

**PERMANENT LOCAL HOUSING ALLOCATION PROGRAM**

**LOAN AGREEMENT**

**(Vista de La Sierra)**

**by and between the**

**THE CITY OF RIVERSIDE,**

**and**

**GOLDEN PIERCE HOUSING PARTNERS L.P.**

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## ATTACHMENTS

ATTACHMENT NO. 1	SITE PLAN
ATTACHMENT NO. 2	SITE LEGAL DESCRIPTION
ATTACHMENT NO. 3	PROJECT DESCRIPTION
ATTACHMENT NO. 4	SCHEDULE OF PERFORMANCE
ATTACHMENT NO. 5	PROJECT BUDGET
ATTACHMENT NO. 6	CITY PROMISSORY NOTE
ATTACHMENT NO. 7	CITY DEED OF TRUST
ATTACHMENT NO. 8	CITY REGULATORY AGREEMENT
ATTACHMENT NO. 9	RELEASE OF CONSTRUCTION COVENANTS
ATTACHMENT NO. 10	REQUEST FOR NOTICE OF DEFAULT

**PERMANENT LOCAL HOUSING ALLOCATION PROGRAM  
LOAN AGREEMENT  
(Vista de La Sierra)**

**THIS PERMANENT LOCAL HOUSING ALLOCATION PROGRAM LOAN AGREEMENT** (the “*Agreement*”) dated for reference purposes only as of \_\_\_\_\_, 2020, is made and entered into by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation (the “*City*”), and GOLDEN PIERCE HOUSING PARTNERS L.P., a California limited partnership (“*Developer*”), with reference to the following:

**RECITALS**

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

A. The City 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.

B. The City has received Permanent Local Housing Allocation program (“*PLHA Program*”) funds from the State of California (“*PLHA Funds*”), pursuant to Chapter 364, Statutes of 2017 (SB 2, Atkins), as authorized by Health and Safety Code Section 50470, which created the Building Homes and Jobs Trust Fund and the PLHA Program. The PLHA Funds must be used in accordance with the guidelines (“*PLHA Guidelines*”) issued by the California Housing and Community Development Department (“*HCD*”) and must support the increase of housing for low income households.

C. The Developer is a California limited partnership whose managing general partner is NCRC Golden Pierce LLC, a California limited liability company, whose sole member is National Community Renaissance of California, a California nonprofit public benefit corporation, recognized as tax-exempt under Section 501(c)(3) of the Internal Revenue Code of 1986 (“*National CORE*”), whose purpose is to acquire, construct, operate, and manage residential properties.

D. The Developer intends to develop certain real property located at 11253 Pierce Street in the City of Riverside, California and identified with Assessor’s Parcel Numbers 146-141-072, 146-141-071, 146-141-065, 146-141-066, 146-141-067, and 146-141-029 (“*Site*”) as depicted on the Site Plan (Attachment No. 1) and described in the Site Legal Description (Attachment No. 2), incorporated herein by this reference, and intends to construct a residential development composed of a multi-family, affordable housing project consisting of approximately seventy-nine (79) affordable units and one (1) manager’s unit on the Site together with any improvements appurtenant thereto (“*Project*”).

E. The Site is owned by the Pacific Union Conference of Seventh-Day Adventists, a California nonprofit corporation ("**Church**").

F. On May 31, 2019, National CORE and the Church entered into a Disposition and Development Agreement ("**DDA**"), wherein the Church agreed to enter into an Affordable Housing Ground Lease ("**Ground Lease**") with National CORE, or an affiliated entity, for the purpose of constructing the Project.

G. Upon the closing of any loan and concurrently therewith, the Developer, as an entity affiliated with National CORE, will enter into the Ground Lease with the Church, by which the Church will lease the Site to the Developer for a period of ninety (90) years ("**Leasehold**") and by which the Developer will develop and operate the Project on the Site and may enter into loan agreements and utilize funds from various affordable housing programs to do so.

H. The Developer and the City desire to enter into this Agreement to allow the City to provide a loan from PLHA Funds in the principal amount of One Million Dollars (\$1,000,000) (the "**City Loan**") to the Developer for Project Costs (as defined below) in accordance with this Agreement.

I. 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, for and in consideration of the foregoing recitals, which are hereby incorporated into this Agreement by this reference, and for other good and valuable consideration, the receipt and sufficiency of which is hereby incorporated, 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 meaning:

"**Affordable Rent**" means the amount of monthly rent, including reasonable utility allowance, that does not exceed for a Low Income Household, the High PLHA Rent. For purposes of calculating Affordable Rent, a "reasonable utility allowance" shall be the allowance established by the Tax Credit Rules or such lesser allowance reasonably permitted by the City, including, but not limited to, the California Utility Allowance Calculator.

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

***“Agreement”*** means this Loan Agreement, including all of the Attachments hereto.

***“Authority”*** means the Housing Authority of the City of Riverside, a public entity.

***“Authority Loan”*** means the loan from the Authority to the Developer in an amount not to exceed One Million Dollars (\$1,000,000) to be used for project costs, as defined in the Authority Loan Agreement.

***“Authority Loan Agreement”*** means the loan agreement executed by and between the Developer and the Authority for the Authority Loan.

***“Capital Replacement Reserve”*** is defined in Section 5.4.

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

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

***“City Loan”*** means the loan from the City to the Developer in an amount not to exceed One Million Dollars (\$1,000,000) to be used for Project Costs.

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

***“City Loan Proceeds”*** is defined in Section 3.2.4.

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

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

***“City Regulatory Agreement”*** means the regulatory agreement which is to be recorded against the Site substantially in the form attached hereto as Attachment No. 8.

***“Close” or “Closing”*** means the execution of the City Loan Documents and the closing of the City Loan.

***“Construction Contract”*** is defined in Section 3.2.



***“Construction Lender”*** means the maker of any Construction Loan or beneficiary of any deed of trust securing performance of the Construction Loan.

***“Construction Loan”*** is defined in Section 3.8.1.

***“Conversion”*** means the date upon which the Construction Loan is converted to the Permanent Loan.

***“Developer”*** means Golden Pierce Housing Partners L.P., a California limited partnership, and any permitted successors and assigns pursuant to Section 2.2.

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

***“Event of Default”*** means the failure of a party to perform any action or covenant required by this Agreement within the time periods herein provided following notice and opportunity to cure, as set forth in Section 7.1.

***“Evidence of Financing”*** is defined in Section 3.1.

***“General Contractor”*** is defined in Section 3.2.

***“Governmental Regulations”*** means any applicable 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, any polychlorinated biphenyls (PCB’s), (iii) any polychlorinated biphenyls (PCB’s), (iv) any urea formaldehyde, and (v) any petroleum, natural gas, natural gas liquid, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas), ash produced by a resource recovery facility utilizing a municipal solid waste stream, and drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal resources. Notwithstanding the foregoing, “Hazardous Substances” shall not include any household cleaner or chemical, compound, material, mixture or substance used in the normal course of operating an apartment complex, so long as such household cleaner, chemical, compound, material, mixture or substance is used in accordance with Environmental Laws and stored in reasonable quantities.

**“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.

**“HCD Loan”** means a permanent loan of funds, which may include No Place Like Home funds, made to the Developer by the California Department of Housing and Community Development.

**“High PLHA Rent”** means the tenant paid rent that is the maximum amount allowed per the PLHA Guidelines and MHP Regulations (Section 7312 and Section 7301), as may be amended from time to time.

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

**“Investor”** shall mean a person or entity who (i) is an experienced limited partner and investor in multifamily housing developments receiving low income housing tax credits issued by the State of California or the United States federal government, and (ii) has obtained or is contractually obligated to obtain a limited partnership or limited liability company membership interest in the Developer whereby it will receive 90 percent or more of the Tax Credits obtained in connection with the Project.

**“Lease Acquisition Costs”** means any monetary consideration required to be paid for, or paid in connection with, the acquisition of the Ground Lease, including any capitalized lease payments, filing fees, recording costs, transfer taxes, and like charges, allocated in accordance with generally accepted accounting principles and industry standards.

**“Lender”** means either the Permanent Lender or the Construction Lender, as applicable.

**“Loan Proceeds”** is defined in Section 3.4.

**“Management Plan”** means the plan for the management of the Project to be submitted by the Developer and approved by the City in its reasonable discretion, as set forth in Section 5.7 hereof.

**“Manager’s Unit”** shall mean one (1) unrestricted Unit in the Project reserved for occupancy by an on-site manager of the Project who performs substantial duties directly related to the management and/or the maintenance of the Project.

**“Marketing Plan”** means the plan for the marketing of the PLHA-Assisted Units to be submitted by the Developer and approved by the City, as set forth in Section 5.6 hereof.

**“MHP Regulations”** means the Multifamily Housing Program Regulations (California Code of Regulations, Title 25, Division 1, Chapter 7, Subchapter 4), as may be amended from time to time.

**“Notice”** means a notice in the form described by Section 8.1.

**“Operating Reserve”** is defined in Section 5.5.

**“Parties”** means the City and the Developer.

**“Permanent Lender”** means the maker of any Permanent Loan or beneficiary of any Permanent Loan Deed of Trust.

**“Permanent Loan”** means the source of financing in the form of a permanent loan to be made to the Developer, its successors or assigns under this Agreement, at Conversion, secured against the fee interest in the Site by a Permanent Loan Deed of Trust.

**“Permanent Loan Deed of Trust”** means the deed of trust securing the Permanent Loan that is first in priority and shall be senior to the City Deed of Trust.

**“PLHA-Assisted Units”** means the twenty (20) Units to be constructed on the Site to be restricted to Qualified Low Income Households for which all PLHA Guidelines apply, including without limitation, requirements for Affordable Rent, occupancy, and monitoring.

**“Predevelopment Costs”** means the following: (i) Lease Acquisition Costs, (ii) costs incurred in connection with the plans and specifications and construction documents for the Project including, without limitation, all architectural, engineering, and other professionals’ fees relating thereto, (iii) costs from obtaining construction permits, (iv) costs related to obtaining entitlements and satisfying the legal requirements for the Project together with any other development approvals and permits necessary to pursue the Project, including, architectural, engineering, and professionals’ fees relating thereto; costs of environmental review; and any other

appropriate predevelopment costs identified in the Project Budget and reasonably approved by the City.

***“Project”*** is defined in Recital J.

***“Project Budget”*** is attached hereto as Attachment 5.

***“Project Costs”*** means the Developer’s project expenses, consistent with those permitted by the PLHA Guidelines, which are customarily incurred and shall have been actually incurred by Developer for the development of the Project and shall include: (i) construction costs, such as supervision, materials, supplies, labor, tools, equipment, transportation or other facilities furnished, used, or consumed in connection with the building of the Project, and (ii) Predevelopment Costs; provided, however, that payment to parties related to the Developer for Project Costs must not exceed reasonable and customary market rates.

