(s), and other agents. Developer shall provide or cause to be provided to the General Contractor and each subcontractor, and each of its other contractor(s), subcontractor(s) and agents the checklist for compliance with the Section 3 Clause federal requirements provided by City, to obtain from the General Contractor, each subcontractor, and other contractor(s), subcontractor(s), and agents all applicable items, documents, and other evidence of compliance with the items, actions, and other provisions within the checklist, and to submit all such completed Section 3 Clause documentation and proof of compliance to the City. To the extent applicable, Developer shall comply and/or cause compliance with all Section 3 Clause requirements for the Project. For example, when and if Developer or its contractor(s) hire(s) full time employees, rather than volunteer labor or materials, Section 3 is applicable and all disclosure and reporting requirements apply.

10.9. Labor Standards

In addition to compliance with Section 1304.1, the Construction Contract for the Project, as well as any other contract for the development work, shall be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. §3701, *et seq.*). Participating contractors, subcontractors, and other participants must comply with regulations issued under these Acts and with other federal laws and regulations pertaining to labor standards and HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs), as applicable. Developer shall supply to City certification, in form and substance satisfactory to HUD and City, as to compliance with the provisions of this Section before receiving any disbursement of federal funds for the development work.

10.10. Lead-Based Paint

City, as recipient(s) of federal funds, has modified and conformed all of its federally funded housing programs to the 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, which are aimed to take advantage of rehabilitation events as a cost-effective opportunity to reduce lead based paint and lead based paint hazards (LBP) in existing housing.

The implementing regulations to Title X, set forth in 24 CFR Part 35 (LBP Regs), were adopted by HUD on September 15, 1999 and are now effective for compliance by all recipients and subrecipients of federal funds. Subpart J of the LBP Regs focuses on the requirements for programs that provide assistance for housing rehabilitation, such as this Project. In this regard, Developer shall comply with the requirements, as and to the extent applicable, of Title X and the implementing LBP Regs for the Project.

The Development of the Property comprising the Project shall be undertaken and completed by qualified contractor(s) selected by Developer and, if applicable, meeting the requirements of the LBP Regs. All work relating to LBP and LBP hazards and the reduction and

clearance thereof shall be undertaken using safe work practices and shall be conducted by qualified contractor(s) and inspectors(s) meeting the requirements of the LBP Regs. Under the LBP Regs, treatment and clearance shall be conducted by separate contractors. All treatment and clearance using safe work practices of LBP and LBP hazards at the Property shall be completed first and prior to any other part of the development work.

Prior to commencing any part of the development, if applicable, Developer shall cause each household in occupancy at the Property to receive (and shall obtain proof of receipt through signature) (1) a complete copy of the HUD issued informational pamphlet/brochure about LBP and LBP hazards, (2) any necessary disclosure forms relating to information about LBP and LBP Hazards, and (3) the results of any evaluation for LBP or LBP hazards at the applicable Unit within the Property.

10.11. Duty to Prevent Release of Hazardous Substances

During the development of the Property, Developer shall take all necessary precautions to prevent the release of any Hazardous Substances (with particular regard to any asbestos, or asbestos-containing materials, or lead-based paint or other lead containing products which are regulated by the HOME Program) into the environment or onto or under the Property. Such precautions shall include compliance with all Environmental Laws with respect to Hazardous Substances. In addition, Developer 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.

ATTACHMENT NO. 9

RENT SCHEDULE

2022 HUD Rent Limits for Riverside County- Provided owner pays all utilities

Unit Size	50% of Median	60% - 80% of Median
Studio	\$770	\$981
One-Bedroom	\$825	\$1,053
Two-Bedroom	\$990	\$1,266
Three-Bedroom	\$1,144	\$1,454
Four-Bedroom	\$1,276	\$1,603
Five-Bedroom	\$1,408	\$1,749

**ATTACHMENT NO. 10
RELEASE OF CONSTRUCTION COVENANTS**

**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 27383.

RELEASE OF CONSTRUCTION COVENANTS

THIS RELEASE OF CONSTRUCTION COVENANTS ("Release") is hereby made as of this ___ day of _____, 2022, by the **CITY OF RIVERSIDE**, a California charter city and municipal corporation ("City") in favor of **RIVERSIDE HOUSING DEVELOPMENT CORPORATION**, a California not for profit corporation ("Developer").

R E C I T A L S

A. The City and the Developer entered into that certain HOME Investment Partnerships Loan dated for identification purposes only as of _____, 2022 (the "Agreement").

B. Pursuant to the Agreement, the City and the Developer entered into that certain Regulatory Agreement dated _____, 2022. The Agreement provides for the completion of certain improvements ("Project") to certain real property ("Site") situated in the City of Riverside, California, and more particularly described on Exhibit "A" attached hereto and made a part hereof by this reference. Capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Regulatory Agreement.

C. As required in the Agreement and the Regulatory Agreement, the City shall furnish the Developer with a Release of Construction Covenants upon completion of the Project which Certificate shall be in such form as to permit it to be recorded in the Riverside County Recorder's Office.

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:

City Clerk

EXHIBIT "A"
LEGAL DESCRIPTION

[Attached]

ATTACHMENT NO. 11

REQUEST FOR NOTICE OF DEFAULT

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 27383.

REQUEST FOR NOTICE OF DEFAULT

(Under Section 2924b Civil Code)

In accordance with Section 2924b, Civil Code, request is hereby made that a copy of any notice of default and a copy of any notice of sale under the deed of trust recorded on _____, 2022, in Book _____, Page _____, Official Records of Riverside County, California, executed by RIVERSIDE HOUSING DEVELOPMENT CORPORATION, a California nonprofit public benefit corporation, as Trustor, in which the **CITY OF RIVERSIDE**, a California charter city and municipal corporation is named as Beneficiary, and First American Title Company as Trustee, be mailed to:

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

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

CITY OF RIVERSIDE, a California charter city and municipal corporation

By: _____
City Manager