

**HOME INVESTMENT PARTNERSHIPS PROGRAM
LOAN AGREEMENT**

(3753 MYERS STREET)

by and between the

CITY OF RIVERSIDE

and

HABITAT FOR HUMANITY RIVERSIDE, INC.

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ATTACHMENTS

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ATTACHMENT NO. 2	SITE LEGAL DESCRIPTION
ATTACHMENT NO. 3	SCHEDULE OF PERFORMANCE
ATTACHMENT NO. 4	PROJECT BUDGET
ATTACHMENT NO. 5	CITY HOME LOAN PROMISSORY NOTE
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ATTACHMENT NO. 11	SUBORDINATION AGREEMENT

HOME INVESTMENT PARTNERSHIPS PROGRAM
LOAN AGREEMENT

(3753 MYERS STREET)

THIS HOME INVESTMENT PARTNERSHIPS PROGRAM AGREEMENT (3753 MYERS STREET) (“Agreement”) dated for identification purposes only as of _____, 2017, is made and entered into by and between the **CITY OF RIVERSIDE**, a California charter city and municipal corporation (“City”) and **HABITAT FOR HUMANITY RIVERSIDE, INC.**, a California non-profit public benefit corporation (“Developer”), whose DUNS Number is: 123200250 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 California charter city and municipal corporation which has received funds from the United States Department of Housing and Urban Development (“HUD”) pursuant to the federal HOME Investment Partnerships Act and HOME Investment Partnerships Program, 42 U.S.C. Section 12701, et seq., and the implementing regulations thereto set forth in 24 CFR, Section 92.1, et seq. (collectively, the “HOME Program”) for the purposes of strengthening public-private partnerships to provide decent, safe, sanitary, and affordable housing, with primary attention to housing, for very low income and low income households in the City.

B. 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, including the preservation and development of rental housing affordable to very low income, low income and moderate income households.

C. 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 and construct residential properties and who is an experienced affordable housing developer certified by the City as a Certified Community Development Organization (“CHDO”) 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. Developer will acquire that certain real property located at 3753 Myers Street, located in the City of Riverside, California and further identified as Assessor Parcel No. (APN) 234-101-051, 054, and -057 (“Site”) as depicted on the Site Plan (Attachment No. 1) consisting of 0.80 acres and described in the Site Legal Description (Attachment No. 2).

E. Developer entered into a Disposition and Development Agreement with the Housing Authority of the City of Riverside on July 30, 2015 to acquire the Site for the construction of twelve (12), common interest, Affordable Housing Units, for sale to low income households who

are first-time homebuyers. Developer entered into a HOME Predevelopment Loan Agreement with the City on July 30, 2015, wherein the City would provide up to \$150,000 in HOME funds to cover predevelopment costs of the Site.

F. Developer was originally pursuing CalVet financing to cover constructions costs. Due to issues with program regulations, CalVet financing is no longer available. This change has resulted in the need to reduce the number of single-family houses to be developed from twelve to four and the \$800,000 funding gap be provided through the City's HOME Program.

G. 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.

H. 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.

I. The City and Developer desire to enter into an agreement by which:

(i) Developer will acquire the Site from the Housing Authority of the City of Riverside ("Authority") to develop four single-family houses to be sold to low-income household (80% AMI or below – "Low Income Household"), who are first-time homebuyers, at an Affordable Purchase Price. Pursuant to 24 CFR 92.254 the use of HOME funds in a homeownership project, where the HOME activity is for new construction carries a period of affordability. These Affordable Units will be restricted to sale to Low Income Households at an Affordable Purchase Price during the fifteen (15) year restriction period.

If the Developer is unable to sell the single-family homes six months after receipt of Certificate of Occupancy, the Developer is required to lease the properties in compliance with the HOME Program.

(ii) Subject to certain conditions, the City will provide a forgivable loan to Developer for construction of the Project. The City loan to Developer for the Project shall not exceed Eight Hundred Thousand Dollars (\$800,000). This amount does not include the previously allocated \$150,000 in HOME Program funds.

(iii) The City desires to combine the predevelopment and development loan into one loan amount of Nine Hundred Fifty Thousand Dollars (\$950,000) ("City Home Loan"). The terms and conditions of the City HOME Loan shall be set forth herein and made pursuant to a promissory note and related documents in such forms as are attached hereto, and which shall be finalized and executed by the parties prior to or concurrently with the Closing Date. Prior to the Authority's conveyance of the Site to Developer, Developer shall demonstrate to City that it has obtained sufficient financing to accomplish the construction of the Improvements and perform the other Project activities contemplated herein.

J. The provision of financial assistance to the Developer and the development of the Project pursuant to the terms and conditions of this Agreement are in the vital and best interest of the

City and the health, safety and welfare of the City's 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:

"Affordability Period" means the period commencing upon the recordation of the Release of Construction Covenants and terminating on the fifteenth (15th) anniversary.

"Affordable Housing Cost" means the cost to a Qualified Household to purchase an Affordable Unit which would result in an Affordable Monthly Housing Expense for Low Income Households including all of the following associated with the Affordable Unit, estimated or known as of the date of the proposed purchase of the Affordable Unit: (i) principal and interest payments on a mortgage loan(s) including any rehabilitation loans and any loan insurance fees associated therewith (a first lien mortgage loan is required hereunder to bear a fixed rate of interest and require level payments throughout its term); (ii) property taxes and assessments; (iii) fire and casualty insurance covering replacement value of property improvements; and (iv) a reasonable utility allowance, the product of thirty-five percent (35%) times eighty percent (80%) of AMI adjusted for family size appropriate to the Affordable Unit.

"Affordable Purchase Price" means that purchase price which, after deduction of (i) the down payment made by the Homebuyer, and (ii) the principal amount of any deferred payment Second Mortgage Assistance obtained by the Qualified Household, would result in an Affordable Housing Cost for a Low Income Household. Notwithstanding the foregoing, Affordable Purchase Price shall be determined in accordance with all applicable Governmental Regulations.

"Affordable Units" means the single-family residential units for the Project, which shall be available to, occupied by and held for sale exclusively to Qualified Households at an Affordable Purchase Price.

"Agreement" means this HOME Investment Partnerships Program Loan Agreement, including all of the Attachments hereto, by and among the Parties.

"Assignment of Plans, Reports and Data" means that assignment attached hereto as Attachment No. 10.

"CC&Rs (HOME)" means the Agreement and Covenants, Conditions, and Restrictions Affecting Real Property (HOME) in such form as may be determined by the City that shall provide affordability restrictions for a period of not less than fifteen (15) years for "lower income households" as required under the HOME Regulations. The CC&Rs (HOME) shall be recorded against each Parcel upon the initial sale of the Affordable Unit to a Qualified Household. The HOME Regulations are applicable due to the HOME funding in the amount of Nine Hundred Fifty Thousand Dollars (\$950,000) for this Project. The CC&Rs (HOME) are attached hereto as

Attachment No. 7.

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

“City HOME Deed of Trust” means the Deed of Trust that will be recorded against the Property, and is substantially similar in all material respects to the form of the Deed of Trust set forth in Attachment No. 6. The City shall be the holder of said Deed of Trust. The City Home Deed of Trust shall be in the amount of Nine Hundred Fifty Thousand Dollars (\$950,000).

“City HOME Loan” means the loan from the City to the Developer in an amount not to exceed Nine Hundred Fifty Thousand Dollars (\$950,000).

“City HOME Loan Documents” means the following documents evidencing the City HOME Loan and required as consideration for the City to make the City HOME Loan: (i) the City HOME Promissory Note; (ii) the City HOME Deed of Trust; (iii) the City HOME CC&Rs; (iv) the Assignment of Plans, Reports and Data; and (v) this Agreement.

“City HOME Promissory Note” means the promissory note secured by deed of trust in favor of the City which is substantially similar in all material respects to the form of Attachment No. 5.

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

“Close” or “Closing” is defined in Section 4.1.9.

“Community Housing Development Corporation” is defined in Section 92.2 of the HOME Regulations.

“Completion” means the completion of the Project as provided in Section 3.7.2 of this Agreement.

“Construction Contract” is defined in Section 3.2.

“County” means the County of Riverside, California.

“Default” means the failure of a party to perform any material action or covenant required by this Agreement and to cure such act or omission within the time periods as set forth in Section 8.1 of this Agreement.

“Developer” means Habitat for Humanity Riverside, Inc., a California non-profit public benefit corporation, and any permitted successors and assigns pursuant to Section 2.2 of this Agreement.

“Developer Approval Period” shall be the one month period following the Effective Date.

“Disbursement Request” is defined in Section 3.4.

“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).

“Environmental Review” means the investigation and analysis of the Project’s impacts on the environment as may be required under the California Environmental Quality Act (“CEQA”), Public Resources Code § 21000, *et seq.*, or of the Project’s impacts on any species of plant or animal listed as a species of concern, a threatened species, or an endangered species as may be required by the California Endangered Species Act (“CESA”), Fish and Game Code § 2050, *et seq.*, and/or the U.S. Endangered Species Act (“USES”), 16 U.S.C. § 1531, *et seq.*, or other applicable California or federal law or regulation.

“Escrow” or ***“Escrows”*** mean the escrow or escrows for the Conveyance of the Site to the Developer as provided in Section 4.1.

“Escrow Agent” is Stewart Title of California – Inland Empire Division located at 7065 Indiana Avenue, Suite 100, Riverside, CA 92506 or another qualified escrow company approved in writing by the Parties.

“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 3.2.

“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 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.

“Homebuyers” means low income first-time homebuyer that the Homes are to be sold to pursuant to this Agreement and will maintain the Homes as their principal residences.

“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.

“Homes/Project Addresses” means the four single-family residences constructed at 3753 Myers Street (Assessor’s Parcel Number: 234-101-051) in the City of Riverside.

“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 Proceeds” is defined in Section 3.4.

“Local Regulations” means mean all the provisions of the City’s General Plan, the City’s Municipal Code (including but not limited to, all zoning, development, and building standards, regulations, and procedures, and all uniform codes incorporated therein), any applicable specific plan, the conditions of any applicable map approved under the Subdivision Map Act (Government Code § 66410, *et seq.*), and any mitigation measures imposed as a result of Environmental Review for the Project, all as they exist on the date of this Agreement or as they may thereafter be amended, repealed and reenacted, or otherwise modified.

“Low Income Household” means a household whose gross annual income does not exceed eighty percent (80%) of the Riverside County median income adjusted for family size as set forth from time to time by regulation of the and 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 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.

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

“Outside Closing Date” means November 2, 2017.

“Parcels” means Assessor Parcel Numbers 234-101-051, -54, and -057 located within the Property.

“Parties” means the City and Developer.

“Permit Fees” means those fees, charges, and exactions imposed by the City or on behalf of the City as a condition of applying to or obtaining any Project Approvals for the Project, including, but not limited to, application fees, processing fees, building permit fees, storm drain fees, sewer fees, and other related charges.

“Predevelopment Costs” means predevelopment expenses which are customarily incurred and shall have been actually incurred by Developer in connection with the Project and shall include, without limitation, the following: architectural, engineering or related professional services required to prepare plans, specifications or work write-ups; application, commitment and/or origination fees in connection with construction and/or permanent financing contemplated by this Agreement; security services; land use entitlements and building permits; development fees; utilities fees; property insurance; title and other insurance, legal and accounting fees; tests to determine the condition of the Site; costs of environmental review; development impact fees; property taxes; fees for financial and advisory services and any other appropriate predevelopment costs identified in the Project Budget and reasonably approved by the City.

“Project” means predevelopment activities related to the Site, the acquisition of the Site, construction of four affordable Homes 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 Approvals” means any land use, development, and building approvals, permits or other entitlements required by the City for the development and construction of the Project, including, but not limited to, General Plan amendments, Specific Plan amendments, zone changes, zone variances, conditional use permits, site plan review, grading permits, building permits, actions under the Subdivision Map Act, encroachment permits, business licenses and other development approvals as may be required under the Riverside Municipal Code.

“Project Budget” is attached hereto as Attachment4.

“Project Costs” means all costs and expenses approved pursuant to this Agreement which are customarily incurred and with those permitted by Section 92.206(a) of the HOME

Regulations and shall have been actually incurred by Developer for the development of the Project and shall include, without limitation, the following: Predevelopment Costs; 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.

“Public Improvements” means those public improvements, including but not limited to, streets, street lights, traffic signals, curbs, gutters, sidewalks, parkway landscaping, irrigation systems, storm drains, sewers, and other public improvements, works and facilities related to the Project and required to be constructed and installed as a condition of obtaining the Project Approvals.

“Qualified Household” means a low income, first-time homebuyer that meets HOME Program regulations.

“Release of Construction Covenants” means the document which evidences the Developer’s satisfactory completion of the Project, as set forth in Section 5.17, in substantially the form of Attachment No. 8.

“Request for Notice of Default” means a request for notice of default to be recorded in accordance with Section 4.1.10 against the Site in substantially in the form shown in Attachment No. 9.

“Schedule of Performance” means that certain Schedule of Performance attached hereto as Attachment No. 3, 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, or his designee, 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 D 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 Stewart Title of California – Inland Empire Division located at 7065 Indiana Avenue, Suite 100, Riverside, CA 92506 or another qualified escrow company approved in writing by the Parties.

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 Executive Director.

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 limited partnership 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 general partner 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 6.3 hereof and as set forth in the City CC&Rs, the sale of the Affordable Units to Qualified 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; and

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 OF THE PROJECT

3.1. Sources of Financing

As set forth in the Project Budget, the parties anticipate that Project costs shall be financed with a combination of funds from the proceeds of the City HOME Loan, gifts-in-kind and awarded grant funds.

3.2. Construction Contract

At least fifteen (15) days prior to the closing of the City HOME Loan, 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. The Construction Contract shall contain a schedule of values in such form as is reasonably satisfactory to the 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 the 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 the City of any breach or violation of this Agreement that is a result of acts that are or purport to be in compliance with or in furtherance of said Construction Contract.