***“Property Manager”*** means the property manager of the Project, as set forth in Section 5.7.

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

***“Release of Construction Covenants”*** means the document which evidences the Developer’s satisfactory completion of the Project, as set forth in Section 4.17, in substantially the form of Attachment No. 10.

***“Request For Notice of Default”*** means a request for notice of default to be recorded in accordance with Section 3.3.3 against the Site in substantially the form shown in Attachment No. 11.

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

***“Site”*** means that certain real property referenced in Recital J above as delineated on the Site Plan (Attachment No. 1) and more particularly described in the Site Legal Description (Attachment No. 2): provided, however, that the term “Site” may instead refer to the Leasehold where the context so requires, including without limitation where the context relates to Developer’s title or to an encumbrance thereof.

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

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

**“Tax Credit Regulatory Agreement”** means the regulatory agreement which may be required to be recorded against the Site by TCAC with respect to the issuance of Tax Credits.

**“Tax Credit Rules”** means Section 42 of the Internal Revenue Code of 1986, as amended, and/or California Revenue and Taxation Code Sections 17057.5, 17058, 23610.4 and 23610.5 and California Health and Safety Code Section 50199, *et seq.*, and the rules and regulations promulgated by the United States Treasury and TCAC, as the case may be, implementing the foregoing.

**“Tax Credits”** means Low Income Housing Tax Credits granted pursuant to Section 42 of the Internal Revenue Code and/or California Revenue and Taxation Code Sections 17057.5, 17058, 23610.4 and 23610.5 and California Health and Safety Code Section 50199, *et seq.*

**“TCAC”** means the California Tax Credit Allocation Committee.

**“Title Company”** means First American Title Company at 3400 Central Avenue, Suite 100, Riverside, CA 92506 or other qualified title company approved in writing by the Parties.

**“Unit” or “Units”** means the individual dwelling units within the Project to be constructed and operated by the Developer on the Site, in accordance with the terms and conditions of this Agreement.

## **1.2 Singular and Plural Terms.**

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

## **1.3 Accounting Principles.**

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

## **1.4 References and Other Terms.**

Any reference to any document shall include such document both as originally executed and as it may from time to time be modified. References herein to Sections and Attachments shall be construed as references to this Agreement unless a different document is named. References to subparagraphs shall be construed as references to the same Section in which the reference appears. The term “document” is used in its broadest sense and encompasses

agreements, certificates, opinions, consents, instruments and other written material of every kind. The terms "including" and "include" mean "including (include), without limitation."

### **1.5 Attachments Incorporated.**

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

## **2. REPRESENTATIONS AND TRANSFERS**

**2.1 Representations by the Developer.** The Developer hereby represents and warrants to the City as follows:

2.1.1 Organizations. The Developer is duly organized or formed, validly existing, and in good standing under the laws of the State of California and has the requisite power and authority to own and lease property and carry on its business as now being conducted. The copies of the documents evidencing the respective formation and organization of the 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 requisite 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 each party 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, as the case may be, and all actions required under the 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 the Developer, enforceable against the Developer 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 best knowledge of the Developer, 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. The 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, conflict nor will 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 the Developer, or any provision of the organizational documents of the Developer, or will conflict with or constitute a breach of or a default under any agreement to which either the Developer is a party, or will result in the creation or imposition of any lien upon any assets or property of the Developer, other than liens established pursuant hereto.

2.1.7 No 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 the Developer's knowledge, threatened against the Developer or any parties affiliated with the Developer, nor are any of such proceedings contemplated by the Developer or any parties affiliated with the 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 the Developer 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 the City has entered into this Agreement with the Developer. Prior to the expiration of the Affordability Period, other than a transfer set forth in Sections 2.2.2 and 2.2.3 below, the Developer shall not 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 the Developer without the prior written approval of the City which shall not be unreasonably withheld, conditioned or delayed.

2.2.2 Permitted Transfers by Developer. Notwithstanding any other provision of this Agreement to the contrary, the City's 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 5.2 hereof and as set forth in the City Regulatory Agreement, the rental of the PLHA-Assisted Units to Qualified Households;

iii. any requested assignment for financing purposes (subject to such financing being considered and reasonably approved by the City pursuant to Section 3.8.5 herein), including the grant of a deed of trust to secure funds necessary for construction and permanent financing of the Project; or to secure any refinancing of a permanent loan in a principal amount not exceeding the sum of the outstanding balance of the refinanced loan, reasonable transaction costs, and amounts dedicated to renovation/rehabilitation;

iv. following execution of the Ground Lease and the Authority Loan Documents by the Developer, any transfer or assignment of the Ground Lease, the Authority Loan Documents, or an interest in the Developer, to an entity controlled by Developer or National CORE;

v. any transfer to a limited partnership or limited liability company in which National CORE or an entity controlled by National CORE, is the controlling general partner or member. 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; and

vi. admission of an Investor as a limited partner or member of the Developer, or a transfer of Investor interests at any time thereafter.

### **2.3 City Consideration of Requested Transfer.**

Except for a transfer permitted pursuant to Sections 2.2.2 above, the Developer shall provide the 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 Sections 2.2.2 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 the Developer's written request for the City approval of an assignment or transfer pursuant to this Section 2.3, the City shall respond in writing either approving the proposed assignee or transferee or requesting further information reasonably



required by the City in order to determine whether or not to grant the requested approval failure of the City to respond shall be deemed approval of such request. Upon receipt of such a request for further information, the Developer shall promptly furnish to the City such requested information.

An assignment or transfer approved by the City pursuant to this Section 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 the City's legal counsel assuming the obligations of the Developer under the City Loan Documents. Thereafter, the assignor shall remain responsible to the City for performance of the obligations assumed by the assignee unless the City releases the assignor in writing.

#### **2.4 Successors and Assigns.**

All of the terms, covenants and conditions of this Agreement shall be binding upon the Developer and the permitted successors and assigns of the 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 Authority Loan, the Construction Loan, Tax Credits, the City Loan, and such other financing sources as secured pursuant to Section 3.8.

Not later than December 31, 2022, the Developer shall submit to the City Manager evidence that the Developer has obtained, or will obtain, as evidenced by an application for funding, sufficient commitments for (a) financing to finance the completion of the Project and/or (b) equity capital for completion of the Project, such that the City Manager is reasonably satisfied based upon the review and findings of the City's financial consultant that the Project can be constructed and operated in accordance with this Agreement. Such evidence (collectively, the "*Evidence of Financing*") shall include, at a minimum:

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

ii. Evidence of such other loans or grants as may be required to pay (i) the amount of the "Construction Contract" (as defined in Section 3.2 below) for the Project, plus (ii) an amount equal to all consultant and loan fees, points, commissions, bond issuance costs, charges, furnishings, fixtures, taxes, interest, start-up costs, the Developer's overhead and administration, and other costs and expenses of developing and completing the Project.

iii. A copy of the most recently prepared Annual Financial Statement for the Developer or its general partner.

### **3.2 Construction Contract.**

Not later than December 31, 2022, the Developer agrees to deliver to the City, for its review and approval, a fixed price or guaranteed maximum cost construction contract(s) (the “**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. The 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 the 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 any single change order in excess of Fifty Thousand Dollars (\$50,000) must be approved by the City Manager, which approval shall not be unreasonably withheld, conditioned or delayed and provided within five (5) Business Days or otherwise deemed approved. Further, each Construction Contract shall set forth a reasonably detailed schedule for completion of each stage of construction.

The 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, the Developer shall furnish the City with security for performance as required by Section 4.6.2.

### **3.3 City Loan.**

The City hereby agrees to loan to the Developer, and the Developer hereby agrees to borrow from the City the City Loan in an amount not to exceed One Million Dollars (\$1,000,000) pursuant to the terms and conditions of the City Loan Documents. Said final amount shall be determined once all the Developer’s financing has been obtained.

3.3.1 Funding. The City shall make the City Loan to the Developer from available funds allocated to the City pursuant to the PLHA Program. The City Loan shall be made in accordance with and subject to the terms and conditions set forth in the City Promissory Note, the City Deed of Trust, and this Agreement.

3.3.2 Security for City Loan; Nonrecourse Obligation.

The City Loan shall be evidenced by the City Promissory Note and shall be secured by the City Deed of Trust. In addition, the Developer shall assign certain documents and agreements to the City as collateral for the City Loan by executing the Assignment of Plans, Reports and Data as security for the loan prior to the recordation of the Release of Construction Covenants. The City Loan shall constitute nonrecourse obligations of the Developer such that the City shall resort only to the Site for repayment upon an Event of Default by the Developer, and the Developer and its partners, members, directors, officers, agents or employees shall have no further liability for repayment in the event the Site or any portion thereof is foreclosed upon.

3.3.3 Subordination.

The City Deed of Trust shall be subordinate to the liens and encumbrances of the City Regulatory Agreement, the Construction Loan, and such exceptions to title as are approved by the City in writing which approval shall not be unreasonably withheld, conditioned or delayed. In addition, the City will subordinate the City Deed of Trust to the liens and encumbrances of the Permanent Loan, the HCD Loan and any other loans obtained by the Developer pursuant to Section 3.8 where the City's interests are protected and secure. A Request for Notice of Default shall be recorded in the official records of Riverside County concurrent with any documents evidencing the subordination of the City Loan.

So long as the conditions set forth in this Section 3.3.3 are satisfied, the City Regulatory Agreement shall be subordinate to the liens of the Construction Loan and such exceptions to title as are approved by the City in writing.

The City Regulatory Agreement may be subordinated to any approved sources of permanent financing upon a finding by the City Manager pursuant to Health & Safety Code Section 33334.14 and based upon evidence submitted by the Developer and/or lender that an economically feasible alternative method of financing on substantially comparable terms and conditions, but without subordination, is not reasonably available and the City obtains written commitments reasonably designed to protect the City's investment in the Event of Default.

The subordination by the City pursuant to this Section 3.3.3 shall be made in accordance with a subordination agreement in the form and substance approved by the City's legal counsel which agreement shall include written commitments reasonably designed to protect the City's investment and covenants in the event of default, including, but not limited to, reasonable notice and cure rights ("*Subordination Agreement*").

**3.4     Disbursement of Loan Proceeds.** The City Loan shall be used for Project Costs and shall be disbursed as follows:

3.4.1     City Loan. Following the Closing, up to One Million Dollars (\$1,000,000) of the proceeds of the City Loan (the “***Loan Proceeds***”) shall be made available for disbursement for Project Costs, subject to the disbursement provisions contained herein.

Upon satisfaction of the conditions precedent to the disbursement of the Loan Proceeds set forth in Section 3.6 below, the Loan Proceeds shall be disbursed to the Developer not later than thirty (30) days after receipt by the Housing Project Manager of a written disbursement request from the Developer (each, a “***Disbursement Request***”). The Disbursement Request shall set forth the amount of the requested disbursement of the Loan Proceeds and shall certify that (a) all conditions precedent to disbursement of the Loan Proceeds set forth in Section 3.6 below have been and remain satisfied in all material respects and (b) no Event of Default has occurred and is continuing under the City Loan Documents beyond any applicable notice and cure period. The City shall use its best commercially reasonable efforts to wire transfer such disbursements when the Developer requests disbursements by wire transfer.

**3.5     Retention.**

Except as otherwise provided herein, as to each Disbursement Request made to the City for Project Costs, disbursements of the 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 the Developer during the course of the Project. Upon satisfaction of the conditions set forth in Section 3.7 below, the City shall disburse the Loan Proceeds in the amount of Ninety Percent (90%) of each Disbursement Request for Project Costs; provided, however, that (a) 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 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 required at such time have been obtained.

Notwithstanding the foregoing, as to each Disbursement Request made to the City for Predevelopment Costs, disbursements of the 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 the 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 the Developer not later than thirty (30) days after receipt by the Housing Project 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 the 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 in all material respects, 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 the Developer.

### **3.6 Conditions Precedent to Disbursement of the Loan Proceeds.**

All disbursements of the Loan Proceeds shall be recorded by the Housing Project Manager and acknowledged by the Developer on Exhibit A to the City Promissory Note. The City shall authorize the disbursement of the Loan Proceeds to or on behalf of the Developer only upon satisfaction of the conditions set forth in this Section 3.6, which shall occur either prior to or concurrently with the Closing.

3.6.1 Execution and Delivery of City Loan Documents. The Developer shall have each executed and delivered to the City this Agreement, the City Regulatory Agreement, the City Promissory Note, the City Deed of Trust, and the Assignment of Plans, Reports and Data.

3.6.2 Evidence of Financing. The City Manager shall have approved the Evidence of Financing in accordance with Section 3.1.

3.6.3 Evidence of Insurance. The Developer shall have furnished City with proper evidence of insurance as required by Section 6.2.

3.6.4 Valid Leasehold. The Developer shall have a good and valid leasehold interest, 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 in its reasonable discretion.

3.6.5 Recordation and Priority of City Regulatory Agreement. The City Regulatory Agreement will be executed and recorded as an encumbrance 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 Deed of Trust. The City Deed of Trust shall have been recorded as a lien against the Site and subordinate only to those liens permitted pursuant to Section 3.3.3.

3.6.7 Title Policy. Concurrently with the recordation of the City Deed of Trust, the Title Company shall issue and deliver to the City an extended ALTA lender's policy of title insurance in an amount equal to the City Loan, together with such endorsements as requested by the City, insuring that leasehold title to the Site is vested in the Developer and that the priority of the City Deed of Trust and the City Regulatory Agreement are consistent with Section 3.3.3. The Title Company shall provide the Developer with copies of such title policy. The Title Company shall, if requested by 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 issued in connection with the acquisition of the Site.

3.6.8 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.

3.6.9 Evidence of Eligible Project Costs. The Developer shall have submitted to the City paid invoices, receipts, canceled checks or other written documentation reasonably satisfactory to the City Manager evidencing the Developer's expenditure for Project Costs.

3.6.10 No Default. There shall exist no condition, event or act which would constitute an Event of Default by the Developer (as defined in Section 7.1) hereunder or which, upon the giving of notice or the passage of time, or both, would constitute an Event of Default by the Developer.

3.6.11 Representations and Warranties. All representations and warranties of the 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 reasonable discretion) or waived:

3.7.1 Compliance with Previous Conditions. The Developer shall be in compliance with the conditions precedent to disbursement of the Loan Proceeds set forth in Section 3.6 above.

3.7.2 Completion of Construction. As to the Retention for Project Costs, excluding Predevelopment Costs, 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 Project 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 Project, 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 reasonable satisfaction of all applicable authorities.

(a) 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.

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

(c) The 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.

(d) All requirements for release of Retention set forth in this Agreement have been met.

(e) The City has issued and the Developer has recorded a Release of Construction Covenants.

### **3.8 Other Sources of Financing.**

3.8.1 Construction Loan. The Developer shall obtain funds for the construction of the Project in excess of the Loan Proceeds by way of a loan (the "**Construction Loan**"). The terms and provisions of the Construction Loan shall be similar to ordinary and customary provisions of construction lenders on loans similar to the Construction Loan. The Construction Loan shall provide for normal and customary disbursement controls, the payment of normal and customary fees and expenses for a loan of similar size and purpose, and for the payment of other expenses contained in the Project Budget. Documentation for the Construction Loan shall be subject to the review of the City. The Construction Loan shall have the terms and conditions generally available to Developer in the marketplace and more specifically shall be:

(a) an approximate original principal amount (not including interest that may accrue thereon) as set forth in the Project Budget;

(b) the term of the Construction Loan shall be for at least twelve (12) months (exclusive of the Lender's right to accelerate the maturity in the event of a default);

(c) the Construction Loan shall be secured by a lien on the Site, which lien shall be in the form and substance as reasonably required by the Construction Lender; and

(d) the Construction Loan shall have such other customary and normal terms and conditions as are reasonably required by the Construction Lender.

3.8.2 Permanent Loan. The Developer shall obtain funds by way of the Permanent Loan at or before the maturity of the Construction Loan. The terms and provisions of the Permanent Loan shall be similar to ordinary and customary provisions of construction lenders on loans similar to the Permanent Loan. Documentation for the Permanent Loan shall be subject to the review of the City.

3.8.3 Tax Credits. The Developer anticipates an award from TCAC of Tax Credits pursuant to Section 42 of the Internal Revenue Code of 1986, as amended and/or California Revenue and Taxation Code Sections 17057.5, 17058, 23610.4 and 23610.5 and California Health and Safety Code Section 50199, *et seq.*, for the Project. The Developer anticipates the Tax Credits syndication proceeds will be in an approximate amount set forth in the Project Budget. The Parties acknowledge that in order to receive the allocation of Tax Credits for the Project, the Developer must satisfy certain conditions established by TCAC and must subject the Site to certain covenants and restrictions pursuant thereto as set forth in that the Tax Credit Regulatory Agreement to be recorded against the Site. The Developer will make an attempt to submit applications for at least three (3) rounds, if applying for 9% Tax Credits.

3.8.4 Authority Loan. The Developer anticipates a loan from the Housing Authority of the City of Riverside in the amount of One Million Dollars (\$1,000,000).

3.8.5 HCD Loan. The Developer intends to apply for and diligently pursue the HCD Loan.

3.8.6 Additional Sources of Financing. The Developer and the City agree to work together to obtain additional sources of financing for unfunded budgeted Project Costs. The 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.

### 3.9 Obligation to Update Project Budget.



The Developer shall update the Project Budget in the event of a proposed material change to the Project Budget that results in an increase or decrease in excess of Fifty Thousand Dollars (\$50,000). In the event of a proposed material change to the Project Budget that results in an increase or decrease in excess of Fifty Thousand Dollars (\$50,000), the 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 the Developer taking any action in furtherance of such change.

#### **4. DEVELOPMENT OF THE SITE**

##### **4.1 Scope of Work.**

The Developer shall construct the Project substantially in accordance with the attached Project Description (Attachment No. 3), applicable Governmental Regulations, including (without limitation) all applicable zoning, planning and design review requirements of the City and all permits and entitlements issued for the Project. Pursuant to Section 4.2 below, 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.

Project construction may be phased. Notwithstanding the foregoing, the Project shall be completed by the time established therefor in the Schedule of Performance subject to *force majeure* and such extensions of the Schedule of Performance as the City may reasonably agree to and/or such extensions as may be approved by the Construction Lender.

##### **4.2 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 4.2; 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.

##### **4.3 Defects in Plans.**

Neither the City nor the Authority 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 4.3. The Developer shall hold harmless, indemnify and defend the City and the Authority 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.

**4.4 Merger of Parcels; Modification of City Deed of Trust and City Regulatory Agreement.**

Intentionally omitted because it is not applicable.

**4.5 Demolition and Clearance of the Site.**

The Developer shall perform any demolition, clearance or preparation of the Site, or any remediation thereon, necessary for the Project. The Developer shall carry out or cause to be carried out the demolition and Site clearance in compliance with all applicable Federal, State and local laws, regulations and enactments, including, without limitation, obtaining building or demolition permits, as required, and inspection for and removal as required of asbestos.

**4.6 Construction of the Project.**

4.6.1 Construction Contract. Not later than December 31, 2022, the Developer shall have submitted to the City, and the City shall have approved, the Construction Contract entered into in connection with the development of the Project.

4.6.2 Construction Bonds; Completion Guaranty. The Developer shall furnish 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 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, the Developer may provide (i) a guaranty, in such form as reasonably required by the City to, to be executed by the Developer or an affiliate thereof 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.

4.6.3 Developer as General Contractor. Notwithstanding Section 4.6.1 above, the Developer may act as the general contractor. The Developer shall have submitted to the City, and the 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 the 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, with Health and Safety Code Section 33422.1 and 33422.3.

**4.7 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 to the extent applicable to the Project.

**4.8 Construction Schedule.**

Subject to Section 4.1, the Developer shall commence and complete all development activities within the times established therefor in the Schedule of Performance (Attachment No. 4).

**4.9 Bodily Injury and Property Damage Insurance: Indemnity.**

**4.9.1 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 6.2 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 4.9.1 shall remain in effect only until a Release of Construction Covenants has been furnished to the Developer as provided in Section 4.17.

**4.10 Other Governmental Authority Permits and Environmental Compliance.**

Before commencement of demolition activities or construction or other works of improvement upon the Site, the Developer shall 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**") may become applicable to the Project as a result of processing Developer's entitlement requests, if so required. Pursuant to CEQA, 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 reviews reveal environmental impacts from the Project which cannot be sufficiently mitigated, the Developer and the City shall then negotiate in good faith to restructure the Project in a manner that may reduce the environmental impacts of the projects.

#### **4.11 Rights of Access.**

Prior to the issuance of a Release of Construction Covenants (as specified in Section 4.17), for purposes of assuring compliance with this Agreement, representatives of the City shall have the right of access to the Site, at its own risk but without charges or fees, and at normal construction hours and, except in emergency situations, 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 the 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 4.11.

#### **4.12 Federal, State and Local Laws.**

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

4.12.2 General. The 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.*

#### **4.13 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, sex, gender, gender identity, gender expression, marital status, national origin or ancestry.

**4.14 Taxes and Assessments.**

The Developer shall pay prior to delinquency all applicable ad valorem real estate taxes and assessments on the Site during the Developer's ownership of the Leasehold, 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 assure the satisfaction thereof within a reasonable time.

**4.15 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.

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

4.16.1 No Encumbrances Except Mortgages, Deeds of Trust. Construction mortgages, deeds of trust, sales and leases-back shall be permitted before completion of the Project, 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. Notwithstanding any contrary provision contained herein, 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 4.17 below.