In connection with delivery of the Construction Contract, Developer shall furnish to the City with a contractor's performance bond in an amount not less than one hundred percent (100%) of the costs for the applicable Project improvements and a payment bond guaranteeing contractor's completion of those improvements free from liens of material men, contractors, subcontractors, mechanics, laborers, and other similar liens. Said bonds shall be issued by a responsible surety company, licensed to do business in California and with a financial strength and credit rating reasonably acceptable to the City and shall remain in effect until the entire costs for such improvements shall have been paid in full. Any such bonds shall be in a form reasonably satisfactory to the City legal counsel. In lieu of the payment and performance bonds, Developer may provide (i) a guaranty, in such form as reasonably required by the City, to be executed by Developer's parent for the lien free completion of the Project in accordance with this Agreement; or (ii) a letter of credit issued to the City in the amount of not less than one hundred percent (100%) of the costs for the applicable improvements, in a form and from a financial institution approved by the City, which approval shall not be unreasonably withheld.

3.3. City HOME Loan

City hereby agrees to loan to Developer and Developer hereby agrees to borrow the City in an amount not to exceed Nine Hundred Fifty Thousand Dollars (\$950,000) from City pursuant to the terms and conditions of the City HOME Loan Documents.

3.3.1. Funding

City shall make the City HOME Loan to Developer from available funds allocated to the City pursuant to the HOME Program as set forth in 24 CFR, Section 92.1, et seq. The City HOME Loan shall be made in accordance with and subject to the terms and conditions set forth in the City HOME Promissory Note, the City HOME Deed of Trust and the Agreement.

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

The City HOME Loan shall be evidenced by the City HOME Promissory Note and shall be secured by the City HOME Deed of Trust. In addition, Developer shall assign certain documents and agreements to City as collateral for the City HOME Loan by executing the Assignment of Plans, Reports and Data. Following the recordation of the Release of Construction Covenants, the City HOME 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.

To the extent permitted by laws, Developer shall utilize in good faith and as practicable, and shall require its contractors and subcontractors to comply with Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, as amended.

3.3.3 Subordination of the City Deed of Trust. The City Deed of Trust shall be subordinate to the Developer Deed of Trust, as set forth in the terms of the Promissory Note and Subordination Agreement (Attachment No. 11), and such exceptions to title as are approved by the 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 where City's interests are protected and secure. A Request for Notice of Default, similar in form to Attachment No. 9 shall be recorded in the official records of Riverside County concurrent with any documents evidencing the subordination of the City HOME Loan.

3.4. Disbursement of the City HOME Loan Proceeds

The loan proceeds of the City HOME Loan shall be used for Project Costs in connection with the development of the Project.

Following the Closing, up to Nine Hundred Fifty Thousand Dollars (\$950,000) of the City HOME Loan proceeds shall be made available for disbursement for Project Costs. The City has already reimbursed the Developer \$150,000 from the HOME Loan proceeds. Loan proceeds are provided on a reimbursable basis.

Upon satisfaction of the conditions precedent to the disbursement of the Loan Proceeds set forth in Section 3.6, the remaining Loan Proceeds shall be disbursed to Developer not later than thirty (30) days after receipt by the Housing Authority Manager of a written disbursement request from the Developer (each, a "Disbursement Request"). The Disbursement Request shall set forth the amount of the requested disbursement of Loan Proceeds and shall certify that (a) all conditions precedent to disbursement of the Loan Proceeds set forth in Section 3.6 have been and

remain satisfied and (b) no Event of Default has occurred and is continuing under the City HOME Loan Documents. The City shall use its best commercially reasonable efforts to wire transfer such disbursements when requested by Developer.

3.5. Retention

Except as provided herein, as to each Disbursement Request made to the City for Project Costs, disbursements of 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 3.6, the City shall disburse 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 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 the 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 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.

Upon satisfaction of the conditions precedent to the disbursement of the Retention set forth in Section 3.7, the proceeds shall be disbursed to Developer not later than thirty (30) days after receipt by the Housing Authority Manager of a written disbursement request from the Developer (the “Final Disbursement Request”). The Final Disbursement Request shall set forth the amount of the requested disbursement of Loan Proceeds and shall certify that (a) all conditions precedent to disbursement of the Loan Proceeds set forth in Section 3.6 have been and remain satisfied and (b) all conditions precedent to disbursement of the Retention set forth in Section 3.7 have been and remain satisfied. The City shall use its best commercially reasonable efforts to wire transfer such disbursement when requested by Developer.

3.6. Conditions Precedent to Disbursement of the Loan Proceeds

All disbursements of Loan Proceeds shall be recorded by the Housing Authority Manager and acknowledged by the Developer on “Exhibit ‘A’” to the City Promissory Note. The City shall authorize the disbursement of Loan Proceeds to or on behalf of Developer for Project Costs only upon satisfaction of the conditions precedent set forth in this Section 3.6.

3.6.1. Execution and Delivery of City HOME Documents

Developer shall have executed and delivered to the City: this Agreement, the City HOME CC&Rs, the City HOME Promissory Note, the City HOME Deed of Trust, and the Assignment of Plans, Reports and Data.

3.6.2. Evidence of Financing

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

3.6.3. Evidence of Insurance

Developer shall have furnished to the City with proper evidence of insurance as required by Section 7.2.

3.6.4. Title to Land

Developer 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.

3.6.5. Recordation and Priority of the City HOME CC&Rs

The City HOME CC&Rs 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 3.3.3.

3.6.6. Recordation of the City HOME Deed of Trusts

The City HOME a Deed of Trusts shall have been recorded as a lien against the Site and subordinate only to those liens permitted pursuant to Section 3.3.3.

3.6.7. Title Policy

Concurrently with the recordation of the City HOME Deed of Trust, the Title Company shall issue and deliver to the City an extended ALTA lender's policies of title insurance in an amount equal to the City HOME Loan, together with such endorsements as requested by the City, insuring that fee simple title to the Site is vested in Developer and that the priority of the City HOME Deed of Trust and the City HOME CC&Rs are consistent with Section 3.3.3. The Title Company shall provide Developer with copies of such title policy. The Title Company shall, if requested by either the City, provide any extended coverage and any endorsements reasonably requested by the City (collectively, the "Additional Endorsements"). The Developer shall pay the cost of such title policies.

3.6.8. Construction Contracts

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

3.6.9. Construction Bonds; Completion Guaranty

Developer shall furnish to the City with a completion bond guaranteeing General Contractor's completion of the improvements for the Project free from liens of material men, contractors, subcontractors, mechanics, laborers, and other similar liens. Said bonds shall be issued by a responsible surety company, licensed to do business in California, and with a financial

strength and credit rating reasonably acceptable to the City and shall remain in effect until the entire costs for such Improvements shall have been paid in full. Any such bonds shall be in a form reasonably satisfactory to the City's legal counsel and the City Risk Manager. In lieu of the performance bonds, Developer may provide a letter of credit issued to the City in the amount of not less than one hundred percent (100%) of the costs for the applicable Improvements, in a form and from a financial institution approved by City, which approval shall not be unreasonably withheld.

3.6.10. Environmental Compliance

All federal, state and local environmental requirements 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 and the California Environmental Quality Act California Public Resources Code Section 21000, et seq., have been satisfied.

3.6.11. Evidence of Eligible Project Costs

Developer shall have submitted to the City paid invoices, receipts, canceled checks or other written documentation reasonably satisfactory to the City Manager and Executive Director evidencing Developer's expenditure for Project Costs.

3.6.12. 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.

3.6.13. Representations and Warranties

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

3.7. Conditions Precedent to Disbursement of Retention

Upon satisfaction or waiver of the conditions precedent set forth below, as reasonably determined by the City Manager, the City shall disburse the Retention.

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

3.7.1. Compliance With Previous Conditions

Developer shall be in compliance with the conditions precedent to disbursement of the Loan Proceeds set forth in Section 3.7.

3.7.2. 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 the 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.

3.8. Other Sources of Financing

3.8.1. Construction and Permanent Loan

The City HOME Loan, grants-in-kind and awarded grant funds shall be used to develop the Site with four single-family houses.

3.8.2. Developer Financing

Developer may provide financing to the Project. In the event that such developer financing is utilized, interest and fees shall not exceed reasonable and customary interest and fees for similar commercial loans.

3.8.3. Additional Sources of Financing

The Developer and City agree to work together to obtain additional sources of financing for unfunded budgeted project costs, if any, and/or reduce the total amount of the City Loan. Developer agrees to exercise diligent efforts to identify and obtain additional sources of financing. If and to the extent that the Parties successfully obtain additional sources of financing, such funds shall be allocated first to fund Project Costs, if any, in excess of the costs identified in the final Project Budget, and second 50% to payment of deferred developer fee and 50% to reduce the amount of the City Loan.

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

If at any time prior to the funding of the Construction Loan and recordation of the Construction 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 (the "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 the City provide additional funding for completion of the Project.

The 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 City HOME 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.

3.9. 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 the City in writing of the nature of the proposed change, including a detailed description of the effect of such change, and submit a revised, pro forma Project Budget reflecting such change

to the City. The City shall have the right to approve such change prior to Developer taking any action in furtherance of such change.

4. ESCROW

4.1. Escrow

Within the time specified in the Schedule of Performance, the Parties shall open escrow ("Escrow") for the City HOME Loan with Escrow Company.

4.1.1. Escrow Instructions

This Agreement constitutes the joint escrow instructions of the Developer, City for the City HOME Loan, and the Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement. Any amendment of these escrow instructions shall be in writing and signed by Developer and City. At the time of any amendment, the Escrow Agent shall agree to carry out its duties as Escrow Agent under such amendment. All communications from the Escrow Agent to Developer or City shall be directed to the addresses and in the manner established in Section 9.1 for Notice between the Developer and City.

4.1.2. General Provisions Applicable to Escrow Agent

The following general provisions shall be applicable to the Escrow Agent.

a. All disbursements shall be made by check or wire transfer of the Escrow Agent. All funds received in the Escrow shall be deposited in a separate interest-earning escrow account with any bank doing business in the State of California and approved by Developer.

b. The Parties to the Escrow jointly and severally agree to pay all costs, damages, judgments and expenses, including reasonable attorneys' fees, suffered or incurred by the Escrow Agent in connection with, or arising out of the Escrow, including, but without limiting the generality of the foregoing, a suit in interpleader brought by the Escrow Agent. In the event that the Escrow Agent files a suit in interpleader, the Escrow Agent shall be fully released and discharged from all obligations imposed upon the Escrow Agent in the Escrow.

c. All prorations and/or adjustments called for in the Escrow shall be made on the basis of a thirty (30) day month unless the Escrow Agent is otherwise instructed in writing.

4.1.3. Authority of Escrow Agent

The Escrow Agent is authorized to, and shall:

a. pay and charge Developer and City for any Escrow Costs payable under Section 4.1.4;

b. pay and charge Developer for the premium of the City Title Policy as set forth in Section 4.1.5;

c. insert appropriate amounts and the date of the Closing in documents deposited by the Parties in the Escrow;

d. do such other actions as necessary to fulfill the Escrow Agent's obligations under this Agreement, including, if applicable, obtaining the City Title Report recording any instrument delivered through Escrow if necessary and proper in the issuance of such title policies;

e. prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms, including an IRS 1099-S form, and be responsible for withholding taxes, if any such forms and/or withholding are provided for or required by law; and

f. prepare and deliver to Developer and City for their review and approval prior to the Closing a settlement statement.

4.1.4. Escrow Costs

Developer shall pay all recording charges, all other customary and usual Escrow fees, charges and costs which arise from the Escrow.

4.1.5. City Title Insurance

City Title Insurance. Concurrently with the recordation of the City HOME Deed of Trust as a lien against the Site, the Title Company shall issue and deliver to the City, respectively, at Developer's cost, an ALTA standard form lender's policy of title insurance, together with the Approved Endorsements (the "City Title Policy"), insuring that (i) fee simple title to the Site is vested in Developer in the Condition of Title, and (ii) the City HOME CC&Rs and the City HOME Deed of Trust are liens against the fee estates held by Developer. The Title Company shall provide Developer with a copy of the City Title Policy. The City Title Policy shall be in the amount of the City HOME Loan and shall be issued at the exact date and time of Closing; provided, however, that the Title Company shall, if requested by City, provide any extended coverage and any endorsements reasonably requested by City (collectively, the "Additional Endorsements").

4.1.6. City's Conditions Precedent to Closing

City's obligation to close Escrow is conditioned upon the satisfaction or written waiver by City of each and every one of the conditions precedent a. through m., inclusive, described below (the "City's Conditions Precedent to Closing"), which are solely for the benefit of City, and which shall be satisfied or waived by the time periods provided for herein:

a. City Loan Documents. Developer shall have executed and delivered into Escrow the City Loan Documents and such other documents as may be reasonably requested by City in connection therewith and all of which shall be in a form acceptable to City.

b. Notice to Proceed. Developer shall have timely issued the Notice to Proceed.

c. Escrow Costs. Developer shall have deposited into Escrow the Developer's share of Escrow Costs along with any other required costs of Closing.

d. Lenders' Title Policy. The Title Company shall, upon payment of the Title Company's regularly scheduled premium, be irrevocably committed to issue the Lenders' Title Policy upon the Closing, in accordance with Section 4.1.5.

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

f. Project Budget. Developer has submitted and the City Manager has approved a Project Budget dated as of Closing.

g. Schedule of Performance. Developer has submitted and City has approved a Schedule of Performance dated as of Closing.

h. Construction Contract. Developer shall have submitted to the City and the City shall have approved Construction Contracts with a duly licensed, insured and bonded contractor or contractors providing for the development of the Project in conformance with the terms of this Agreement.

i. Performance Bond. Developer shall have delivered the contractor's performance bond or other suitable security as provided in Section 3.2.

j. Insurance. Developer, at its cost, shall procure or have procured and be maintaining in full force and effect insurance consistent with the requirements of Section 7.2 and in the amounts specified therein. Developer shall have submitted to City an insurance certificate or other acceptable written evidence demonstrating compliance with the foregoing requirement.

k. Project Entitlements. Developer shall have obtained all entitlements necessary to commence construction of the Project in the manner contemplated by this Agreement (which shall be final and not subject to further appeal).

l. No Litigation. No litigation shall be pending or threatened by any third parties which seek to enjoin the transactions contemplated herein.

m. No Default. Developer is not in default of any of its material obligations under the terms of this Agreement and all representations and warranties of Developer contained herein shall be true and correct in all material respects.

4.1.7. Developer's Conditions to Closing

Developer's obligation to close Escrow is conditioned upon the satisfaction or written waiver by Developer of each and every one of the conditions precedent a. through f., inclusive, described below (the "Developer's Conditions Precedent to Closing"), which are solely for the benefit of Developer, and which shall be satisfied or waived by the time periods provided for herein:

a. Financing. Developer has obtained all of the financing described in Section 3.8 and the City Manager has approved Evidence of Financing in accordance with Section 3.1.

b. Project Budget. The City Manager has approved a Project Budget timely submitted by Developer and dated as of Closing.

c. Schedule of Performance. The City Manager has approved a Schedule of Performance timely submitted by the Developer and dated as of Closing.

d. Project Entitlements. Developer shall have obtained all entitlements necessary to commence construction of the Project in the manner contemplated by this Agreement (which shall be final and not subject to further appeal).

e. No Litigation. No litigation shall be pending or threatened by any third parties which seek to enjoin the transaction contemplated herein or to obtain damages in connection with this Agreement.

f. No Default. City is not in default of any of its obligations under the terms of this Agreement and all representations and warranties of City contained herein shall be true and correct in all material respects.

4.1.8. Termination of Escrow

If the Escrow is not in a condition to close by the Outside Closing Date, as the same may be extended pursuant to this Agreement, then either Party which has fully performed under this Agreement may, in writing, demand the return of money, documents or property and terminate the Escrow and this Agreement. If either Party makes a written demand for the return of its money, documents or property, this Agreement shall not terminate until twenty (20) days after the Escrow Agent shall have delivered copies of such demand to the other Party at the respective addresses set forth in Section 9.1 hereof. If any objections are raised by written Notice within such twenty (20) day period, the Escrow Agent is authorized to hold all money, documents or property until instructed by a court of competent jurisdiction or by mutual written instructions of the Parties. If no such objections are timely made, the Escrow Agent shall immediately return the demanded money and/or documents, and the escrow cancellation charges shall be paid by the undemanding Party. Termination of the Escrow shall be without prejudice as to whatever legal rights, if any, either Party may have against the other arising from this Agreement. If no demands are made, the Escrow Agent shall proceed with the Closing as soon as possible consistent with the terms of this Agreement. Nothing in this Section shall be construed to impair or affect the rights of Developer to specific performance.

4.1.9. Closing of Escrow

The Closing of Escrow shall occur within forty-five (45) calendar days from the Opening of Escrow ("Closing Date"), unless extended by both parties, but in no event beyond 90 days.

4.1.10. Closing Procedure

The Escrow Agent shall Close the Escrow as follows:

a. record the City HOME Deed of Trust with instruction to the County Recorder to deliver of the City HOME Deed of Trust to the City and a conforming copy thereof to Developer;

b. record the City HOME CC&Rs with instruction to the County Recorder to deliver of the City HOME CC&Rs to the City and a conforming copy thereof to Developer;

c. record the Request for Notice of Default with instruction to the County Recorder to deliver of the Request for Notice of Default to the City and a conforming copy thereof to Developer;

d. deliver the City Title Policy issued by the Title Company to City;

e. file any informational reports required by Internal Revenue Code Section 6045(e), as amended, and any other applicable requirements;

f. deliver the FIRPTA Certificate, if any, to Developer, and

g. forward to Developer and City a separate accounting of all funds received and disbursed for each Party and copies of all executed, recorded, or filed documents deposited into Escrow, with such recording and filing date and information endorsed thereon.

5. DEVELOPMENT OF THE SITE

5.1. Scope of Work

Developer, at its sole cost, shall also take all actions reasonably necessary to design, build, construct, and otherwise improve the Property with four single-family residences having two houses consisting of three (3) bedrooms, two (2) bathrooms with a total living space of approximately 1,230 square feet and two houses with four (4) bedrooms and two (2) bathrooms with a total living space of approximately 1,350 square feet, with attached garages. Subject to Section 5.7, the Developer shall, by the respective times established therefor in the Schedule of Performance, obtain the necessary permits, or permit ready letter, and commence and complete (or cause to be commenced and completed) the improvements on the Site and construction of the Project.

5.2. Permits and Entitlements

Before commencement of the Project or other works of improvement upon the Site, the Developer shall, at its own expense, secure or cause to be secured any and all permits, entitlements or approvals which may be required by the City in accordance with its Municipal Code and land use entitlement process and by any other governmental entity with jurisdiction over the Site and/or the Project in accordance with applicable Governmental Regulations. Such expenses shall be deemed Project Costs. The City shall reasonably cooperate and assist Developer's efforts to comply with this Section 5.2, provided, however that the execution of this Agreement does not constitute the granting of or a commitment to obtain any required land use entitlements or approvals required by the City.

5.3. Dedication of Rights-of-Ways for Public Improvements.

Developer shall give and dedicate such rights-of-way, easements, agreements, licenses, and other grants of rights (“Dedications”) to the City as are reasonably required to accomplish the survey, design, construction, inspection, testing, operation, maintenance, and repair of the Public Improvements. It is understood, acknowledged, and agreed by Developer that such Dedications may include, but are not limited to, permanent or temporary rights-of-way or easements for public purposes (including street and utility use, slope, drainage, maintenance, construction, entry and/or access, and encroachment permits). Developer agrees that the making of such Dedications are part of the consideration provided by Developer for this Agreement, that Developer shall not seek, nor have a right to seek, any compensation from the Authority or City for such Dedications, and that Developer shall not pursue any legal action for compensation, including inverse condemnation or eminent domain, with regard to such Dedications.

5.4. Defects in Plans

The City shall be responsible to the Developer or to third parties in any way for any defects in the design of the Project, nor for any structural or other defects in any work done according to the approved design of the Project, nor for any delays reasonably caused by the review and approval processes established by this Section 5.3. The Developer shall hold harmless, indemnify and defend the City and their respective officers, employees, agents and representatives from an against any claims, suits for damages to property or injuries to persons arising out of or in any way relating to defects in the design of the Project, including (without limitation) the violation of any laws, and for defects in any work.

5.5. Construction of the Project

The cost of planning, designing, and developing the Project, and Site preparation costs, shall be borne solely by the Developer.

Developer may act as the general contractor. Developer shall have submitted to the City, and City shall have approved the proposed contractor/subcontractor bidding procedures and the proposed form of the contract to be entered into with the contractor and/or subcontractors. All such contracts shall be entered into with a duly licensed and insured contractor or subcontractors, and Developer shall comply, to the extent practicable subject to the availability of labor of comparable quality and skill, and the availability of materials of comparable cost and quality.

Developer shall comply with the HOME Program Property Standards as identified under 24 CFR 92.251. New construction projects must comply with State and local codes, ordinances, and zoning requirements. HOME-assisted new construction projects must meet State or local residential and building codes. The housing must meet the applicable requirements upon project completion.

Developer shall also comply with the following HOME Program Property Standards.

5.5.1. Accessibility. The housing must meet the accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) implemented at 28

CFR parts 35 and 36, as applicable. Covered multifamily dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act (42 U.S.C. 3601-3619).

5.5.2. Disaster mitigation. Where relevant, the housing must be constructed to mitigate the impact of potential disasters (e.g., earthquakes, hurricanes, flooding, and wildfires), in accordance with State and local codes, ordinances, or other State and local requirements, or such other requirements as HUD may establish.

5.5.3. Written cost estimates, construction contracts and construction documents. The Developer must ensure the construction contract(s) and construction documents describe the work to be undertaken in adequate detail so that inspections can be conducted. The City must review and approve written cost estimates for construction and determining that costs are reasonable.

5.5.4. Construction progress inspections. The City must conduct progress and final inspections of construction to ensure that work is done in accordance with the applicable codes, the construction contract, and construction documents.

If the Project is determined to be infeasible, the Site will be conveyed by Developer to the City and repayment of the City Loan will be waived. The City HOME Loan must be repaid.

5.6. Design

The Developer assumes the responsibility for the design and construction of, and shall let contracts for (or cause contracts to be let for) the Project. All additional costs incurred for any reason in constructing the Project shall be at the sole cost and expense of the Developer. The Developer assumes all obligation for ensuring conformity with all applicable Federal, State and local nondiscrimination, labor standards, prevailing wage rate requirements and competitive bidding requirements with respect to the Project.

5.7. Application of Prevailing Wage. The Parties contemplate that the assistance provided by the City does not render the Project a public work requiring payment of prevailing wage because the Project is exempt pursuant to Labor Code § 1720(c)(3). However, should Developer fail to construct the affordable housing unit in accordance with this Agreement and State law, Developer acknowledges that it may become responsible for paying general prevailing wage rates of per diem wages and overtime and holiday wages determined by the Director of the Department of Industrial Relations under Section 1720, *et seq.*, of the California Labor Code and implemented by Resolution No. 13346 of the City Council of the City of Riverside for some or all work performed in construction of the Project. Should the Developer receive an adverse wage determination from the Department of Industrial Relations or a compliance action brought by the Department of Labor Standards Enforcement, in such event, the Parties shall meet and confer and negotiate in good faith to find a mutually agreeable method of achieving the intent of this Agreement.

5.8. Construction Schedule

Subject to Section 9.8, the Developer shall commence and complete all development activities within the times established therefor in the Schedule of Performance attached hereto (Attachment No. 3).

5.9. Bodily Injury and Property Damage Insurance; Indemnity

5.9.1. Insurance

The Developer shall maintain or shall cause its contractor(s) to maintain until the completion of the Project as determined by the City pursuant to Section 7.2 insurance in accordance with the City's uniform insurance requirements or as otherwise approved in writing by the City Manager.

The obligations set forth in this Section 5.9.1 shall remain in effect only until a Release of Construction Covenants has been furnished to the Developer as provided in Section 5.17.

5.9.2. Developer's Indemnity

To the full extent permitted by law, Developer shall indemnify, defend and hold harmless the City, and any and all of its employees, officials and agents (the Indemnitees) from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, compliance with applicable federal and state labor standards, regulatory proceedings, losses, expenses or cost of any kind, whether actual, alleged or threatened, including attorney's 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, the performance of 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.

Developer agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every contractor or any other person or entity involved by, for, with or on behalf of Developer in the in the performance of this Agreement. In the event Developer fails to obtain such indemnity obligations from others as required here, Developer agrees to be fully responsible according to the terms of this Section 5.8.2.

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 or this Section 5.9.2.

5.10. Other Governmental Authority Permits and Environmental Compliance

Before commencement of construction or other works of improvement upon the Site, the Developer shall, at its own expense, secure or cause to be secured any and all land use and other entitlements or approvals, if any, which may be required by any other governmental agency affected by such construction or work.

The parties acknowledge and agree the California Environmental Quality Act, Public Resources Code Section 21000, *et seq.*, (“CEQA”) and National Environmental Policy Act of 1969, Public Law 91-190 as amended, 42 U.S.C. Sections 4321-4347 (“NEPA”) may become applicable to the Project as a result of processing Developer’s entitlement requests. Pursuant to CEQA and NEPA, certain environmental documents may be required to be prepared. The Developer agrees to cooperate with the City in obtaining information to determine environmental impact associated with such entitlements. The Developer shall be responsible to pay all costs incurred by the City to prepare or cause to be prepared such environmental documents with respect to any land use entitlements affecting the Site and to comply with any required mitigation measures imposed pursuant thereto.

Should the CEQA or NEPA reviews reveal environmental impacts from the Project which cannot be sufficiently mitigated, Developer shall then negotiate in good faith to restructure the Project in a manner that may reduce the environmental impacts of the projects.

No HOME funds will be advanced, and no costs can be incurred, until the City has conducted an environmental review of the proposed project site as required under 24 CFR Part 58.

Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of an environmental review.

5.11. Rights of Access

Prior to the issuance of a Release of Construction Covenants (as specified in Section 5.17), for purposes of assuring compliance with this Agreement, representatives of the City shall have the right of access to the Site, without charges or fees, at normal construction hours and upon at least 48 hours advance notice 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 so long as City representatives comply with all safety rules. City representatives shall, except in emergency situations, notify the Developer prior to exercising its rights pursuant to this Section 5.11.

5.12. Federal, State and Local Laws

5.12.1. Labor Standards

Developer shall carry out the Project in conformance with all applicable laws, including any and all applicable federal and state labor standards.

5.12.2. General

Developer shall comply with all applicable 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, 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, and all applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. § 12101, *et seq.*, Government Code § 4450, *et seq.*, and Government Code § 11135, *et seq.*

5.13. Nondiscrimination During Construction

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

5.14. Taxes and Assessments

The Developer shall pay prior to delinquency all ad valorem real estate taxes and assessments on the Site during Developer's ownership thereof, subject to the Developer's right to contest in good faith any such taxes. The Developer shall remove or have removed any levy or attachment made on the Site or any part thereof, or assures the satisfaction thereof within a reasonable time.

5.15. 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 the City from the effect of such lien or bonded stop notice.

5.16. Mortgage Deed of Trust, Sale and Lease-Back Financing; Rights of Holders

5.16.1. No Encumbrances Except Mortgages, Deeds of Trust

Construction Mortgages, deeds of trust, sales and leases-back shall be permitted before completion of the Project with the City's prior written approval, which shall not be unreasonably withheld or delayed, but only for the purpose of securing loans of funds to be used for financing the Project, and any other purposes necessary for the construction of the Project, and

necessary and appropriate under this Agreement. The Developer shall notify the City in advance of any mortgage, deed of trust or sale and lease-back financing, if the Developer proposes to enter into the same before completion of the Project. The Developer shall not enter into any such conveyance for financing without the prior written approval of the City, which approval the City shall not unreasonably withhold provided that (i) such conveyance for financing is given to a responsible financial or lending institution, person or entity, and (ii) the Developer has commenced or is prepared to commence construction of the Project. The City's approval shall not be required for any financing after the issuance of a Release of Construction Covenants for the Project as specified in Section 5.17.