4.16.2 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.

4.16.3 Notice of Default to Mortgagee or Deed of Trust Holders Right to Cure. Whenever the City delivers any notice or demand to the 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 the 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 the 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 4.17.

4.16.4 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 4.16.2, 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):

(a) 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);

(b) All expenses with respect to foreclosure;

(c) 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;

(d) The costs of any improvements made by such holder; and

(e) 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.

#### **4.16.5 Right of the City to Cure Mortgage or Deed of Trust Default.**

Except as otherwise agreed to in the Subordination Agreement with a senior lender, 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 4.17, 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.

In furtherance of this Section 4.16.5, every subordination agreement entered into by and between the City and a senior lien holder pursuant to Section 3.3.3 shall include an acknowledgment and agreement by the senior lien holder to provide notice of Developer's default to the City.

4.16.6 Right of the City to Satisfy Other Liens on the Site. 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 4.17 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.

#### **4.17 Release of Construction Covenants.**

Within thirty (30) days of 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. 12). 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 City 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 within thirty (30) days of completion, the City shall within ten (10) 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 ten (10) 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.

### **5. COVENANTS AND RESTRICTIONS**



## **5.1 Use Covenants.**

The Developer covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Site or any part thereof that during construction and thereafter, the Developer shall devote the Site to the uses specified in the City Regulatory Agreement. All uses conducted on the Site, including, without limitation, all activities undertaken by the Developer pursuant to this Agreement, shall conform to all applicable provisions of the Riverside Municipal Code.

## **5.2 Affordable Housing Requirements.**

5.2.1 Number of Units. The Developer agrees to make available, restrict occupancy to, and rent at an Affordable Rent twenty (20) PLHA-Assisted Units to Qualified Low Income Households.

5.2.2 Duration of Affordability Requirements. The PLHA-Assisted Units shall be subject to the requirements of Section 5.2 throughout the Affordability Period.

5.2.3 Selection of Tenants. The Developer shall be responsible for the selection of tenants for the PLHA-Assisted Units in compliance with lawful and reasonable criteria, and in accordance with the procedures set forth in the Management Plan which shall be submitted to the City for approval pursuant to Section 5.7. To the extent permitted by law, preference shall be given to tenant applicants who have been displaced by redevelopment activities of the Authority in connection with this Project and in the implementation of the former Agency's Redevelopment Plans. In addition, and to the extent legally allowable and permitted under the Tax Credit Rules, preference shall also be given to tenant applicants residing in the City.

5.2.4 Household Income Requirements. In order to assure compliance with the rent and occupancy restrictions set forth in this Agreement and the City Regulatory Agreement, the Developer shall, prior to the initial leasing of a Unit and on an annual basis thereafter throughout the Affordability Period, obtain and cause to be submitted to the City, at the Developer's expense, a verification of all household sources of income demonstrating that such household is a Qualified Low Income Household, as applicable, and meets the eligibility requirements established for the Unit. Such income verification shall be submitted on such form as prepared and submitted in accordance with the Tax Credit Rules or such other form approved by the City.

### **5.2.5 Annual Reporting Requirement.**

In order to satisfy the monitoring requirements of the City and the State of California, the Developer shall, following the issuance of the Release of Construction

Covenants, and on or before June 30 of each year, submit to the City a certification of compliance with the terms and conditions of this Agreement and the City Regulatory Agreement and such other reports as required thereby on forms provided by the City. Each annual report shall cover the immediately preceding fiscal year. The Developer further agrees to provide true and accurate copies of all required reports, audits and compliance forms prepared in accordance with applicable Tax Credit Rules upon request.

Additionally, the Developer shall determine and submit a report to the City showing the proposed Affordable Rent amount for each Unit for the preceding 12 months with supporting documentation comparing the methods for calculating Affordable Rent as set forth in Section 1.1.

5.2.6 No Substitute Satisfaction. Satisfaction of any other affordability covenants applicable to the Project shall not constitute substitute satisfaction of the requirements set forth in the City Regulatory Agreement.

### 5.3 Lease Requirements.

Prior to rental of any of the PLHA-Assisted Units, the Developer shall submit a standard lease form to the City for the City's approval, which approval shall not unreasonably be withheld, conditioned or delayed. The Developer shall enter into a lease, in the form approved by the City, or such other forms as the City may approve from time to time, with each tenant of a PLHA-Assisted Unit.

### 5.4 Capital Replacement Reserve.

The Developer shall, or shall cause the Property Manager to, set aside the greater of (a) an amount equal to Two Hundred Fifty Dollars (\$250.00) per Unit per year or (b) the minimum amount required by TCAC into a separate interest-bearing trust account held by the Developer (the "***Capital Replacement Reserve***"). The amount required to be placed into the Capital Replacement Reserve shall increase at the rate determined by the Permanent Lender or Investor. Funds in the Capital Replacement Reserve shall be used for capital replacements to the Project fixtures and equipment which are normally capitalized under generally accepted accounting principles. Interest on funds in the Capital Replacement Reserve shall remain in the Capital Replacement Reserve. The non-availability of funds in the Capital Replacement Reserve does not in any manner relieve the Developer of the obligation to undertake necessary capital repairs and improvements and to continue to maintain the Project in the manner prescribed herein. Not less than once per year, the Developer, at its expense, shall submit to the City an accounting for the Capital Replacement Reserve. The City's approval is not required for withdrawals from the Capital Replacement Reserve in accordance with this Agreement.

### 5.5 Operating Reserve.

The Developer shall, or shall cause the Property Manager to, set aside at the time the Release of Construction Covenants is recorded in a separate interest-bearing trust account held by the Developer with an initial amount equal to three (3) months of the projected annual

Operating Expenses for the Project or in such lesser amount as allowed by the senior lender or investor (the "***Operating Reserve***"). Interest earned on funds in the Operating Reserve shall remain in the Operating Reserve. The Developer may withdraw from the Operating Reserve those amounts exceeding the current year budget for operating expenses. The City approval is not necessary for withdrawals made in accordance with this Agreement. Funds may be disbursed from the Operating Reserve to cover shortfalls between the income and actual Operating Expenses and Debt Service of the Project. Upon making disbursements to cover operating shortfalls, the Operating Reserve shall be replenished to the level prior to the disbursement from available Project cash flow unless such replenishment is not required by the senior lender or investor.

#### **5.6     Marketing Plan.**

By the time specified therefor in the Schedule of Performance, the Developer shall submit for the approval of the City, which approval shall not unreasonably be withheld, a plan for marketing the rental of the PLHA-Assisted Units (the "***Marketing Plan***"). The Marketing Plan shall include affirmative marketing procedures and requirements consistent with the provisions of Section 5.A. of the City Regulatory Agreement. The Marketing Plan shall include a plan for publicizing the availability of the PLHA-Assisted Units within the City in a manner which gives notice to existing residents, such as notices in any City sponsored newsletter, newspaper advertising in local newspapers and notices in City offices and community centers. The Marketing Plan shall require the Developer to obtain from the City the names of Qualified Households who have been displaced by the Project and other persons who have indicated to the City their interest in the PLHA-Assisted Units, and to notify persons on such list of availability of units in the Project prior to undertaking other forms of marketing. The Marketing Plan shall provide that the persons on such list be given not fewer than ten (10) days after receipt of such notice to respond by completing application forms for rental of PLHA-Assisted Units, as applicable.

#### **5.7     Long Term Management.**

The parties acknowledge that the City is interested in the long-term management and operation of the Project and in the qualifications of any person or entity retained by the Developer for that purpose (the "***Property Manager***"). Prior to the issuance of a Release of Construction Covenants by the City and the initial rental of the PLHA-Assisted Units in accordance with this Agreement, the Developer shall submit for the reasonable approval of the City a detailed "***Management Plan***" which sets forth in detail the duties of the Property Manager, the tenant selection process, a security system and compliance with the City's Crime-Free Multi-Family Housing Program, the procedures for determining Affordable Rent and for the collection of rent, occupancy limits and the procedures for monitoring of occupancy levels, the procedures for eviction of tenants, the rules and regulations of the Project and manner of enforcement, a standard lease form, and other matters relevant to the management of the Project. The Developer may from time to time submit amendments and modifications to the Management Plan for the reasonable approval of the City. The management of the Project shall be in compliance with the Management Plan that is approved by the City.

The Developer shall, prior to the rental of the first Unit, contract with a Property Manager, subject to the reasonable approval of the City; provided, however, that the City acknowledges that Developer intends to engage National CORE or an affiliate thereof as Property Manager, and hereby approves the same. During the term of the Affordability Period, such Property Manager may subcontract for property management services with an experienced and qualified property management entity (based upon the criteria set forth herein below) only upon prior written approval by the City which approval shall not be unreasonably withheld.

During the Affordability Period, the City may from time to time review and evaluate the identity and performance of the Property Manager of the Project as it deems appropriate in its reasonable judgment. If the City reasonably determines that the performance of the Property Manager is deficient based upon the standards and requirements set forth in this Agreement, the City shall provide notice to the Developer of such deficiencies and the Developer shall use its best efforts to correct such deficiencies within 60 days. Upon default of the terms of this Agreement by the Property Manager, the City shall have the right to require the Developer to immediately remove and replace the Property Manager with another property manager or property management company who is reasonably acceptable to the City, and who has not less than five (5) years' experience in property management, including experience managing multifamily residential developments of the size, quality and scope of the Project. If the entity removed is related to or affiliated with the Developer, the City may require that the Property Manager be replaced with another entity that is not related to or affiliated with the Developer.

In addition, during the term of the Affordability Period, the Developer shall annually submit to the City for its reasonable approval a budget for the operation of the Project. The fee paid to Property Manager shall not exceed the reasonable and customary fees paid to such property managers for similar rental properties in Riverside County. Other fees and payments shall be consistent with prevailing market rates for the services performed and goods provided in consideration for such fees and payments. The Developer shall ensure that the reasonably foreseeable expenses of operating the Project do not materially exceed the budget which has been approved by the City. The Developer shall annually provide to the City a detailed accounting of operating expenses and shall make available its books and records to the City for inspection and copying, upon reasonable advance notice during its normal hours of business.

#### **5.8 City Regulatory Agreement.**

The Developer shall execute, acknowledge, and deliver to the City the City Regulatory Agreement to be recorded with respect to the Site in the official records of Riverside County. The City Regulatory Agreement 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.

#### **5.9 Maintenance of Site.**

During construction of the Project and throughout the Affordability Period, the Developer shall maintain the Site and the improvements thereon in conformity with the City Regulatory Agreement in all material respects.

#### **5.10 Nondiscrimination Covenants.**

The 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 Units, 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.

The Developer shall refrain from restricting the sale of the Site, including the Units, 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."

(b) 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 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.”

(d) 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.