5.16.2. Holder Not Obligated to Construct Improvements

The holder of any mortgage or deed of trust authorized by this Agreement shall not be obligated by the provisions of this Agreement to construct or complete the Project or to guarantee such construction or completion. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Site to any uses or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

5.16.3. Notice of Default to Mortgagee or Deed of Trust Holders, Right to Cure

Whenever the City delivers any notice or demand to Developer with respect to any breach or default by the Developer in completion of the Project and the Developer fails to cure or commence to cure to the City's satisfaction within sixty (60) days from the date of such notice, the City shall at the same time deliver to each holder of record of any mortgage or deed of trust authorized by this Agreement and granted by Developer, a copy of such notice or demand. Except as otherwise agreed to in the Subordination Agreement with a senior lender, each such holder shall (insofar as the rights granted by the City are concerned) have the right, at its option, within sixty (60) days after the receipt of the notice, to cure or remedy or commence to cure or remedy and diligently prosecute such cure or remedy to completion any such default and to add the cost thereof to the mortgage debt and the lien of its mortgage. Written notice of such holder's intention to cure Developer's default shall be deemed to be commencement of cure. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Project (beyond the extent necessary to conserve or protect the improvements or construction already made) without first having expressly assumed the Developer's obligations under this Agreement by written agreement satisfactory to the City. The holder, in that event, must agree to complete, in the manner provided in this Agreement, the Project to which the lien or title of such holder relates, and submit evidence satisfactory to the City that it has the qualifications and financial responsibility necessary to perform such obligations. Any such holder properly completing the Project shall be entitled, upon compliance with the requirements of this Agreement, to a Release of Construction Covenants as specified in Section 5.17.

5.16.4. Failure of Holder to Complete Project

Except as otherwise agreed to in the Subordination Agreement with a senior lender, in any case where, thirty (30) days after the holder of any mortgage or deed of trust creating a lien or encumbrance upon the Site or any part thereof receives notice of default by the Developer in connection with the construction of the Project under this Agreement, and such holder has not

exercised the option to construct as set forth in Section 5.16.2, or if it has exercised the option and has not proceeded diligently with construction, or to obtain title after institution of foreclosure or trustee's sale proceedings, the City may purchase the mortgage or deed of trust by payment to the holder of the amount of the unpaid mortgage or deed of trust debt, including principal and interest and all other sums secured by the mortgage or deed of trust. If the ownership of the Site or any part thereof has vested in the holder by virtue of a deed in lieu of foreclosure, the City, if it so desires, shall be entitled to a conveyance from the holder to the City, upon payment to the holder of an amount equal to the sum of the following items (i) through (v) less any income derived by the lender from operations conducted on the Site (the receipt of principal and interest payments in the ordinary course of business shall not constitute income for the purposes of this Section):

- (i) The unpaid mortgage or deed of trust debt at the time title became vested in the holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings);
- (ii) All expenses with respect to foreclosure;
- (iii) The net expense, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent management of the Project or part thereof;
- (iv) The costs of any improvements made by such holder; and
- (v) An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage or deed of trust debt and such debt had continued in existence to the date of payment by the City.

5.16.5. Right of the City to Cure Mortgage or Deed of Trust Default

In the event of a mortgage or deed of trust default or breach by the Developer past any applicable notice and cure period and prior to the issuance by the City of the Release of Construction Covenants in accordance with Section 5.17, the Developer shall immediately deliver to the City a copy of any mortgage holder's notice of default. If the holder of any mortgage or deed of trust has not exercised its option to construct, the City shall have the right, but not the obligation to cure the default. In such event, the City shall be entitled to reimbursement from the Developer of all proper costs and expenses incurred by the City in curing such default. Such costs and expenses incurred by the City shall accrue interest until paid by the Developer at the rate of ten percent (10%) per annum or the maximum allowable interest rate permitted by applicable law, whichever is lower. Such costs and expenses and any interest accrued thereon shall be secured as additional advances by and pursuant to the Deed of Trust and the Assignment of Rents.

5.16.6. Right of the City to Satisfy Other Liens on the Site After Title Passes

Subject to the rights of any senior lender, prior to the issuance by the City of the Release of Construction Covenants in accordance with Section 5.17 and after the Developer has had written notice and has failed after a reasonable time (but in any event not less than thirty (30) days) to challenge, cure, adequately bond against, or satisfy any liens or encumbrances on the Site which are not otherwise permitted under this Agreement, the City shall have the right (but not the obligation) to satisfy any such liens or encumbrances. The costs and expenses of such cure shall

accrue interest until paid by the Developer at the rate of ten percent (10%) per annum or the maximum allowable interest rate provided by applicable law, whichever is lower. Such costs and expenses and any interest accrued thereon shall be secured as additional advances by and pursuant to the Deed of Trust and the Assignment of Rents.

5.17. Release of Construction Covenants

Promptly after completion of the Project in conformity with this Agreement, the City shall furnish the Developer with a "Release of Construction Covenants" upon written request therefor by the Developer. The City shall not unreasonably withhold such Release of Construction Covenants. The Release of Construction Covenants shall be substantially in the form of the "Release of Construction Covenants" (Attachment No. 8). The Release of Construction Covenants shall be a conclusive determination of satisfactory completion of the Project and the Release of Construction Covenants shall so state. Except as provided in the CC&Rs Regulatory Agreement, any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the Site shall not (because of such ownership, purchase, lease or acquisition) incur any obligation or liability under this Agreement except for those continuing covenants as set forth in Section 6, *et seq.*

If the City refuses or fails to furnish the Release of Construction Covenants, after written request from the Developer, the City shall, within thirty (30) days of written request therefor, provide the Developer with a written statement of the reasons the City refused or failed to furnish the Release of Construction Covenants. The statement shall also contain the City's opinion of the actions the Developer must take to obtain the Release of Construction Covenants. If the City shall have failed to provide such written statement within said thirty (30) day period, and on the condition that the City has issued a certificate of occupancy or equivalent document for the Project, the Project shall thereafter be deemed approved by the City and the City shall promptly issue the Release of Construction Covenants.

The Release of Construction Covenants shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of any mortgage, or any insurer of a mortgage securing money loaned to finance the Project, or any part thereof. The Release of Construction Covenants is not a notice of completion as referred to in Section 3093 of the California Civil Code.

6. COVENANTS AND RESTRICTIONS

6.1. Use Covenants

Developer covenants and agrees for itself, its successors and assigns, and any successor-in-interest to the Property or part thereof, that during the term of the Agreement and Covenants, Conditions and Restrictions Affecting Real Property Including Owner-Occupancy and Affordability Restrictions, the Property shall remain available at an Affordable Cost to a Low Income Household for a period of fifteen (15) years commencing upon recordation of the Deed. During such period, each Property shall be used solely as a single-family residential dwelling and owner-occupied by a Homebuyer. Each Property and Home situated thereon shall be the principal residence of the Homebuyer.

6.1.1. Developer shall sell each Home to a Qualified Household. Developer shall demonstrate to the satisfaction of the City that Developer has selected and approved the income eligible first-time homebuyers, in accordance with Developer's "program of housing development". The sale to each Homebuyer is contingent on execution of that certain document entitled Agreement and Covenants, Conditions and Restrictions Affecting Real Property Including Owner-Occupancy and Affordability Restrictions (CC&Rs) and attached hereto as Attachment No. 7.

6.1.2. Event of Resale or Refinance. During such 15-year affordability period, if a Property is sold or refinanced, Developer, its successor and assigns shall ensure that each Property continues to be available at an Affordable Cost to a Lower Income Household who will use the Property as their principal residence.

6.2. Affordable Housing Requirements

6.2.1. Number of Affordable Units

Developer agrees to develop four single-family homes that will be sold to Low Income Households.

6.2.2. Duration of Affordability Requirements

The Affordable Units shall be subject to the requirements of Section 6.2 throughout the Affordability Period.

6.2.3. Certification and Verification of Homebuyer Income

Developer shall be responsible for determining applicant's household income to determine whether an applicant is eligible to be the initial Homebuyer. The income level of an applicant must be verified using source documentation in accordance with 24 CFR 92.203(b)(2). In the event a property transfers to a subsequent Homebuyer said Homebuyer must be verified and certified to meet the income qualifications of a Low Income Household.

Developer shall be responsible for the selection of the Homebuyer for the Affordable Unit in compliance with lawful and reasonable criteria.

6.2.4. Household Income Requirements

In order to assure compliance with the affordability requirements set forth in this Agreement and the City HOME CC&Rs, the Developer shall, prior to the initial sale of an Affordable Unit verify the household's income and homebuyer status. Developer shall obtain a verification of all household sources of income demonstrating that such household is a Low Income Household and meets the eligibility requirements established for the Affordable Unit. Such income verification shall be submitted on such form as prepared by the City.

6.2.5 Relationship to Other Affordability Covenants

Satisfaction of any other affordability covenants applicable to the Project shall not constitute substitute satisfaction of the requirements set forth in the City HOME CC&Rs.

6.3. City HOME CC&Rs

The Developer shall execute, acknowledge, and deliver to City the City HOME CC&Rs to be recorded with respect to the Site in the official records of Riverside County. The City HOME CC&Rs shall contain those portions of this Agreement relating to affordable housing requirements, and other provisions which are intended to survive the completion of construction of the Project.

6.4. Maintenance of Site

During construction of the Project and throughout the Affordability Period, the Developer and subsequent Homebuyers shall maintain the Site and the improvements thereon in conformity with the City HOME CC&Rs in all material respects.

6.5. Nondiscrimination Covenants

Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Site, or any part of it, nor shall the Developer or any person claiming under or through it, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Site, including the Unit, or any portion thereof. The foregoing covenants shall run with the land.

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

Developer shall refrain from restricting the sale of the Site, including the Unit, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code. All such deeds, leases, contracts or subcontracts shall contain or be subject to substantially the following nondiscrimination and nonsegregation clauses:

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

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

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

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

c. In contracts: “There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in connection with the performance of this contract nor shall the contracting party himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, contractors, subcontractors or vendees with respect to the premises.”

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

6.6. Effect of Violation of the Terms and Provisions of this Agreement After Completion of Construction

The City is deemed the beneficiaries of the terms and provisions of this Agreement and of the covenants running with the land, for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided, without regard to whether the City has been, remains or is an owner of any land or interest therein in the Site. The City shall have the right, if this Agreement or any covenants in any agreement pursuant to this Agreement, including the City CC&Rs, are breached, following notice and expiration of all applicable cure periods, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and such covenants may be entitled.

7. INDEMNITY AND INSURANCE

7.1. Developer’s Indemnity

To the full extent permitted by law, Developer shall indemnify, defend and hold harmless the City, and any and all of its employees, officials and agents (“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 way attributable to, in whole or in part, to: (i) Developer’s failure to comply with all applicable laws; (ii) defects in the design of the Project as to all or any portion of the Project developed or caused to be developed by Developer, or (iii) any negligent performance or act or negligent 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.

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.

7.2. Insurance

Prior to the commencement of any 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 which complies with all applicable state laws and requirements.

b. Comprehensive General Liability insurance with limits not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) general aggregate for bodily injury and property damage, including coverages for contractual liability, personal injury, broad form property damage, products and completed operations with a rating of at least A and a financial class of at least VII.

c. Property insurance covering all real and personal (non-expendable) property leased or purchased in connection with the completion of the Project in a form appropriate for the nature of such property, covering all risks of loss, excluding earthquake and flood, for 100% of the replacement value, with deductible, if any, acceptable to the City, naming the City as loss payee.

d. Developer shall cause the general contractor to maintain insurance of the types and in at least the minimum amounts described in subsections a and b above, and shall require that such insurance shall meet all of the general requirements of subsections e, f, and g 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 its officers, agents, employees and representatives.

e. 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 be included in such annual

aggregate limit, such annual aggregate limit shall be three times the occurrence limits specified above.

f. 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 are 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."

g. Prior to the disbursement of any portion of the 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. 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.

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

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

(2) Withhold any disbursement of the 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 reimbursement of the Loan Proceeds is due and payable.

Exercise of any of the above remedies, however, is an alternative to other remedies 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.

8. DEFAULTS, REMEDIES AND TERMINATION

8.1. Defaults - General

Subject to the extensions of time set forth in Section 9.8, 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 such event of default cannot be cured within such thirty (30) day period and Developer has diligently commenced efforts to cure, the Developer shall have such reasonable time to diligently prosecute such cure to completion. If a different period or notice requirement is specified for any particular default under any other provision of this Agreement, including any of the Attachments hereto, the specific provision shall control.

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, subject to the nonrecourse nature of the loans after recordation of the Release of Construction Covenants. 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 the City, service of process on City shall be made by personal service upon the City's City Clerk, or in such other manner as may be provided by law.

In the event that any legal action is commenced by the City against Developer, service of process on Developer shall be made by personal service upon any owner, general partner,

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

8.6.1. Termination by Developer

Provided the Developer is not in default of any of the terms and conditions of this Agreement, then in the Event of Default by the City, the Developer shall have the right to terminate this Agreement by written notice to the City in accordance with the provisions of Section 9.1. Upon termination by the Developer pursuant to this Section 8.6.1, the City may enter into a new agreement with respect to the development of the Site and, except as expressly provided to the contrary herein with respect to obligations that survive the termination of this Agreement, there shall be no further rights or obligations between the City and the Developer.

8.6.2. Termination by City

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

8.7. Conveyance of Title in the City Prior to Completion of Construction

The City has the additional right, at its election, to take possession of the Site (or any part thereof), with all improvements thereon, and require conveyance of the Site to the City if prior to

the issuance of the Release of Construction Covenants, the Developer (or its successors in interest) shall:

a. subject to the extensions of time set forth in Section 9.8, fail to start the construction of the Project as required by this Agreement for a period of forty-five (45) days after written notice of default thereof from the City; or

b. subject to the extensions of time set forth in Section 9.8, abandon or substantially suspend construction of the Project as required by this Agreement for a period of thirty (30) days after written notice thereof from the City;

c. contrary to the provisions of Section 2.2, transfer or suffer any involuntary transfer of the Site or any part thereof in violation of this Agreement; or

d. it is determined that the development of the Project is infeasible.