(e) 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.

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

The City is deemed the beneficiary 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, or the City Regulatory Agreement, 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.

**5.12 Monitoring and Recordkeeping.** The Developer shall comply with all applicable recordkeeping and monitoring requirements set forth in the PLHA Guidelines and shall annually complete and submit to the City a certification of continuing program Compliance in such form as provided by the City. Representatives of the City shall be entitled to enter the Site, upon at least twenty-four (24) hours' notice, to monitor compliance with this Agreement, to inspect the records of the Project, and to conduct an independent audit or inspection of such records. The Developer agrees to cooperate with the City in making the Site and all PLHA-Assisted Units thereon available for such inspection or audit. The Developer agrees to maintain records in a businesslike manner, to make such records available to City upon seventy-two (72) hours' notice, and to maintain such records for the entire Affordability Period.

**6. INDEMNITY AND INSURANCE**

**6.1 Developer's Indemnity.**

To the full extent permitted by law, the 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, regulatory proceedings, losses, expenses or cost of any kind, whether actual, alleged or threatened, including reasonable attorneys' fees and costs, court costs, interest or defense costs, including expert witness fees), where the same arise out of: (i) the 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 the Developer, or (iii) any grossly negligent performance or act or grossly negligent failure to perform or act pursuant to this Agreement by the Developer, or by any individual or entity that the

Developer shall bear the legal liability thereof, including, but not limited to, officers, agents, or employees of the Developer.

Without affecting the rights of Indemnitees under any provisions of this Agreement, the Developer shall not be required to indemnify and hold harmless Indemnitees for liability attributable to the active negligence or willful misconduct of Indemnitees.

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

This indemnification provision supplements and in no way limits the scope of any the indemnification set out elsewhere in this Agreement. The indemnity obligation of the Developer under this Section shall survive the expiration or termination, for any reason, of this Agreement.

## **6.2 Insurance.**

Prior to the commencement of any work of improvement upon the Site and without limiting the Developer's indemnity obligations set forth in the Agreement, the 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. The insurance company providing the insurance shall have at least an A rating 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) The 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 the City as an additional insured, 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 is self-insured and any insurance maintained by them shall apply in excess of and not concurrent with insurance provided by this policy."

(3) "The City of Riverside and its officers, agents, employees, representatives and volunteers are added as additional insureds with respect to 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, the 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.

(h) In addition to any other remedies the City may have if the Developer fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City 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 the Developer has failed to commence curing such default within thirty (30) days of notice or thereafter fails to diligently pursue such cure, declare the Developer to be in default, terminate this Agreement and declare that reimbursement of the Loan Proceeds is due and payable.

(4) Exercise of any of the above remedies shall not be deemed the exclusive remedy for the 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 the Developer may be held responsible for payments of damages to persons or property resulting from the Developer's performance of the work covered under this Agreement.

## **7. DEFAULTS, REMEDIES AND TERMINATION**

### **7.1 Defaults – General.**

Subject to the extensions of time set forth at Section 3.2 above and below in this Section 7.1, (a) failure or delay by either party to substantially perform, comply with or observe any of the conditions, provisions, terms, covenants or representations of this Agreement, including any of the Attachments hereto, or (b) the failure to go forward with the Project shall constitute an Event of Default (as defined below) 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, in addition to the events constituting an Event of Default described in the paragraph directly above, 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 such default for a period of thirty (30) days after notice thereof in writing is given by the injured party to the defaulting party; provided, however, that if such event of default is of the nature that cannot be cured within such thirty (30) day period and the defaulting party has diligently commenced and continued such efforts in good faith to cure, such party 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.

## **7.2     Legal Actions.**

7.2.1     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, including the right of foreclosure under the City Deeds of Trust, subject to the nonrecourse nature of the loans. Such legal actions may be instituted in the Superior Court of the County of Riverside, State of California.

### **7.2.2     Acceptance of Service of Process.**

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

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

## **7.3     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.

## **7.4     Rights of Termination and Damages.**

7.4.1     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 8.1 below and shall be reimbursed for all reasonable costs incurred prior to the termination. Upon termination by the Developer pursuant to this Section 7.4.1, 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.

7.4.2 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 8.1. In addition, the City may exercise its rights under the City 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.

7.4.3 Termination for Non-Appropriation of Funds. This Loan Agreement is contingent upon the appropriation of PLHA Funds. If such funds are not appropriated in an amount sufficient to provide for this Loan Agreement, this Loan Agreement shall terminate and be of no further force and effect.

#### **7.5 Plans Specs and Reports.**

In addition to any remedy contained herein, in the event the Developer defaults under this Agreement prior to the completion of the Project and such default is not cured within the applicable notice and cure period or such period has not been extended, and such default has not been cured within the applicable notice and cure period, then the City may exercise its rights under the Assignment of Plans, Reports and Data, to require the Developer to deliver to the City any and all plans, drawings, studies and related documents concerning the Project within the 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 the Developer.

#### **7.6 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.

#### **7.7 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.

#### **7.8 Rights of Limited Partners.**

Notwithstanding anything to the contrary contained herein, the City hereby agrees that any cure of any default made or tendered by any limited partner of the Developer shall be deemed to be a cure by the Developer, and shall be accepted or rejected on the same basis as if

made or tendered by the Developer; provided, however, that no limited partner shall have any obligation or duty to take any action to cure any default or to cause any default to be cured r. The City shall not commence any action against the Developer under any of the City Loan Documents without first providing all limited partners of the Developer with ninety (90) days prior notice (or such longer period as the limited partner may need if the limited partner is removing the general partner of the Developer in connection with curing said default) in which time the limited partners of the Developer shall have the right, but not the obligation, to cure any default of the Developer under the City Loan Documents.

## **8. GENERAL PROVISIONS**

### **8.1 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: Golden Pierce Housing Partners L.P.  
9421 Haven Avenue  
Rancho Cucamonga, CA 91730  
Attn: Michael Finn

With a copy to: National Community Renaissance of California  
9421 Haven Avenue  
Rancho Cucamonga, CA 91730  
Attn: General Counsel

With a copy to: [Investor Limited Partner to be identified]

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

With a copy to: City of Riverside  
3900 Main Street  
Riverside, California 92522  
Attn: City Attorney

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.

## **8.2      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.

## **8.3      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.

## **8.4      Warranty Against Payment of Consideration for Agreement.**

The 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.

## **8.5      Nonliability of City Officials and Employees.**

No member, official, employee, representative or agent of the City shall be personally liable to the 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 the Developer or its successor, or on any obligation under the terms of this Agreement.

## **8.6      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 the 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.

#### **8.7 Force Majeure.**

In addition to specific provisions of this Agreement, performance by any party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God or any other deity; acts of the public enemy; epidemics; pandemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation, including litigation challenging the validity of this transaction or any element thereof including the acquisition of the Site, or any portion thereof, unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor, or suppliers; acts of 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 the City's 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.

#### **8.8 Applicable Law; Interpretation; Captions.**

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.

#### **8.9 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 and the Site.

#### **8.10 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 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 for action, direction or approval.

#### **8.11 Mutual Cooperation.**

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

#### **8.12 Ground Breaking and Grand Openings.**

To insure proper protocol and recognition of the City Council, the Developer shall cooperate with 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.

#### **8.13 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.

#### **8.14 Entire Agreement.**

This Agreement includes forty-four (44) [excluding signatures and attachments] pages and Attachment Nos. 1 through 10 which constitute the entire understanding and agreement of the Parties. 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.

#### **8.15 Counterparts.**

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.



Three (3) duplicate originals of this Agreement shall be executed each of which shall be deemed to be an original.

**8.16 Waivers and Amendments.**

All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City and the Developer, and all amendments hereto must be in writing and signed by the appropriate authorities of the City and the Developer. The City hereby authorizes the City Manager to enter into any amendment, or modification of this Agreement and the City Loan Documents and to extend any deadlines hereunder.

*[Signature Page Follows]*

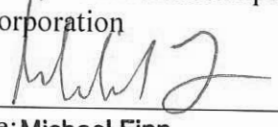
IN WITNESS WHEREOF, the City and the Developer have signed this Agreement as of the date first above written.

**"DEVELOPER"**

GOLDEN PIERCE HOUSING PARTNERS L.P., a California limited partnership, by its General Partner:

By: NCRC GOLDEN PIERCE LLC, a California limited liability company, by its Manager and Sole Member:

By: NATIONAL COMMUNITY RENAISSANCE OF CALIFORNIA, a California nonprofit public benefit corporation

By:   
Name: **Michael Finn**  
Its: Chief Financial Officer

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**"CITY"**

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

By: \_\_\_\_\_  
City Manager


**ATTEST:**

By: \_\_\_\_\_  
City Clerk

**CERTIFIED AS TO FUNDS AVAILABILITY:**

BY:   
Chief Financial Officer/City Treasurer

**APPROVED AS TO FORM:**

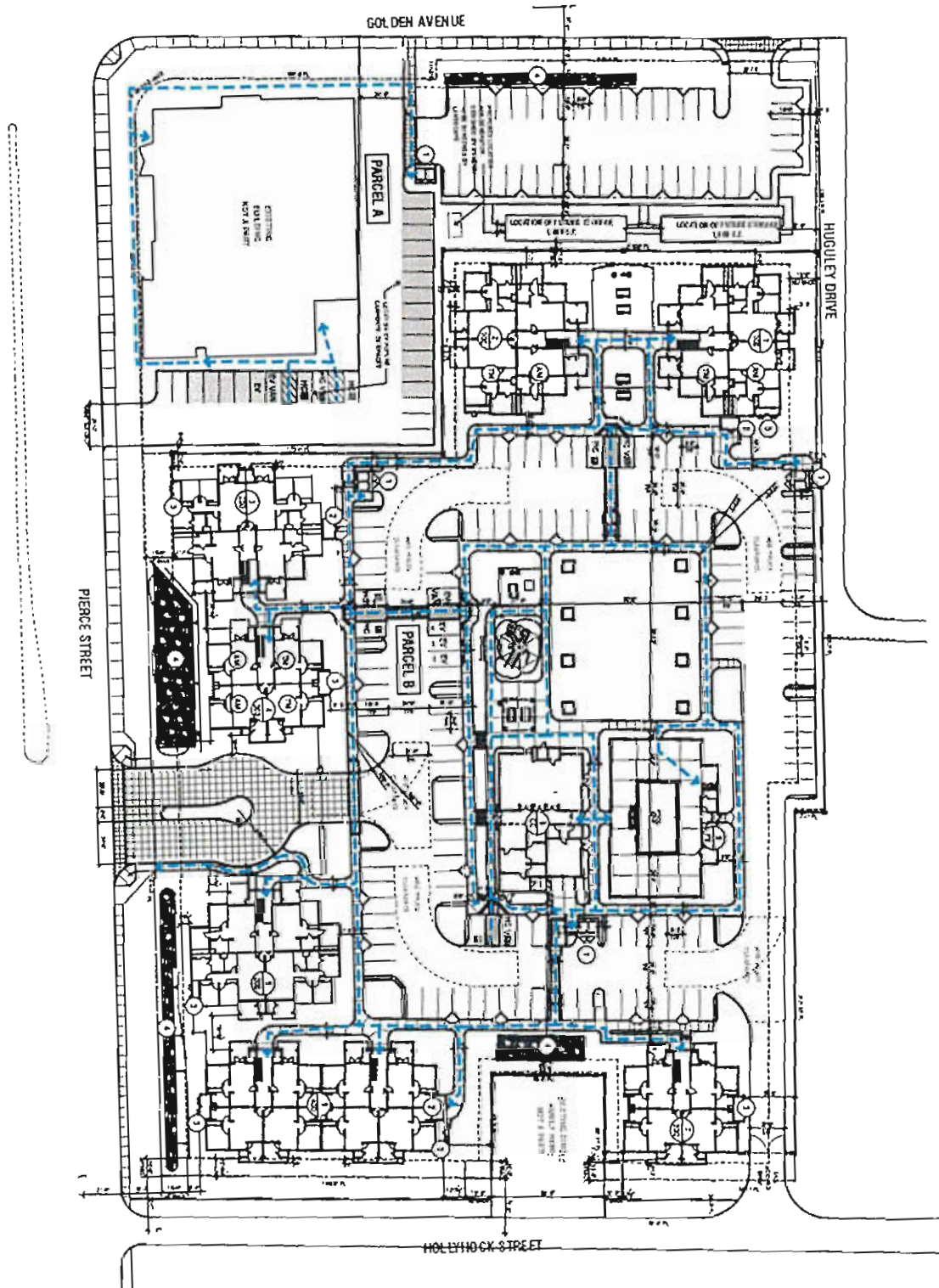
By:   
Deputy City Attorney  
19-1583 LMS