The periods set forth in paragraphs a., b., and c. above shall be extended if, within forty-five (45) days after notice is delivered by the City, the Developer delivers to the City notice that it has elected to submit a plan to cure such default or defaults within one hundred eighty (180) days of the Developer's notice to the City.

Such right to reenter, terminate and revest shall be subject to and be limited by and shall not defeat, render invalid or limit: (i) any mortgage or deed of trust or other security interest permitted by this Agreement; or (ii) any rights or interests provided in this Agreement for the protection of the holders of such mortgages or deeds of trust or other security interests.

Upon issuance of a Release of Construction Covenants for the Project, the City's right to conveyance of the Site shall terminate.

Upon the revesting in the City of title to the Site or portion thereof as provided in this Section 8.7, the City shall, pursuant to its responsibilities under state law, use its reasonable efforts to resell the Site or portions thereof as soon and in such manner as the City shall find feasible and consistent with the objectives of such law to a qualified and responsible party or parties as determined by the City, who will assume the obligation of making or completing the Project, or such improvements in their stead as shall be satisfactory to the City and in accordance with the uses specified for such parcel or part thereof. Such party shall be required to pay for a pro rata share of the cost of construction, maintenance and operation of the common area improvements upon the Site. Upon such resale of the Site or portions thereof, the net proceeds thereof after repayment of any mortgage or deed of trust encumbering such parcel which is permitted by this Agreement, shall be applied:

i. First, to reimburse the City, all reasonable costs and expenses incurred by the City, excluding City staff costs, but specifically including (but not limited to) any expenditures by the City in connection with the recapture, management and resale of the Site or part thereof (but less any income derived by the City from the Site or part thereof in connection with such management); all taxes, assessments and water or sewer charges with respect to the Site or part thereof which the Developer has not paid; any payments made or necessary to be made to discharge any encumbrances or liens existing on the Site or part thereof at the time of revesting of title thereto in the City, or to

discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Developer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the Project or any part thereof on the Site; and any amounts otherwise owing the City, and in the event additional proceeds are thereafter available.

ii. Second, to reimburse the Developer, its successor or transferee, up to the amount equal to the sum of (a) the costs incurred for the acquisition and development of the Site or part thereof and for the Project existing on such Site at the time of the reentry and possession, less (b) any net gains or income withdrawn or made by the Developer from such Site or the improvements thereon.

iii. Any balance remaining after such reimbursements shall be retained by the City as its property. The rights established in this Section 8.7 are not intended to be exclusive of any other right, power or remedy, but each and every such right, power, and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy authorized herein or now or hereafter existing at law or in equity.

8.8. Limitation on Damages.

Without limiting the generality of the foregoing, the Parties shall not in any event be entitled to, and the Parties hereby waive, any right to seek consequential damages of any kind or nature from any other Party or Parties arising out of or in connection with this Agreement, and in connection with such waiver, the Parties are familiar with and hereby waive the provision of 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 FAVOR AT THE TIME OF EXECUTING THE RELEASE WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

9. **GENERAL PROVISIONS**

9.1. Notices, Demands and Communications Between the Parties

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

To Developer:	Habitat for Humanity Riverside, Inc. Attn: Kathy Michalak, Executive Director 2180 Iowa Avenue Riverside, CA 92507
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To City: City of Riverside
Attn: City Manager
3900 Main Street, 7th Floor
Riverside, California 92522

Copies to: City of Riverside
Attn: Community & Economic Development Director
3900 Main Street
Riverside, California 92522

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. Subordination of Indebtedness

Any indebtedness of the City to the Developer created by this Agreement is subordinate to any pledge of tax increments to the bondholders of any tax increment bonds which have been or may hereafter be issued by the City. The Parties hereby agree to execute any and all ancillary documents as may reasonably be requested by any bondholder or other purchaser of bonds, notes or other forms of indebtedness of the City entitled to receive the tax increment revenues for the repayment of any other indebtedness of the City for which the tax increment revenues have been or may hereafter be pledged.

9.3. 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.

9.4. 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.

9.5. 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 the City or for any amount which may become due to Developer or successor, or on any obligation under the terms of this Agreement.

9.6. 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 the City or Developer to approve any contract, document, plan, proposal, specification, drawing or other matter, such approval shall not be unreasonably withheld or delayed. In the event that a Party declines to approve any contract, document, plan, proposal, specification, drawing or other matter, such denial shall be in writing and shall include the reasons for such denial. The Party considering the request for such approval shall use commercially reasonable efforts to respond to such request for approval within fifteen (15) days of receipt unless expressly provided to the contrary herein.

9.7. Plans and Data

If this Agreement is terminated by the Developer pursuant to Section 3.8.4, the City and City shall have the right but not the obligation to purchase from Developer all plans, drawings, studies and related documents concerning the Project within Developer's possession and control, without representation or warranty. The purchase price for all or any part of such materials shall be their cost to Developer, less amounts already disbursed to the Developer from the Loan Proceeds for such purposes.

If this Agreement is terminated by City pursuant to Section 3.8.4, then, pursuant to the exercise of City's rights under the Assignment of Plans, Reports and Data, Developer shall deliver to the City any and all plans, drawings, studies and related documents concerning the Project within Developer's possession and control, without representation or warranty. 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.

9.8. Force Majeure

In addition to specific provisions of this Agreement, performance by any party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God or any other deity; acts of the public enemy; epidemics; 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 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 among the City and the Developer. 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.

9.9. Applicable Law; Interpretation

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

9.10. Inspection of Books and Records, Reports

The City or its designee has the right at all reasonable times, and upon reasonable advance notice of not less than 48 hours, to inspect the books and records and other related documents of 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 the City on all matters pertaining to the Project of the Site.

9.11. Administration

This Agreement shall be administered by the City Manager following approval of this Agreement by the City. 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 and 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 add to the costs of the City as 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.

9.12. 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. To the extent that any lender to, or equity investor in the Project requires modifications to this Agreement or any attachment hereto, the City agrees to make such modification within a reasonable time on the condition that such modification does not materially change the rights and obligations of the Parties as set forth herein.

9.13. Ground Breaking and Grand Openings

To insure proper protocol and recognition of the City Council, the Developer shall cooperate with the City staff in the organization of any Project-related ground breaking, grand openings or any other such inaugural events/ceremonies sponsored by the Developer and celebrating the development which is the subject of this Agreement providing City staff with at least two (2) weeks prior notice of any such event.

9.14. 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 forty-eight (48) pages and Attachment Nos. 1 through 11 which constitute the entire understanding and agreement of the Parties. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such 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.

(Signatures on following page)

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

“DEVELOPER”

HABITAT FOR HUMANITY RIVERSIDE, INC.,
a California non-profit public benefit corporation

Dated: 6/14/17

By: [Signature]
Name: KATHY M. MICHALAK
Its: EXECUTIVE DIRECTOR

Dated: 6/16/17

By: [Signature]
Name: LYNETTE BELKEDAH
Its: TREASURER

“CITY”

CITY OF RIVERSIDE, a California charter city and
municipal corporation

Dated: _____

By: _____
City Manager

ATTEST:

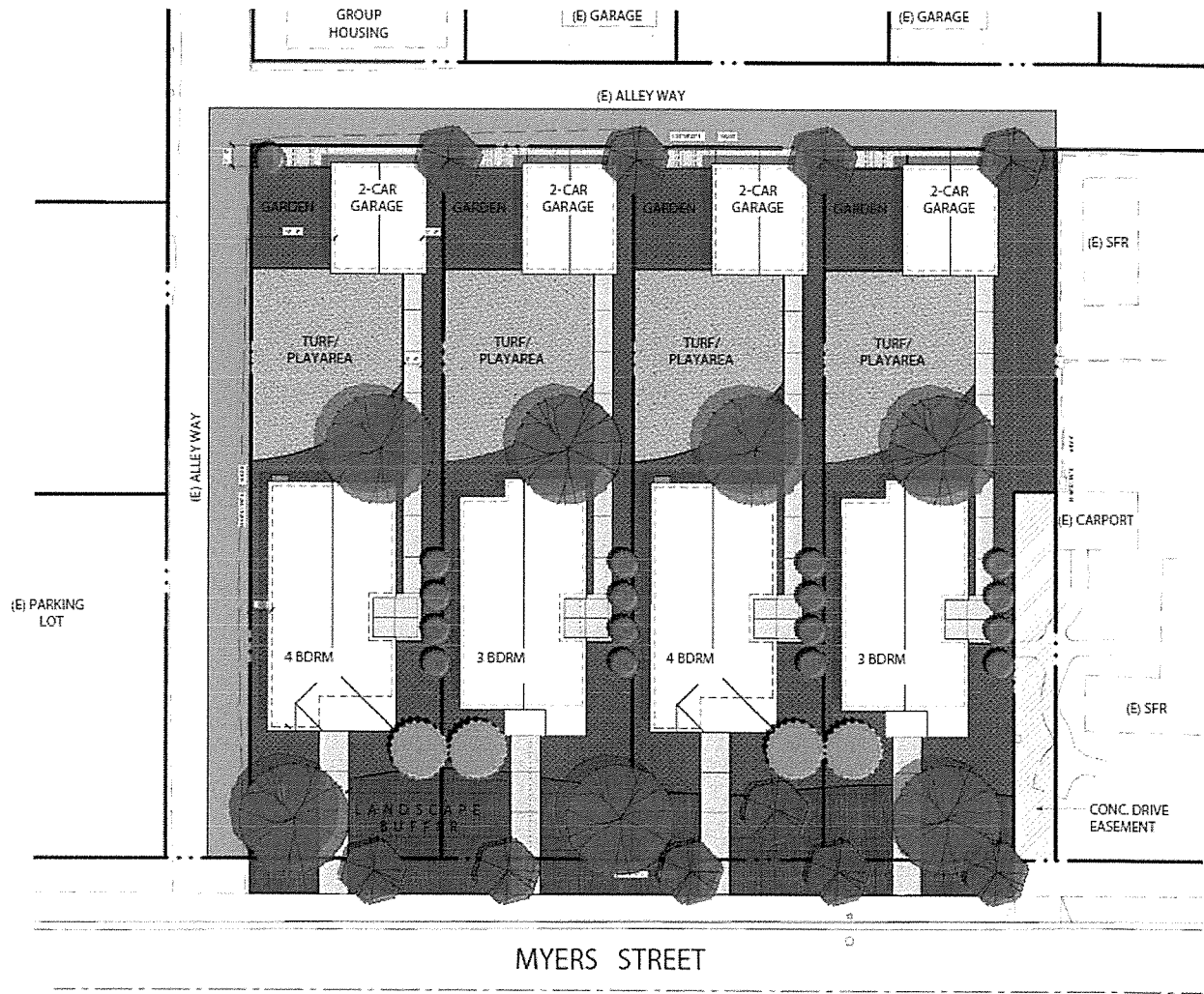
By: _____
City Clerk

APPROVED AS TO FORM:

By: [Signature]
Chief Assistant City Attorney

ATTACHMENT NO. 1

SITE PLAN



ATTACHMENT NO. 2
SITE LEGAL DESCRIPTION

EXHIBIT "A"

APN: 234-101-051, 054 & 057

Fee Simple

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

That portion of Lot 4 in Block 26 of the Village of Arlington, as shown by map recorded in Book 1, Page 62 of Maps, records of San Bernardino County, California, more particularly described as follows:

BEGINNING at a point on the northeasterly line of Myers Street as shown by said map of the Village of Arlington, 150 feet southeasterly from the northwesterly corner of said Lot 4; said point being the northwesterly corner of that certain parcel of land as granted to the City of Riverside, by deed recorded November 10, 1945, in Book 714, Page 100, et seq., of Official Records of Riverside County, California;

THENCE northeasterly along the northwesterly line of said parcel of land granted to the City of Riverside, a distance of 170 feet, more or less, to the southwesterly line of that certain alley, 20 feet in width, as shown by map of Taft Tract, on file in Book 7, Page 15 of Maps, records of Riverside County, California;

THENCE southeasterly along the southwesterly line of said alley, a distance of 210 feet to the southeasterly line of Parcel No. 2 of those certain parcels of land conveyed to Mildred I. Kelley, by Grant Deed recorded July 31, 1941, in Book 512, Page 158 of Official Records of Riverside County, California;

THENCE southwesterly along said southeasterly line, a distance of 170 feet to said northeasterly line of Myers Street as shown by said map of the Village of Arlington;


THENCE northwesterly along said northeasterly line of Myers Street, a distance of 210 feet to the POINT OF BEGINNING;

EXCEPTING THEREFROM that portion of said Lot 4 lying southwesterly of a line that is parallel with and distant 33.00 feet northeasterly, as measured at right angles, from the centerline of Myers Street as shown by Parcel Map 9730, filed in Book 51, Pages 72 and 73 of Parcel Maps, records of said Riverside County;

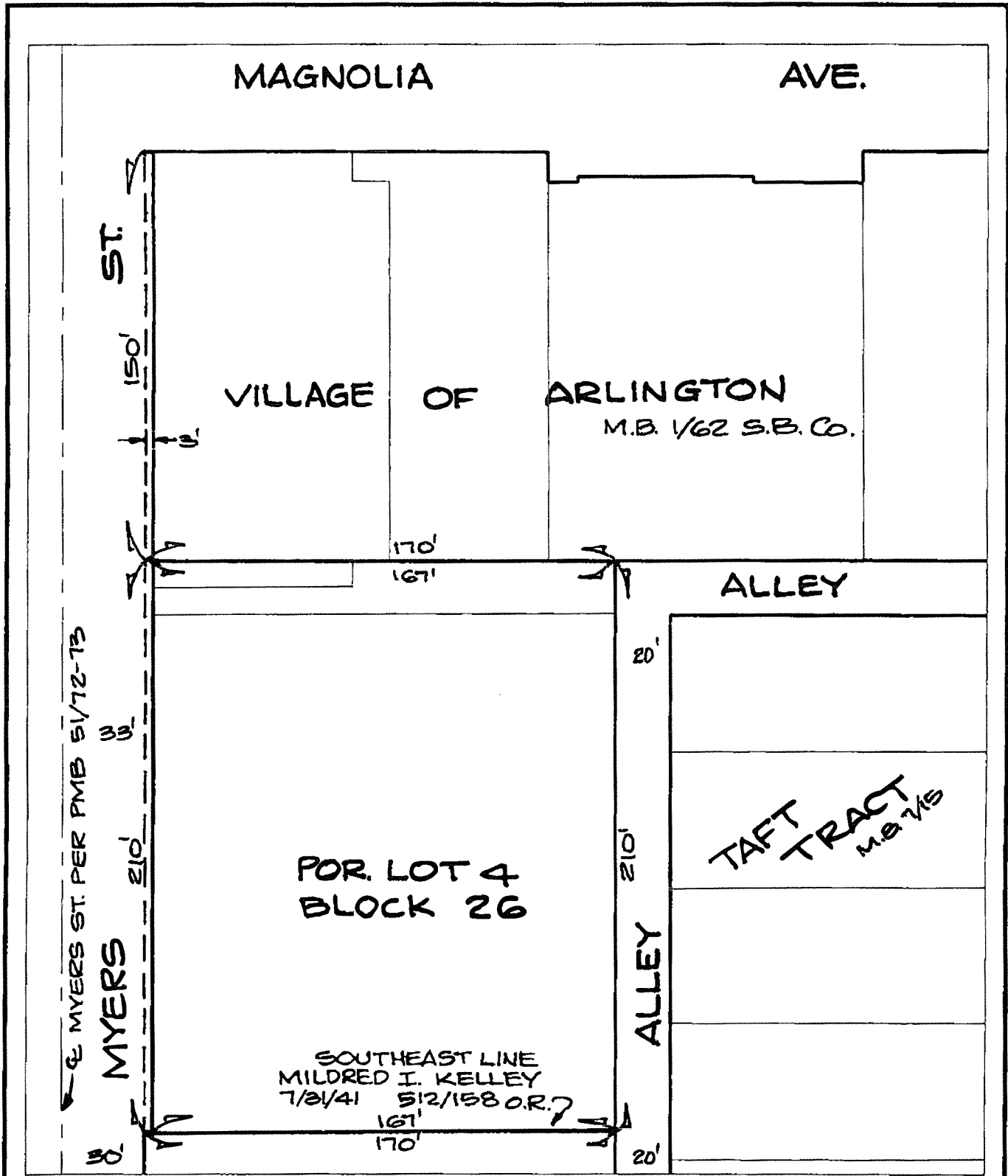
RESERVING THEREFROM permanent easements and rights-of-way for gas line facilities, electric energy distribution facilities, aerial and underground telephone, telegraph and communications facilities as described in Resolution No. 17101 of the City Council of the City of Riverside, a certified copy of said resolution recorded August 24, 1989, as Instrument No. 288815 of Official Records of said Riverside County.

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


Curtis C. Stephens, L.S. 7519

5/14/12 Prep. 
Date





◆ CITY OF RIVERSIDE, CALIFORNIA ◆

THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE ATTACHED DOCUMENT. IT IS NOT A PART OF THE WRITTEN DESCRIPTION THEREIN.

Sheet 1 of 1



Scale: 1" = 50'

Drawn by: sken

Date: 05/11/12

Subject: APN's: 234-101-051, 054 & 057

ARLINGTON VETERAN'S PROJECT

<u>MILESTONE</u>	<u>DATE</u>
• HOME Loan Agreement signed:	July 11, 2017
• Project approval by Planning Commission:	Sept. 17, 2017
• Project approval by City Council:	Nov. 10, 2017
• Tract Map approved by City:	Jan. 8, 2018
• Building plans approved:	Feb. 10, 2018
• Grading begins:	Feb. 22, 2018
• Pads poured:	April 27, 2018
• Construction begins/ Wall Raising:	May 7, 2018
• Interior finishes complete:	Oct. 15, 2018
• Landscaping complete:	Nov. 1, 2018
• COO's issued:	Nov. 16, 2018

ATTACHMENT NO. 4

PROJECT BUDGET

Uses of Funds	
Land Acquisition	\$ 1
Construction	\$ 708,000
Professional Fees/Soft Costs	\$ 445,120
Contingency	\$ 25,000
Total Development Cost	<u>\$1,178,121</u>

ATTACHMENT NO. 5

CITY HOME LOAN PROMISSORY NOTE

Loan Amount: **\$950,000**

_____, 2017
Riverside, California

FOR VALUE RECEIVED, HABITAT FOR HUMANITY RIVERSIDE, INC., a California non-profit public benefit corporation (“Borrower”) promises to pay to the **CITY OF RIVERSIDE**, a California charter city and municipal corporation (“City”), or order, the principal sum of Nine Hundred Fifty Thousand Dollars (\$950,000), or so much of such principal as may be disbursed pursuant hereto and in accordance with Section 3 of that certain City HOME Loan Agreement by and between the City and Borrower dated for identification purposes only as of _____, 2017 (“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 City HOME Investment Partnership Program funds (“City HOME Loan”) loaned to Borrower by City and required to be paid by Borrower pursuant to the Agreement, in connection with predevelopment activities and construction of four affordable single-family houses, and any improvements appurtenant thereto the property located at 3753 Myers Street within the City of Riverside, California and further identified as Assessor Parcel No. (APNs) 234-101-051, -054 and -057 (“Property”). All capitalized terms unless otherwise defined herein shall have the same meaning as set forth in the Agreement.

1. Source of Funds.

The City receives funds from United States Department of Housing and Urban Development (“HUD”) pursuant to the federal HOME Investment Partnerships Act and HOME Investment Partnerships Program, 42 U.S.C. Section 12701, et seq., and the implementing regulations thereto set forth in 24 CFR, Section 92.1, et seq. (collectively, the “HOME Program”) for the purposes of strengthening public-private partnerships to provide decent, safe, sanitary, and affordable housing, with primary attention to housing, for very low income and low income households in the City. The City contemplates that it shall utilize funds set aside by the City for affordable housing to fund the City HOME Loan.

2. Interest.

2.1 Basic Interest. Except as provided in section 2.2 below, the disbursed and unpaid principal balance of the City HOME Loan shall bear interest for the period of time commencing on the date on which the City HOME Loan proceeds are first disbursed for the account of Borrower and ending on the date upon which the City HOME 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 on the City HOME 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. Maturity Date.

So long as the Borrower is in compliance with the terms and conditions of the Agreement, no payment of principal or interest hereunder shall be due from Borrower to the City during the term of this Note. In lieu of repayment, the outstanding balance of principal and interest on this Note shall be credited in an amount equal to one-fourth (1/4) of such outstanding balance upon the initial occupancy of each Affordable Unit by a qualified low income household. Upon the fifth (5th) anniversary of this Note and compliance throughout such time with the terms and conditions of this Note and the Agreement, the total amount of any remaining outstanding balance of principal, interest and any other amounts owed under this Note shall, at the election of the City and upon notice to Borrower thereof, become due and payable thirty (30) days after the end of the calendar quarter in which the fifth (5th) anniversary occurs.

In no event shall the credits granted by the City under this Section 3 exceed an aggregate amount equal to the HOME Loan.

Failure to declare such amounts due and payable shall not constitute a waiver on the part of the City to declare them due subsequently.

4. Acceleration.

Notwithstanding the payment terms set forth in Section 3 above, upon the occurrence of any "Event of Default" as set forth in Section 11 below, the entire outstanding principal balance of the Note, together with any outstanding interest and other amounts payable thereunder, shall, at the election of the 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.

5. Prepayment; Application of Payments.

At any time after the disbursement of the City HOME Loan proceeds, Borrower may prepay all or a portion of the unpaid principal amount of the City HOME Loan, accrued interest, and any other sums outstanding without penalty. All payments, including any prepayments or funds received upon acceleration pursuant to Section 4 above, shall be applied first toward any outstanding costs of collection or other amounts (excluding City HOME 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 any deferred principal, and finally toward the remaining principal balance under the Note.

6. 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 Assignment of even date herewith, and of which the City is the beneficiary and that certain Deed of Trust which shall be recorded upon the Site.

7. Obligation of Borrower Unconditional.

The obligation of Borrower to repay the City HOME Loan and all accrued interest thereon shall be absolute and unconditional, and until such time as all of the outstanding principal on this Note shall have been fully paid or repayment waived by the City, 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.

8. Purpose of City HOME Loan.

The City HOME Loan proceeds shall be used by Borrower only to pay for 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 HOME Loan except as expressly provided in this Note and the Agreement.

9. Covenants of Borrower.

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

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

b. 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 HOME Loan.

10. No Assumption Note.

This Note shall not be assumable by a third-party without the City's written consent, which consent shall be at the sole discretion of the City.

11. Events of Default and Remedies.

11.1 Borrower Events of Default. The occurrence of any of the circumstances described in this Section 11.1 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 11.1(c) through 11.1(h) below.

(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 the 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 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 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.

11.2 City Remedies. Upon the occurrence of an Event of Default hereunder, the 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 11.1(d) or Section 11.1(e) in which event no notice shall be required, declare the entire then

unpaid principal balance of the City HOME 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 HOME 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 20 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 20 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 20 below, upon the occurrence of an Event of Default described in Section 11.1(d) or 11.1(e) hereof, the 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 HOME 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.

11.3 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.

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

12 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 HOME Loan Documents, defined as the Agreement, this Note, the Deed of Trust, 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 HOME 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 HOME 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.

13 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.

14 Amendments, Changes and Modifications.

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

15 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: Habitat for Humanity Riverside, Inc.
 Attn: Kathy Michalak, Executive Director
 2180 Iowa Avenue
 Riverside, California 92507

To City: City of Riverside
 Attn: City Manager
 3900 Main Street, 7th Floor
 Riverside, California 92522

Copies to: City of Riverside
 Attn: Community & Economic Development Deputy Director
 3900 Main Street, 5th Floor
 Riverside, California 92522

 City of Riverside
 Attn: City Attorney
 3900 Main Street, 7th Floor
 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.

16 Severability.

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

17 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.

18 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.

19 Governing Law.

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

20 Nonrecourse Obligation.

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 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 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 HOME 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 HOME 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.

21 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.

22 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:

HABITAT FOR HUMANITY RIVERSIDE, INC.,
a California non-profit public benefit corporation

Dated: _____

By: _____

Name: _____

Its: _____

Dated: _____

By: _____

Name: _____

Its: _____

EXHIBIT “A”

DISBURSEMENT RECORD

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

ATTACHMENT NO. 6

DEED OF TRUST (HOME)

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**)

)
)
)
City of Riverside)
3900 Main Street,)
Riverside, CA 92522)
Attn: City Manager)
)
)
Project: 3753 Myers 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.

DEED OF TRUST, FIXTURE FILING AND ASSIGNMENT OF RENTS

THIS DEED OF TRUST, FIXTURE FILING AND ASSIGNMENT OF RENTS ("Deed of Trust") is made as of _____, 2017, by **HABITAT FOR HUMANITY RIVERSIDE, INC.**, a California nonprofit public benefit corporation ("**Trustor**"), whose address is _____, to Stewart Title of California – Inland Empire Division located at 7065 Indiana Avenue, Suite 100, Riverside, CA 92506 ("**Trustee**"), for the benefit of the **CITY OF RIVERSIDE**, a California municipal corporation ("**Beneficiary**").

THIS DEED OF TRUST is given, inter alia, for the purpose of securing the obligation of Trustor to repay Beneficiary all principal and interest due under that certain loan in the amount of Nine Hundred Fifty Thousand Dollars (\$950,000) made by Beneficiary for the benefit of Trustor (the "HOME Loan") evidenced by that certain HOME Promissory Note of even date herewith (the "Note") and made in accordance with that certain HOME Loan Agreement dated for identification purposes only as of _____, 2017 by and between Beneficiary and Trustor (the "Agreement") and the performance of Trustor's obligations thereunder and under this Deed of Trust and the Declaration of Conditions, Covenants and Restrictions ("Declaration") as hereinafter defined. The HOME Loan shall be made in connection with the predevelopment activities and construction of four affordable single-family houses and any improvements appurtenant thereto the property located at 3753 Myers Street within the City of Riverside, California, identified as Assessor Parcel No. (APN) 234-101-051, -054 and -057 as more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein (the "Property").

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, the "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, the "Rents") derived from any lease, sublease, license, franchise or concession or other agreement (collectively, the "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 easement 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, alloys 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 Nine Hundred Fifty Thousand Dollars (\$950,000), or so much of such principal as may be disbursed pursuant to the Note, with a zero percent (0.0%) interest for the period of time commencing on the date on which the HOME Loan proceeds are first disbursed for the account of Borrower and 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 Declaration by and between Trustor and Beneficiary dated and recorded concurrently herewith (the "Declaration") 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, the "Loan Documents");

(c) payment of all sums advanced by Beneficiary or its successors and assigns, or Trustee, to enforce the Note, the Agreement, the Declaration 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 (the "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 Declaration; (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 Predevelopment 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 1.7(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 Predevelopment 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 Declaration.

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 1.20, any Event of Default under the Note, the Declaration, 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 the City (or from any party authorized by the City to deliver such notice as identified by the 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:

To Trustor: Habitat for Humanity Riverside, Inc.
Attn: Kathy Michalak, Executive Director
2180 Iowa Ave
Riverside, California 92507

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

Copies to: City of Riverside
Attn: Community Development Director
3900 Main Street, Third Floor
Riverside, California 92522

City of Riverside
Attn: City Attorney
3900 Main Street, Fifth Floor
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 Declaration 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.