**ATTACHMENT NO. 1**

**SITE PLAN**

# ATTACHMENT NO.1

## SITE PLAN



**ATTACHMENT NO. 2**

**SITE LEGAL DESCRIPTION**

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

APN's: 146-141-029, -065, -066, & -071  
Por. APN's: 146-141-067 & -072  
Address: 11253 Pierce Street

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

Parcel B of Certificate of Compliance for Parcel Merger P20-0444, recorded August 24, 2020 as Instrument No. 2020-0390212 of Official Records of Riverside County, California, described as follows:

Parcel 2, Parcel 3, Parcel 4 and portions of Parcel 1 and Parcel 5 of Certificate of Compliance PW-040-823, recorded on May 24, 1993 as Instrument No. 1993-0191920 of Official Records of Riverside County, California, and a portion of Lot 2 in Block 60 of Tract No. 2 of La Sierra Heights, as shown by map on file in Book 7 of Maps, at Page 66 thereof, Records of Riverside County, California, of described as follows:

That portion of Lot 2 in Block 60 of Tract No. 2 of La Sierra Heights, as shown by map on file in Book 7 of Maps, at Page 66 thereof, Records of Riverside County, California, described as follows:

**COMMENCING** at the most westerly corner of Lot 4 in said Block 60;

Thence South 27°45'45" East, along the southwesterly line of said Lot 4 a distance of 437.81 feet to a point on the southeasterly line of that certain parcel of land conveyed to J.C Huguley, et al by deed recorded March 9, 1925 in Book 664, Page 593 of Deeds, Records of Riverside County, California;

Thence North 61°48'31" East a distance of 99.99 feet along said southeasterly line to a point on said line being the **TRUE POINT OF BEGINNING**;

Thence North 61°48'31" East continuing along said southeasterly line a distance of 120.22 feet to a point on said southeasterly line also being a point in the southwesterly line of that certain parcel of land conveyed to Mrs. Myrta B. Giddings and Lois M. Giddings by deed recorded April 18, 1923 in Book 576, Page 508 of Deeds, Records of said County;

Thence North 27°36'24" West along said southwesterly line a distance of 1.81 feet to the northwesterly line of said Lot 2;

Thence North 61°19'40" East along said northwesterly line of said Lot 2 a distance of 200.58 feet to the most northerly corner of certain parcel of land conveyed to the General Conference Corporation of Seventh-Day Adventists by deed recorded August 8, 1974 as Instrument No. 101360, Records of said County;

Thence South 27°36'01" East along the northeasterly line of said Parcel conveyed to the General Conference Corporation of Seventh-Day Adventists as aforesaid, a distance of 17.38 feet to the westerly corner of that certain parcel of land conveyed to the General Conference Corporation of Seventh-Day Adventists by deed recorded August 8, 1975 as Instrument No. 95844, Records of Riverside County, California;

Thence North 62°02'27" East along the northwesterly line of said parcel a distance of 212.86 feet to a point on the southwesterly line of Parcel 2 of that certain parcel of land described in Offer of Dedication to the City of Riverside by deed recorded February 15, 1985, as Instrument No. 32478 Official Records of said County;

Thence South 27°21'49" East along said southwesterly line and its southeasterly prolongation a distance of 110.00 feet to the northwesterly line of the southeasterly 65.00 feet of that certain parcel of land conveyed to R.S. Hodge and Henrietta J. Hodge, his wife, by deed recorded September 12, 1924 in Book 613, Page 575 of Deeds, Records of said County;

Thence South 62°02'27" West along said northwesterly line a distance of 61.22 feet to a point on the northeasterly line of that certain parcel of land conveyed to the General Conference Corporation of Seventh-Day Adventists by deed recorded August 8, 1975 as Instrument No. 95844, Records of Riverside County, California;

Thence South 27°36'01" East along said northeasterly line a distance of 65.00 feet to an angle point therein;

Thence North 62°02'27" East a distance of 60.95 feet to the northwest corner of Parcel 1 of that certain parcel of land described in Offer of Dedication to the City of Riverside by deed recorded February 15, 1985, as Instrument No. 32478, Records of said County;

Thence South 27°21'49" East along the Southwesterly line of said Parcel 1 a distance of 190.79 feet to a point in the northwesterly line of that certain parcel of land conveyed to the City of Riverside as Parcel 4 by deed recorded October 4, 1985 as Instrument No. 224758 of Official Records of Riverside County, California;

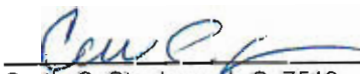

Thence South 60°36'41" West along said northwesterly line of Parcel 4 and the Northwesterly line of Parcels 1, 2 and 3 as conveyed to the City of Riverside by said deed and along the northwesterly line of that certain parcel of land conveyed to the City of Riverside by deed recorded November 25, 1974, as Instrument No. 151223 and along the northwesterly line of that certain parcel of land conveyed to the City of Riverside by deed recorded May 27, 1977, as Instrument No. 97145, all Records of said County, a distance of 414.77 feet;

Thence North 28°12'00" West, leaving said northwesterly line a distance of 173.16 feet;

Thence South 61°50'35" West a distance of 115.69 feet;

Thence North 28°03'05" West a distance of 215.91 feet to **TRUE POINT OF BEGINNING.**

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

 8/26/20 Prep.   
Curtis C. Stephens, L.S. 7519 Date







**ATTACHMENT NO. 3**  
**PROJECT DEVELOPMENT**

**ATTACHMENT NO. 3**  
**PROJECT DESCRIPTION**

Vista de la Sierra, an 80-unit multi-family residential development to be located at 11253 Pierce Street in the La Sierra Neighborhood. The Project will provide seventy-nine (79) units affordable to households earning less than 60 percent of the Area Median Income (AMI) of which forty-nine percent (49%) of the units will be set-aside for Permanent Supportive Housing (PSH). There will be one manager's unit onsite that will not be income restricted. National Community Renaissance of California (NCRC) the developer, and Mercy House will employ Staff and provide a range of supportive services onsite for the PSH and traditional affordable housing units based on the specific needs of the households selected to live in the community. Typical supportive services include: counseling, financial literacy, youth programs, healthy living education, and job training.

The now vacant 4.1-acre site would be developed with seven, two- and three-story residential buildings to provide a total of 80 apartment homes surrounding a community center and recreational amenities to be located in the center of the site. Developed at an overall density of 19.5 units per acre, there will be an estimated 40 1-bedroom units (652-712 square feet), 20 2-bedroom units (891 square feet), and 20 3-bedroom units (1,137 square feet). In total, the plan for Parcel A proposes 87,080 square feet of residential development and 4,018 square feet of recreational facilities (community room and pool building). The total gross building area is 91,098 square feet. The existing five single family homes, owned by the Church, will be demolished.

The site plan and building locations have been designed with neighborhood compatibility in mind. The buildings located internally on the site near existing residential uses are limited to 2-stories in height, while buildings along the Pierce Street right-of-way are limited to 3-stories in height. Near the corner of Hollyhock and Pierce Street the Project's largest building has been designed to step from 2-stories where it is close to the existing single-family home to 3-stories as it approaches Pierce Street. This provides a gradual transition from surrounding lower density uses and visually breaks up the mass of the development. In choosing an architectural style, careful consideration for the character and scale of surrounding neighborhood has been taken to ensure that the project architecture and massing blends in with the existing surrounding uses. In the center of the site, centrally located from the residential buildings, the development will provide a number of recreational amenities, including: an approximately 3,539 square foot community center, swimming pool with 479 square foot pool building, tot lot, BBQ patio area, and large activity lawn. Trash enclosures will be provided at three separate locations, are ADA accessible, and will match the architectural style of the main buildings.

One gated, vehicular entry point to the site is provided off Pierce Street, with emergency vehicle access (EVA) off of Hollyhock Street. The entry point to the site is a 24-foot circular driveway providing direct access to surface parking located near each of the seven residential buildings and central amenities. A pedestrian gate will also be located east of the vehicle gate providing egress to and from Hollyhock Street. The Project proposes 120 uncovered parking spaces onsite to accommodate resident parking needs, including 4 residential spaces (1 van, 3 standard spaces) and

2 guest spaces (1 van, 1 standard) that are ADA accessible. Of the 120 spaces, 4 will be reserved for electric vehicle charging (3 for cars and 1 that is ADA van accessible). It will also include 6 short term and 6 long term bicycle parking spaces.