[SIGNATURE PAGE FOLLOWS]

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

TRUSTOR:

HABITAT FOR HUMANITY RIVERSIDE, INC.,
a California nonprofit public benefit corporation

Dated: _____

By: _____

Name: _____

Its: _____

Dated: _____

By: _____

Name: _____

Its: _____

EXHIBIT “A”

LEGAL DESCRIPTION

[Attached]

ATTACHMENT NO. 7
AGREEMENT AND CCR'S AFFECTING REAL PROPERTY (HOME)

OFFICIAL BUSINESS

Exempt from Recording Fees
Pursuant to Government Code § 6103

When Recorded Mail to:

City of Riverside
Community & Economic Development Department
Attn: Housing Authority Manager
3900 Main Street
Riverside, California 92522

Project: Myers Street Infill Project (HOME)

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

AGREEMENT AND COVENANTS, CONDITIONS
AND RESTRICTIONS AFFECTING REAL PROPERTY
INCLUDING OWNER - OCCUPANCY
AND AFFORDABILITY RESTRICTIONS

THIS AGREEMENT AND COVENANTS, CONDITIONS AND RESTRICTIONS AFFECTING REAL PROPERTY INCLUDING OWNER - OCCUPANCY AND AFFORDABILITY RESTRICTIONS ("Agreement") is entered into this day of , 2017 (the "Effective Date") by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation ("City") and , as ("Owners"), with reference to the following facts:

RECITALS

WHEREAS, the City is a California municipal corporation which has received funds from the United States Department of Housing and Urban Development ("HUD") pursuant to the federal government's HOME Program, 42 U.S.C. 12701, *et seq.* ("HOME Program"), to be used for the purposes of this Agreement in accordance with the HOME Regulations; and

WHEREAS, the City is providing the Developer with federal HOME Investment Partnerships Program funds to develop a New Home. The New Home must be made available to persons and families of low-income households. In fulfillment of this obligation, the City and the Developer have agreed to make the New Home available for acquisition by the Qualified Home Buyer from the Development subject to the terms and conditions of the HOME Investment Partnerships Act and HOME Investment Partnerships Program, 42 U.S.C. Section 12701, *et seq.*, and the implementing regulations thereto set forth in 24 CFR, Section 92.1 *et seq.* (the "Act") and this Agreement; and

WHEREAS, the Owners are the owners of the certain real property known as _____, Riverside, California, Assessor's Parcel Number _____ (the "Property"), which is described on Exhibit A attached hereto and incorporated herein by reference, which will benefit from the Program; and

WHEREAS, the City requires the recordation of covenants, conditions and restrictions on affordable owner-occupied single family housing that is assisted with money from the HOME Program; and

WHEREAS, the City and the Owner have agreed to impose certain continuing obligations related to and on the Property; and

WHEREAS, the Owner agrees to maintain the owner-occupied single family home for a period of fifteen (15) years following the date on which the Owner takes ownership of the Property; and

WHEREAS, the Owner agrees that the residents within the Property are persons or families of low income, whose income does not exceed eighty percent (80%) of the Riverside County Median Income; and

WHEREAS, the City has an interest in insuring that owner-occupied single family housing in the City of Riverside is properly maintained and that the City of Riverside remains attractive and that housing is available for low income families.

NOW, THEREFORE, in consideration of the promises contained below and other good and sufficient consideration, the receipt of which is hereby acknowledged, the City and the Owner agree that the Property against which these covenants, conditions and restrictions are recorded shall be held, sold and conveyed subject to the following covenants, conditions and restrictions.

1. Period of Affordability (Fifteen (15) Years). The City supports Affordable Housing for very low and low income families residing within the City of Riverside as set forth in regulations published by HUD in the HOME Investment Partnerships Program Final Rule 24 CFR Part 92 as set forth in § 92.205. Owner agrees and understands that the City's allocation of Housing Funds requires that the Property remain affordable pursuant to this Agreement for not less than Fifteen (15) years.

2. Definitions. For purposes of this Agreement, the following definitions shall apply:

(a) Low income family. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median income for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

(b) Very low income family. A family whose annual income does not exceed 50 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50 percent of

the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

(c) Single-family housing. This term shall mean a one- to four- family residence, condominium unit, cooperative unit, combination of manufactured housing and lot, or manufactured housing lot.

3. Term. The terms, covenants, conditions and restrictions contained in this Agreement shall be effective for the time periods as stated in Paragraphs 1 and 4 herein.

4. Owner - Occupancy. Owner hereby agrees that Owner will occupy the Property as Owner's primary residence for a period of fifteen (15) years following the date on which Owner takes ownership. Owners attempt to rent or actual rental of the Property for any purpose during the fifteen (15) year period of restriction shall be a material breach of this Agreement and shall entitle City to exercise all available legal and equitable remedies.

It is expressly understood, acknowledged, and covenanted by the Owner for itself and its successors, assigns and grantees, that the Property or any part thereof shall only be used and maintained for owner-occupied single family residence. Therefore, the Owner, its successors, assigns or grantees, shall not rent, lease, or sublease the Property (including any improvement or fixture thereto) or any part thereof, or otherwise transfer or attempt to transfer a tenancy or leasehold interest in the Property (including any improvement or fixture thereto) or any part thereof.

City and Owner acknowledge that this owner-occupancy covenant is a condition to and consideration for the assistance provided to Owner. In administering the Program, City is implementing the objective of increasing the ratio of decent, safe, and sanitary owner-occupied single-family residences to rental property throughout the City. In furtherance of this public use and purpose, Owner for itself and its successors, assigns and grantees, also agrees not to rent, lease, license or otherwise permit a non-owner of the Property to take possession and control thereof. Owner, for itself, and its successors, assigns and grantees agrees and consents that this owner-occupancy restriction may be enforced by the City through specific performance. As an additional alternative, in the event of a material breach by the failure to use and maintain the Property as an owner-occupied single family residence, City may demand the immediate repayment of any assistance provided to the Owner and Owner shall be required to do so within fifteen (15) days of said demand.

5. Income Requirement; Qualified Transfer of Property. Owners covenant and agree that the residents within the Property are persons or families of low income, whose income does not exceed eighty percent (80%) of the Riverside County Median Income. The Riverside County Median Income shall mean the median income for a family of four (4) residing in Riverside County.

A prospective purchaser must be low income and such income level is determined at either the time the household initially occupies the Property or at the time the Housing Funds are invested, whichever is later.

During the Term, the Property, or any interest therein, shall not be conveyed by any transfer except with the express written consent of the City, which consent shall be given only if the transfer is

consistent with the City's goal of creating, preserving, maintaining and protecting affordable housing in the City for eligible persons and families. Owners attempt to sell or transfer the Property without the express written consent of the City during the fifteen (15) year period of restriction shall be a material breach of this Agreement and shall entitle City to exercise all available legal and equitable remedies.

6. Disclosure Requirements. Prior to the execution of a purchase and sale agreement between the Owners and any subsequent purchaser of the Property, and prior to the execution of a purchase and sale agreement between any subsequent owner of the Property and any subsequent purchasers, the Owners or subsequent owner (as may be applicable) shall disclose, in writing, to each purchaser the fact that the property has been assisted by HOME Investment Partnerships Program Funds and that the requirements, including the owner-occupancy and income level requirements, stated in this Agreement will remain in effect for the term described in Section 3.

7. Monitoring by the City. On or about July 1st, of each calendar year, the City will mail a form to the record owner of the Property requesting the information set forth in Sections 4 and 5. The Owners of the Property shall complete the form and return it to the City within thirty (30) calendar days after receipt of the request from the City.

8. Binding on the Successors in Interest. The Owners hereby covenant and agree that their successors, assigns and grantees, and every successor in interest to the Property, or any part thereof, shall comply with each and every term, covenant, condition and restriction contained in this Agreement. The covenants, conditions and restrictions of this Agreement shall run with the land, any other provision of law notwithstanding, and shall be enforceable by the City in an action for specific performance against the Owners and their successors in interest.

9. Maintenance of Property.

(a) The Owners and all subsequent successors, assigns and grantees of the Property shall maintain the Property, dwelling unit, improvements, landscaping and fixtures in good repair and shall keep the Property free from any accumulation of debris or waste materials, consistent with the customary practice and so as not to create a nuisance, or violate any provision of the City of Riverside Municipal Code.

(b) All exterior painted surfaces shall be maintained at all times in a clean and presentable manner, free from chipping, cracking and defacing marks. Any such defacing marks shall be cleaned or removed within the time as set forth in subparagraph (d) below.

(c) The Owners shall at all times maintain the front exterior, visible side exteriors and yard in a clean, safe and presentable manner, free from defacing marks or any disrepair. The Owners shall maintain and/or repair the front exterior, rear, visible side yard and exterior of the dwelling unit.

(d) All graffiti and defacement of any type, including marks, words and pictures, must be removed and any necessary painting or repair completed within one (1) week of their creation or within one (1) week after notice to Owners.

(e) Driveways. All driveways must be paved and maintained with impervious material in accordance with the City Municipal Code.

(f) Fencing. All fencing on the Property must comply with the City Municipal Code.

(g) Prohibition re Vehicles. Off-street parking spaces and areas of the Property may not be used for the sale, display or repair of motor vehicles, motorized or nonmotorized recreational vehicles.

10. Insurance. Owners shall maintain, during the term of this Agreement, an all risk property insurance policy insuring the Property in an amount equal to or exceeding the Replacement Value of the Property. The policy shall name the City as loss payee and shall contain a statement of obligation on behalf of the carrier to notify the City of any material change, cancellation or termination of coverage at least thirty (30) days in advance of the effective date of such material change, cancellation or termination. Owners shall transmit a copy of the certificate of insurance and loss payee endorsement to the City within thirty (30) days of the effective date of this Agreement, and Owners shall annually transmit to City a copy of the certificate of insurance and a loss payee endorsement, signed by an authorized agent of the insurance carrier setting forth the general provisions of coverage. The copy of the certificate of insurance and loss payee endorsement shall be transmitted to City in accordance with the provisions of Section 21. Any certificate of insurance must be in the types, limits, forms and ratings required by the City's Risk Manager or City Attorney, or a designee.

11. Remedies for Breach. Upon breach of any of the covenants, conditions or restrictions set forth in this Agreement, the City may exercise any and all remedies available to it at law or equity. These remedies include, without limitation, an action for injunctive relief or specific performance. In the event of a breach of the covenant regarding maintenance of the Property, as set forth in Section 9 of this Agreement, the City Manager for the City of Riverside, or his or her designee, shall give written notice to the Property Owners (as listed on the last equalized tax assessment roll) describing the conditions constituting the breach, demanding that such conditions be corrected, and notifying the Owners of the City's intention to enter upon the Property to correct such conditions. At any time within fifteen (15) calendar days following the giving of the notice described in the previous sentence, the Owners may request, in writing, a hearing to determine whether the conditions of the Property or the dwelling unit constitute a breach of Section 9 of this Agreement. This hearing shall be held within thirty (30) calendar days following the City's receipt of written request from the Owners and shall be held before the City Manager, or his or her designee. At this hearing, the Owners shall be allowed to introduce evidence in support of his or her position and shall have the right to question those witnesses and evidence against him or her. A transcript or electronic recording of the hearing may be made. At the end of this hearing, the City Manager, or his or her designee, shall make a finding, based upon substantial evidence in the record of the hearing, as to whether the conditions of the dwelling unit or Property constitute a breach of the terms of Section 9 of this Agreement. The decision of the City Manager shall be final and there shall be no right of appeal to the City Council.

If the City Manager, or his or her designee finds that the conditions of the dwelling unit or the Property constitute a breach of Section 9 of this Agreement, then the City shall so notify the Owners in writing and the Owners shall have five (5) calendar days following this written notice to correct or abate such breach. If the conditions are not corrected to the reasonable satisfaction of the City Manager, then

the City, its employees or its agents may enter upon the Property to remedy and abate the conditions creating the breach. The City shall be entitled to recover its costs of remedying the conditions creating the breach, including, without limitation, administrative, overhead, and engineering costs. Such costs shall become a lien upon the Property pursuant to Civil Code § 2881, immediately due and payable, and the City may collect such costs through the appropriate civil proceedings.

The provisions of this Section 11 are supplemental to all other legal rights and remedies available to the City. Nothing in this Agreement shall modify, limit or circumscribe any other rights, remedies and powers available to the City if Owners work is found to be substantially out of compliance with the purpose or requirements of this Covenant by the City Manager of the City of Riverside.

12. Nondiscrimination. There shall be no discrimination against or segregation of any person, or any group of persons, on account of race, color, religion, creed, national origin, ancestry, physical handicap, age, marital status, gender, gender identity, gender expression, sex or sexual orientation, in the sale, transfer, use, occupancy or enjoyment of the Property or the dwelling unit; nor shall the Owners or any persons claiming under or through the Owners establish or permit any such practice or practices of discrimination or segregation with reference to the Property or the dwelling unit.

13. City as Beneficiary. The City is the beneficiary of the terms and provisions of this Agreement and the covenants, conditions and restrictions running with the land, both for and in its own right, and for the purposes of protecting the interests of the community and other parties, public or private, for whose benefit this Agreement and the covenants, conditions and restrictions running with the land have been provided. This Agreement and the covenants shall run in favor of the City without regard to whether the City has been, remains, or is an owner or has any interest in the Property or in any other parcel in the City. The City shall have the right, but not the obligation, to exercise all rights and remedies and to maintain any actions at law or in equity or any other proceedings to enforce the covenants, conditions and restrictions contained in this Agreement.

14. Nonwaiver. The failure of City to enforce any one or more of the covenants, conditions or restrictions contained in this Agreement on any one or more occasions shall not constitute a waiver of the City's right to enforce the covenants, conditions and restrictions in the future.

15. Entire Agreement. This document contains the entire Agreement between the City and the Owners with respect to those matters contained herein. This Agreement may be modified only by a writing duly subscribed by both the City and the Owner. Notwithstanding the foregoing, the parties acknowledge that additional covenants, conditions and restrictions may be recorded against the Property in the future. In the event of a conflict or inconsistency between the provisions of this Agreement and such future covenants, conditions and restrictions, the document providing the greater measure of control, greater length of time, or more stringent requirement shall govern and supersede the other document to the extent of such conflict or inconsistency. Other than with respect to a conflict or inconsistency, the provisions of this Agreement and the provisions of any future covenants, conditions and restrictions shall be interpreted and enforced to give effect to the requirements of both documents.

16. Attorney's Fees. In the event that the City or Owners, or any successor in interest of the Owners, brings an action or begins any other proceeding to contest the validity of this Agreement or to enforce any of the covenants, conditions or restrictions in this Agreement, the prevailing party in any

such action or proceeding shall be entitled to recover from the other party its reasonable costs and expenses associated with such action or proceeding. These costs and expenses shall include, but shall not be limited to, the costs of arbitration, reasonable attorney's fees, expenses associated with the action or proceeding, and the costs of all administrative proceedings and hearings. If payable by the Owners or their successors in interest, such costs and expenses shall become a lien upon the Property pursuant to Civil Code § 2881, et seq., immediately due and payable, and that lien may be enforced by the City through the appropriate civil proceedings.

17. Interpretation. The Section headings used in this Agreement are for the purposes of convenience only and shall not in any way limit, alter or amend the express terms of each Section. Any pronouns used in this Agreement shall be construed to represent either the singular or the plural, masculine or feminine, as the case shall demand.

18. Severability. If any term, provision, or section of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, the City and the Owners agree that invalid portion or section may be severed from the remainder of this Agreement and the remainder of the Agreement may be enforced in its entirety.

19. Nuisance. The result of every act or omission whereby the covenants contained in this Agreement are violated in whole or in part is hereby declared to be and constitutes a nuisance. Every remedy allowable at law or equity, against a nuisance, either public or private, shall be applicable against every such result and may be exercised by the City without derogation of the City's rights under law.

20. Covenant Against Partition. The Owners hereby covenant for themselves and for their heirs, representatives, successors and assigns, that it will not institute legal proceedings or otherwise seek to effect partition of their right and interest in the Property or the burdens running with the land as a result of this Agreement.

21. Notices. All notices required to be given by this agreement shall be in writing and shall be personally delivered or mailed by first class registered or certified mail. All notices given by mail shall be deemed delivered seventy-two (72) hours after the date and time of deposit, as shown on a receipt issued by the United States Postal Service. All notices to the Owner shall be addressed to the Property. All notices to the City shall be addressed to City of Riverside, 3900 Main Street, Riverside, California 92522. Owners address shall be the Property address for notices and may be changed only by written notice given in accordance with the terms of this provision.

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

24. Authority. The individuals executing this Agreement and the instruments referenced herein on behalf of Owner each represent and warrant that they have the legal power, right and actual authority to bind Owner to the terms and conditions hereof and thereof.

[SIGNATURES ON FOLLOWING PAGE]

CITY OF RIVERSIDE

OWNER(S):

By: _____
City Manager

By: _____

ATTEST:

By: _____
City Clerk

By: _____

APPROVED AS TO FORM:

By: _____
City Attorney

ATTACHMENT NO. 8

RELEASE OF CONSTRUCTION COVENANTS

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)

)
)
City of Riverside)
3900 Main Street)
Riverside, CA 92522)
Attn: Housing Authority Manager)
)
Project: 3753 Myers 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 _____, 2017, by the **CITY OF RIVERSIDE**, a California municipal corporation (the "Authority") in favor of **HABITAT FOR HUMANITY**, a California non-profit corporation ("Developer").

R E C I T A L S

A. The City and the Developer entered into that certain HOME Loan Agreement dated for identification purposes only as of _____, 2017 ("Agreement").

B. 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, 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 has been satisfactorily completed.

NOW, THEREFORE, City hereto certifies as follows:

1. As provided in the 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.

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 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.

THE CITY OF RIVERSIDE, a California municipal corporation

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT “A”

LEGAL DESCRIPTION

[Attached]

ATTACHMENT NO. 9

REQUEST FOR NOTICE OF DEFAULT

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)

)
)
City of Riverside)
3900 Main Street)
Riverside, CA 92522)
Attn: City Manager)
)
Project: 3753 Myers 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 _____, 20__, in Book _____, Page _____, Official Records of Riverside County, California, executed by **HABITAT FOR HUMANITY**, a California non-profit corporation as Trustor, in which **THE CITY OF RIVERSIDE**, a California charter city and municipal corporation is named as Beneficiary, and _____ as Trustee, be mailed to:

_____ (Number and Street)
_____ (City and State)

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.

THE CITY OF RIVERSIDE, a California charter city and municipal corporation

By: _____
City Manager

ATTACHMENT NO. 10

ASSIGNMENT OF PLANS, REPORTS AND DATA

FOR VALUE RECEIVED, and subject to the rights of any senior lender, **RIVERSIDE HOUSING DEVELOPMENT CORPORATION**, a California corporation (“Borrower”), does hereby assign, pledge, transfer and set over to the CITY OF RIVERSIDE, a California charter city and municipal corporation (“City”), all of its rights, title and interest in and to the following (collectively, the “Plans, Reports and Data”): any and all plans, drawings, studies, reports and related documents concerning the Property, and all amendments, modifications, supplements, general conditions and addenda thereto, including, without limitation, Environmental Reports, all architectural and engineering plans, any architect’s agreement entered into hereafter (“Architect’s Agreement”) by and between Borrower and any architect engaged to perform services with respect to the Property (“Architect”) and those certain plans and specifications referred to therein, and all amendments, modifications, supplements, general conditions and addenda thereto (collectively, “Architectural Plans”) prepared by Architect for the account of Borrower in connection with the development of certain real property located in the City of Riverside, County of Riverside, State of California more particularly described on Exhibit “A” attached hereto (the “Property”). The Plans, Reports and Data, including, without limitation, the Architect’s Agreement and the Architectural Plans, are hereby assigned as collateral security for certain indebtedness of Borrower to City evidenced by that certain City HOME Promissory Note (“City Promissory Note”) of even date herewith in the principal amount of \$950,000 (the “City HOME Loan”) . The City HOME Loan is made pursuant to that certain Loan Agreement dated for identification purposes only as of _____, 2017 entered into between Borrower and City. All capitalized terms not defined herein shall have the meaning set forth in the Loan Agreement. For purposes hereof, “Environmental Reports” means any “Phase 1” and/or “Phase 2” investigations of the Property and all final reports and test results (not including drafts) provided by Developer’s environmental consultant, if any.

Upon the occurrence and during the continuance of an Event of Default under the Loan Agreement, the City Promissory Note or any other document relating to the City Loan (collectively, the “City Loan Documents”), City shall have the right, but not the obligation, at any time, in its own name or in the name of Borrower, or otherwise, to take such action as Authority may at any time or from time to time determine to be necessary or desirable in order to cure any default by Borrower under the Architect’s Agreement, including, without limitation, the protection of Borrower’s rights with respect to the Architectural Plans or to protect the rights of Borrower thereunder. City shall not incur any liability if any action taken by City or on its behalf in good faith, pursuant to the foregoing sentence, shall prove to be, in whole or in part, inadequate or invalid, and Borrower hereby indemnifies and agrees to hold City harmless from and against any and all loss, claim, demand, cost, liability, damage or expense, including, without limitation, attorneys’ fees and expenses in connection with any such action or actions. Borrower agrees to have each architect engaged to perform services in connection with the Property execute a Consent in the form attached hereto. Upon the occurrence of an Event of Default or termination under Section 3.8.4 of the Loan Agreement, City may exercise its rights hereunder and take possession of and title to the Plans, Reports and Data, including, without limitation, all architectural plans and the Architect’s Agreement. City shall notify Borrower in writing of its exercise of its rights hereunder in accordance with the notice provisions set forth in the Loan Agreement. Borrower shall deliver possession of and

title to the Plans, Reports and Data to City within forty-eight (48) hours of receipt of City's written notice.

Borrower and Architect, by executing the Consent to this Assignment, agree that City does not assume any of Borrower's obligations or duties concerning the Architect's Agreement and the Architectural Plans, including, but not limited to, the obligation to pay for the preparation of the Architect's Agreement and the Architectural Plans, until and unless City shall exercise its rights hereunder.

Except for an Assignment to the senior lender, Borrower hereby represents and warrants to City that no previous assignment of its interest in the Plans, Reports and Data, including, without limitation, the Architect's Agreement and the Architectural Plans, has been made, and Borrower agrees not to assign, sell, pledge, transfer, mortgage or otherwise encumber its interest in the Plans, Reports and Data, including, without limitation, the Architect's Agreement and the Architectural Plans, so long as this Assignment is in effect.

This Assignment shall be binding upon and inure to the benefit of the heirs, legal representatives, assigns, or successors in interest of the Borrower and Authority.

IN WITNESS WHEREOF, Borrower has caused this Assignment of Plans, Reports and Data to be executed as of _____, 2017.

BORROWER:

**HABITAT FOR HUMANITY RIVERSIDE,
INC.**, a California non-profit public benefit
corporation

Dated: _____

By: _____
Its: _____
Name: _____

Dated: _____

By: _____
Its: _____
Name: _____

CONSENT

The undersigned has prepared the Architectural Plans and hereby consents to the assignment and other conditions set forth in the above Assignment of Plans, Reports and Data. The undersigned also agrees that in the event of a breach by Borrower of any of the terms and conditions of the Architect's Agreement or any other agreement entered into with the undersigned in connection with the Architectural Plans, that so long as Borrower's interest in the Plans is assigned to Authority, the undersigned will give written notice to City of such breach. City shall have 60 days from the receipt of such notice of default to remedy or cure said default; however, nothing herein shall require City to cure said default, City shall only have the option to do so.

The undersigned also agrees that in the event of default by Borrower under any of the documents or instruments entered into in connection with the Development Agreement, the undersigned, at City request, shall continue performance under the Architect's Agreement in accordance with the terms hereof, provided that the undersigned shall be reimbursed in accordance with the Architect's Agreement for all services rendered on City's behalf.

Dated:

ARCHITECT:

By: _____

Name: _____

Title: _____

EXHIBIT “A”

LEGAL DESCRIPTION

[Attached]

ATTACHMENT NO. 11

SUBORDINATION AGREEMENT

Recording Requested by and
When Recorded Mail to:

CITY OF RIVERSIDE
3900 Main Street
Riverside, CA 92522
Attn: Housing Authority Manager

Project: Myers Infill Housing Project

(Exempt from Recording Fees
Per Govt Code section 6103)

SPACE ABOVE THIS LINE
FOR RECORDING USE

**NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY
INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF
LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER
RECORDED INSTRUMENT.**

SUBORDINATION AGREEMENT

This Agreement made this _____ day of _____, 2017, by and between _____, (“Property Owner”) and City of Riverside, a California charter city and municipal corporation, present owner and holder of the deed of trust and note first hereinafter described (“Beneficiary”), with reference to the following facts:

RECITALS

WHEREAS, Habitat for Humanity Riverside, Inc. a California non-profit public benefit corporation, has executed a Deed of Trust, dated _____ and recorded on _____ as Instrument No. _____, Official Records of Riverside County, to _____, as trustee, affecting the real property commonly known as _____, Riverside, California, legally described in Exhibit A attached hereto (“Property”), to secure a promissory note in the sum of _____ Dollars (\$_____.00), dated _____, in favor of Beneficiary; and

WHEREAS, Property Owner has purchased, or is in the process of purchasing, the Property from Habitat For Humanity Riverside and has assumed all rights and obligations created by the said Deed of Trust; and

WHEREAS, Property Owner has executed, or is about to execute, a deed of trust and note, in the sum of _____ Dollars (\$_____.00), dated _____, in favor of Habitat for Humanity Riverside, Inc. ("Lender") payable with interest and upon the terms and conditions described therein, which deed of trust is to be recorded concurrently herewith; and

WHEREAS, it is a condition precedent to obtaining said loan that said deed of trust last above mentioned shall unconditionally be and remain at all times a lien or charge upon the Property, prior and superior to the lien or charge of the deed of trust first above-mentioned; and

WHEREAS, Lender is willing to make said loan provided the deed of trust securing the same is a lien or charge upon the Property prior and superior to the lien or charge of the deed of trust first above-mentioned and provided that Beneficiary will specifically and unconditionally subordinate the lien or charge of the deed of trust first above-mentioned to the lien or charge of the deed of trust in favor of Lender; and

WHEREAS, it is to the mutual benefit of the parties hereto that Lender make such loan to Property Owner, and Beneficiary is willing that the deed of trust securing the same shall, when recorded, constitute a lien or charge upon said land which is unconditionally prior and superior to the lien or charge of the deed of trust first above-mentioned.

AGREEMENT

NOW THEREFORE, in consideration of the mutual benefits mentioned in the foregoing recitals which are incorporated herein, and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce Lender to make the loan above referred to, the parties agree as follows:

1. Subordination. That the deed of trust securing said note in favor of Lender, and any renewals or extensions thereof, shall unconditionally be and remain at all times a lien or charge on the property therein described, prior and superior to the lien or charge of the deed of trust first above-mentioned.
2. Condition of Loan. That Lender would not make its loan above-described without this Agreement.
3. Authority. Beneficiary represents that it is the valid owner and holder of the entire interest in and to the deed of trust first above-mentioned, and that the individual executing this Agreement on its behalf represents and warrants that she/he has the legal power, right and actual authority to execute this Agreement on behalf of the Beneficiary.
4. Successors. This Agreement shall inure to the benefit of Property Owner and their respective successors, heirs, assigns and participants, if any, and shall be binding upon the respective heirs, assigns and successors in interest of Beneficiary.
5. Governing Law. This Agreement shall be interpreted, governed by, and construed under the laws of the State of California without regard to conflicts of laws rules thereof. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided in this Agreement shall be tried in a court of proper jurisdiction in the County of Riverside, State of

California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

6. Integration. This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings or agreements of the parties. No party has been induced to enter into this Agreement by, and no party is relying on, any representation or warranty outside those expressly set forth in this Agreement.

7. Modification. No modification of this Agreement shall be valid or binding unless such modification is in writing, duly dated and signed by all parties.

NOTE: ALL SIGNATURES MUST BE DULY NOTARIZED:

“BENEFICIARY”

“PROPERTY OWNER”

THE CITY OF RIVERSIDE

By: _____
City Manager

By: _____

Printed Name

Attest: _____
City Clerk

By: _____

Printed Name

APPROVED AS TO FORM

By: _____
City Attorney

EXHIBIT A

LEGAL DESCRIPTION