**ATTACHMENT NO. 4**

**SCHEDULE OF PERFORMANCE**

# ATTACHMENT 4

## SCHEDULE OF PERFORMANCE -VISTA DE LA SIERRA

EVENT	2020												2021												2022																								
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D													
ENTITLEMENTS																																																	
City Council Approval																																																	
FINANCING (1)																																																	
Housing Authority/City Loan Approval																																																	
NPLH Funding Application Submittal																																																	
NPLH Funding Award																																																	
Apply for 9% tax credits (1st round 2021)																																																	
Award of 9% tax credits																																																	
Construction closing/Syndication																																																	
Apply for 9% tax credits (2nd round 2021)																																																	
Award of 9% tax credits																																																	
Construction closing/Syndication																																																	
Apply for 9% tax credits (1st round 2022)																																																	
Award of 9% tax credits																																																	
Construction closing/Syndication																																																	
CONSTRUCTION (2)																																																	
Construction Drawings																																																	
Plan Check																																																	
Issuance of Building Permits																																																	
Begin Construction (24 months)																																																	
Construction Complete																																																	
100% Fully Leased																																																	

(1) Per DDA 1st Amendment, Developer may apply for 9% Tax Credit funding starting on 2021 and continue to apply until successful.

(2) Assumes 2021 1st round 9% Tax Credit award

**ATTACHMENT NO. 5**

**PROJECT BUDGET**

# Attachment No. 5 Project Budget

## SOURCES AND USES

Project Name: La Sierra PSH  
Opportunity Resource Area 9% LIHTC Family  
Developer: National CORE  
Number of Dwelling Units: 80

6/2/2020

<b>SOURCES: CONSTRUCTION</b>		
Construction Loan	\$ 30,000,000	
Tax Credit Equity	\$ 4,704,322	
City of Riverside Hsg Funds	\$ 2,000,000	
AHP	\$ 1,185,000	
Deferred Costs	\$ 1,373,294	
<b>Total</b>	<b>\$ 39,262,616</b>	
<b>USES: CONSTRUCTION</b>		
Acquisition Costs/Closing	\$ 1,250,000	
Architecture/Fees & Permits	\$ 3,430,000	
Construction Cost	\$28,224,801	
Indirect Construction/Legal	\$ 510,000	
Developer's Fee	\$ 2,200,000	
Rent-Up Costs/Reserves	\$ 1,134,624	
Financing Costs	\$ 2,513,191	
<b>Total</b>	<b>\$39,262,616</b>	
<b>SOURCES: PERMANENT</b>		
Permanent Loan	\$ 5,054,234	
Tax Credit Equity	\$ 23,521,609	
City of Riverside Hsg Funds	\$ 1,000,000	
City of Riverside SB2 Funds	\$ 1,000,000	
AHP	\$ 1,185,000	
No Place Like Home Funds	\$ 7,412,680	
Deferred Developer Fee	\$ 89,093	
<b>Total</b>	<b>\$ 39,262,616</b>	
<b>USES: PERMANENT</b>		
Acquisition Costs/Closing	\$ 1,250,000	
Architecture/Fees & Permits	\$ 3,430,000	
Construction Cost	\$28,224,801	
Indirect Construction/Legal	\$ 510,000	
Developer's Fee	\$ 2,200,000	
Rent-Up Costs/Reserves	\$ 1,134,624	
Financing Costs	\$ 2,513,191	
<b>Total</b>	<b>\$39,262,616</b>	

**ATTACHMENT NO. 6**  
**CITY PROMISSORY NOTE**



**PROMISSORY NOTE**  
(Vista de La Sierra)

\$1,000,000

\_\_\_\_\_, 2020  
Riverside, California

FOR VALUE RECEIVED, the undersigned GOLDEN PIERCE HOUSING PARTNERS L.P., a California limited partnership ("**Borrower**"), hereby promises to pay to order of the CITY OF RIVERSIDE, a California charter city and municipal corporation (together with its successors and assigns, "**City**"), the principal sum of One Million Dollars (\$1,000,000.00) ("**Loan**"), or so much of such principal as may be disbursed pursuant to and in accordance with the certain Permanent Local Housing Allocation Program Loan Agreement, by and between the City and the Borrower, dated of even date herewith ("**Loan Agreement**") together with interest accrued thereon at the rate hereinafter set forth.

1. Source of Funds. To fund the City Loan, the City shall utilize certain funds allocated to and administered by the City pursuant to the Permanent Local Housing Allocation Program.

2. Purpose. The purpose of the loan evidenced by this Promissory Note ("**Note**") is to provide financing to be used by Borrower in connection with the development and construction of that certain real property located at 11253 Pierce Street in the City of Riverside, California and identified with Assessor's Parcel Numbers 146-141-072, 146-141-071, 146-141-065, 146-141-066, 146-141-067, and 146-141-029 ("**Land**"), and the construction of a multifamily, affordable housing project, consisting of approximately eighty (80) units, including twenty (20) restricted units, on the Land, of which Borrower owns a leasehold interest ("**Project**", together with the Land, "**Property**").

3. Security. This Note is secured by that certain Leasehold Deed of Trust, Fixture Filing, and Assignment of Rents executed by Borrower for the benefit of the City, dated as of even date herewith and recorded against Borrower's leasehold interest in the Property in the official records of the County of Riverside ("**Official Records**") substantially concurrent herewith ("**Deed of Trust**"). The Loan is evidenced by, among other documents, the Loan Agreement, and encumbered by that certain Regulatory Agreement by and between the City and Borrower, dated as of even date herewith, and recorded against the Property in the Official Records substantially concurrent herewith ("**Regulatory Agreement**"), and that certain Notice of Affordability Restrictions on Transfer of Property by and between the City and Borrower, dated as of even date herewith, and recorded against the Property in the Official Records substantially concurrent herewith ("**Affordability Restrictions**" together with the Note, the Deed of Trust, the Loan Agreement, the Regulatory Agreement and any other document entered into by Borrower in connection with the Loan, "**Loan Documents**").

4. Terms of Payment.

a. Term. The principal of the Loan, together with all accrued interest, shall be

due and payable on the earliest of: (a) fifty-five (55) years from the recordation of the Release of Construction Covenants, but in no event later than December 31, 20[ : insert year 55 years from loan execution]; (b) the date the Property is sold; or (c) an Event of Default by Borrower, which has not been cured as provided for in the Loan Documents ("***Term***").

b. Interest. The Loan shall bear simple interest at the rate of three percent (3%) per annum.

c. Repayment. Commencing on the first day of June next following the recordation of the Release of Construction Covenants, and on June 1 of each calendar year thereafter through the end of the Term, Borrower shall make payments of the Loan equal to the City's Share of Residual Receipts. Payments under this Note shall be made in lawful money of the United States of America and shall be credited first against accrued interest and then against outstanding principal. Borrower shall provide the City with any documentation reasonably requested by the City to substantiate Borrower's determination of Residual Receipts.

5. Definitions. Except as otherwise noted, the following definitions shall apply for purposes of this Note.

(i) "***Annual Operating Expenses***" means with respect to a particular calendar year the following costs reasonably and actually incurred for operation and maintenance of the Property to the extent that they are consistent with the annual operating budget for the Property approved in advance by the City, and substantiated by an annual independent audit performed by a certified public accountant using generally accepted accounting principles:

(A) property taxes and assessments imposed on the Property, if any;

(B) debt service and other charges and fees currently due on a non-optional basis (excluding debt service due from residual receipts or surplus cash of the Property) on loans associated with the Property and approved by the City;

(C) property management fees and reimbursements (including deferred payments of any such fees and expenses), on-site property management office expenses, and salaries of property management and maintenance personnel payable to a property manager approved by the City pursuant to the Regulatory Agreement, not to exceed fees and reimbursements which are standard in the industry and pursuant to a management contract approved by the City;

(D) asset management fees and partnership management fees payable to any partner or affiliate of any partner of Borrower and, if any, in a cumulative amount not to exceed a total of Twenty-Five Thousand Dollars (\$25,000) per year with an increase of three percent (3%) per annum, which fees may accrue;

(E) premiums for property damage and liability insurance;

(F) utility services not paid for directly by tenants, including

water, sewer, and trash collection;

(G) maintenance and repair;

(H) any annual license or Certificate of Occupancy fees required for operation of the Property;

(I) security services;

(J) advertising and marketing;

(K) fees for resident services in the annual amount approved by the City, in set forth in the annual operating budget;

(L) cash deposited into reserves for capital replacements of the Property in the amount of Two Hundred Fifty Dollars (\$250) per unit per year, or such other higher amount required by a senior lender or investor;

(M) cash deposited into an operating reserve in an amount to be approved by the City, but with the operating reserve of at least two percent (2%) of gross rent until the operating reserve reaches the equivalent of three (3) months of Annual Operating Expenses (including debt service) for the Property, or such greater amount as approved in writing by the City; Borrower may apply all or a portion of capitalized operating reserves funded during development to satisfy this requirement;

(N) cash deposited into any other reserve accounts as required by permanent lenders and investors in accordance with loan documents and a limited partnership agreement approved by the City;

(O) payment of any previously unpaid portion of the development fee (without interest) not exceeding a cumulative development fee in the maximum amount set forth in the Projections;

(P) extraordinary operating costs specifically approved in writing by the City;

(Q) payments of deductibles in connection with casualty insurance claims not normally paid from reserves, the amount of uninsured losses actually replaced, repaired or restored, and not normally paid from reserves, and other ordinary and reasonable operating expenses not listed above.

(R) any credit adjuster payments or payments for tax liability required to be paid to Borrower limited partner under Borrower's partnership agreement: and

(S) compliance or monitoring fees of any public agency

Annual Operating Expenses shall not include the following: depreciation, amortization,

depletion or other non-cash expenses; any amount expended from a reserve account; and any capital cost with respect to the Property, as determined by the accountant for the Property.

(ii) “**Gross Revenue**” means with respect to a particular calendar year all revenue, income, receipts, and other consideration actually received from operation and leasing of the Property. Gross Revenue shall include, but not be limited to, the following:

- (A) all rents, fees and charges paid by tenants;
- (B) Section 8, or other rental subsidy payments received for the dwelling units;
- (C) deposits forfeited by tenants;
- (D) all cancellation fees;
- (E) price index adjustments and any other rental adjustments to leases or rental agreements resulting in actual income;
- (F) proceeds from vending and laundry room machines;
- (G) the proceeds of business interruption or similar insurance;
- (H) subject to the rights of any lender of a loan to Borrower to which the Loan has been subordinated, the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Property (or applied toward the cost of recovering such proceeds); and
- (I) condemnation awards for a taking of part of all of the Property for a temporary period.

Gross Revenue does not include tenants’ security deposits, loan proceeds, capital contributions, or similar advances.

(iii) “**City’s Share of Residual Receipts**” shall mean the City’s Pro Rata Share of the Lenders’ Share of Residual Receipts. The Pro Rata Share shall be determined by calculating the percentage resulting from dividing the amount of the Loan funds disbursed to Borrower in accordance with the Loan Agreement, by the total of the sum of all subordinate loans for the Project; provided, however, in no event shall the City’s Share of Residual Receipts exceed forty percent (40%) of the Lenders’ Share of Residual Receipts.

(iv) “**Lenders’ Share of Residual Receipts**” shall mean fifty percent (50%) of Residual Receipts.

(v) “**Residual Receipts**” shall mean in a particular calendar year the amount by which Gross Revenue exceeds Annual Operating Expenses.

6. Acceleration. Except as may be otherwise provided in the Deed of Trust or the other loan documents evidencing this Loan, this Note shall be due and payable in one lump sum upon the sale, conveyance, assignment, hypothecation, or refinance of the Property without prior written consent of the City, or delegation of Borrower's obligations under this Note to any other party(ies) other than in connection with Permitted Transfers under the Loan Agreement. With the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed, this Note may be assumed by an affiliate of Borrower.

7. Default. Any material failure in the performance by Borrower of any material non-monetary term, condition, provision or covenant set forth in this Note or the Regulatory Agreement shall be a default under this Note, and shall cause, at the option of the City, the entire unpaid balance, together with all unpaid sums then payable under this Note to become immediately due and payable upon written notice by the City to Borrower without further demand.

8. Prepayment. No prepayment penalty, fee or premium will be charged to Borrower for payment of all or any portion of the Loan amount prior to the end of the term described herein.

9. City's Remedies for Default; Cure.

a. Upon the occurrence of a default, the City shall provide Borrower written notice of said occurrence, and Borrower shall have thirty (30) days to cure the default unless the City shall agree in writing to an extension of such cure period prior to its expiration, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, if the default is of the type which is incapable of being cured within thirty (30) days, Borrower shall have such time as is reasonably necessary to cure such default, so long as Borrower has commenced such cure within such thirty (30) days and continues to diligently proceed to cure such default. If, after the cure period provided in this subparagraph (a), (i) Borrower has not cured the default, and (ii) the City has not waived its rights under this Note, the entire unpaid balance, together with all unpaid sums then payable under this Note shall, at the option of the City, become immediately due and payable upon written notice by the City to Borrower without further demand.

b. If a default shall occur and be continuing beyond any applicable notice and cure period, the City may pursue all rights and remedies available under this Note or as may be otherwise available to the City.

c. Any cure of any default made or tendered by one or more of Borrower's limited partners shall be deemed to be a cure by Borrower and shall be accepted by the City as if made or tended by Borrower.

10. Limited Recourse. Notwithstanding any contrary provision contained in this Note, there shall be no personal liability of Borrower and its partners, and their respective members, directors, officers, employees and agents, and the liability of Borrower shall be limited to the Property securing the Note. The City shall, however, be entitled to institute an action, suit, claim or demand against, and to recover a judgment against the Borrower, but only for any deficiency and the cost of collection, and only to the extent that such deficiency results directly from: (a) intentional or willful misconduct, fraud or material misrepresentation by Borrower in connection

with the representations and warranties provided by Borrower; (b) the misappropriation of any rents from the Property by Borrower after an event of default has occurred and the cure period for such an event of default has expired (to the full extent of such rents misappropriated by Borrower); (c) the willful removal or disposal by Borrower of personal property or fixtures of the Property constituting a significant value, except for that which occurs through reasonable maintenance and repair; (d) the misapplication or misappropriation by Borrower of any insurance proceeds or any condemnation award with respect to the Property to the extent of such insurance proceeds and/or condemnation award; or (e) the intentional or negligent waste of any portion of the Property by Borrower.

11. Notice. Formal notices, demands, and communications between the City and Borrower shall be sufficiently given if, and shall not be given unless, dispatched by certified mail, postage prepaid, return receipt requested or sent by express delivery service or overnight courier service, to the principal office of the City and Borrower as follows, or at such other address as the parties may designate in writing from time to time:

**CITY:**

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

With a copy to:

City Attorney  
3900 Main Street  
Riverside, CA 92522

**BORROWER:**

Golden Pierce Housing Partners L.P.  
9421 Haven Avenue  
Rancho Cucamonga, CA 91730  
Attn: Michael Finn

With a copy to:

National Community Renaissance of California  
9421 Haven Avenue  
Rancho Cucamonga, CA 91730  
Attn: General Counsel

With a copy to: [Investor Limited Partner to be identified]

Such written notices, demands and communications shall be effective on the date shown on the

delivery receipt as the date delivered or the date on which the delivery was refused.

12. Attorneys' Fees. In the event of litigation arising from the enforcement of or a default under this Note, the non-prevailing party promises to pay all reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in such litigation.

13. Modifications. This Note may not be changed orally. Any waiver, change, modification or discharge of this Note may be made only by the written consent of both parties.

14. Governing Law. This Note shall be governed by and construed in accordance with the laws of the State of California.

*[Signatures appear on following page]*

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

**Borrower:**

GOLDEN PIERCE HOUSING PARTNERS L.P., a  
California limited partnership, by its General Partner:

By: NCRC GOLDEN PIERCE LLC, a California limited  
liability company, by its Manager and Sole Member:

By: NATIONAL COMMUNITY RENAISSANCE  
OF CALIFORNIA, a California nonprofit  
public benefit corporation

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

Name:

Its:

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

Name:

Its:



**ATTACHMENT NO. 7**

**CITY DEED OF TRUST**

RECORDING REQUESTED BY )  
AND WHEN RECORDED MAIL TO: )  
 )  
City of Riverside )  
3900 Main Street )  
Riverside, CA 92522 )  
Attn: Housing Project Manager )  
 )  
Project: Vista de La Sierra )

(Space above for Recorder's Use Only)

This document is exempt from the payment of a  
recording fee pursuant to Government Code §  
27383 and 27388.1

### LEASEHOLD DEED OF TRUST, FIXTURE FILING, AND ASSIGNMENT OF RENTS

THIS LEASEHOLD DEED OF TRUST, FIXTURE FILING, AND ASSIGNMENT OF RENTS ("Deed of Trust") is made as of \_\_\_\_\_, 20\_\_, by GOLDEN PIERCE HOUSING PARTNERS L.P., a California limited partnership ("**Trustor**"), whose address is 9421 Haven Avenue, Rancho Cucamonga, CA 91730, to First American Title Company at 3400 Central Avenue, Suite 100, Riverside, CA 92506 ("**Trustee**"), for the benefit of the CITY OF RIVERSIDE, a California charter city and 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 in connection with that certain loan in the original principal amount of One Million Dollars (\$1,000,000), made by Beneficiary for the benefit of Trustor ("**City Loan**") evidenced by that certain City Promissory Note executed by Trustor in favor of Beneficiary, dated of even date herewith ("**Note**") and made in accordance with that certain Permanent Local Housing Allocation Program Loan Agreement by and between Beneficiary and Trustor, dated concurrent herewith ("**Loan Agreement**"), and the performance of Trustor's obligations thereunder and under this Deed of Trust and the Regulatory Agreement as hereinafter defined. The City Loan shall be made in connection with construction of improvements thereon containing eighty (80) Units, including twenty (20) restricted units, and any improvements appurtenant thereto by the Trustor in accordance with the Loan Agreement ("**Project**"). The real property is located in the City of Riverside, State of California, identified as Assessor Parcel Numbers 146-141-072, 146-141-071, 146-141-065, 146-141-066, 146-141-067, and 146-141-029, as more particularly described on Exhibit A, attached hereto and incorporated herein by this reference ("**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, its leasehold right, title and interest in the Property;

TOGETHER WITH any and all buildings and improvements now or hereafter erected on the Property including, without limitation, Trustor's interest in fixtures, tenements, attachments,

appliances, equipment, building systems, machinery, and other articles now or hereafter attached to the buildings and improvements (collectively, "**Improvements**"), all of which shall be deemed and construed to be a part of the real property;

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

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

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

TOGETHER WITH all leasehold estate, right, title and interest of Trustor in and to all leases, subleases, sub-tenancies, 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 One Million Dollars (\$1,000,000), or so much of such principal as may be disbursed pursuant to the Note, with non-compounding simple interest at 3.0% per annum according to the terms of the Note, and any and all additions, modifications or extensions thereof;

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

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

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

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

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

#### ARTICLE 1. COVENANTS AND AGREEMENTS OF TRUSTOR

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

1.2 Maintenance, Repair, Alterations. Subject to normal wear and tear, Trustor (a) shall keep the Property and the Improvements thereon in good condition and repair in accordance with the Loan Documents, including without limitation the Regulatory Agreement; (b) shall not remove, demolish or substantially alter any of the Improvements except upon the prior written consent of Beneficiary; (c) shall complete promptly and in a good and workmanlike manner any Improvement which may be now or hereafter constructed on the Property and promptly restore in like manner any portion of the Improvements which may be damaged or destroyed thereon from any cause whatsoever, and pay when due all claims for labor performed and materials furnished therefor; (d) shall comply in all material respects with all applicable 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, which shall not be unreasonably withheld, conditioned or delayed.

### 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 up to the outstanding balance of the City Loan, 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 up to the outstanding balance of the City Loan, except where the insurance proceeds for such casualty are less than \$50,000. 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, after the expiration of all notice and cure rights provided therein, Beneficiary shall not be obligated to make any further disbursements pursuant to the Note and Beneficiary shall apply all loss proceeds up to the outstanding balance of the City Loan, 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 Loan 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 negligence or willful misconduct of Beneficiary, its officers, agents and employees. 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 Loan Agreement shall be paid upon notice and demand and without counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Trustor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Trust Estate or any part thereof; (ii) any restriction or prevention of or interference by any third party with any use of the Trust Estate or any part thereof; (iii) any title defect or encumbrance or any eviction from the Improvements or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Beneficiary, or any action taken with respect to this Deed of Trust by any trustee or receiver of Beneficiary, or by any court, in any such proceeding; (v) any claim which Trustor has or might have against Beneficiary, which does not relate to the City Loan; or (vi) any other occurrence whatsoever, whether similar or dissimilar to the foregoing; whether or not Trustor shall have notice or knowledge of any of the foregoing. Except as expressly provided herein and subject to any limitation thereon provided by law, Trustor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Trustor.

#### 1.7 Taxes and Impositions.

(a) As used herein, "**Impositions**" shall mean all applicable 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) Subject to the provisions of any senior liens, 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 1.7(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 promptly refunded to Trustor in any reasonable manner and in such amount as Beneficiary may elect. Beneficiary shall not commingle Impounds with its own funds and shall be obligated to pay 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 reasonable 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, subject to the rights of tenants, 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 reasonably 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 reasonable 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 Loan 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 Loan Agreement, Beneficiary shall have the absolute right at its option, upon notice and demand in accordance with Section 8 of the Loan Agreement, to declare all sums secured hereby immediately due and payable. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. As a condition of the City Loan, Trustor agrees for itself, its successors and assigns that the use of the Property shall be subject to the restrictions on rent and occupancy and use of the Property set forth in the Loan Documents, including without limitation, the Regulatory Agreement.

1.12 Survival of Warranties. All representations, warranties and covenants of Trustor contained in the Loan Documents or incorporated by reference therein expressly stated to survive the execution and delivery of this Deed of Trust, 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. All compensation, awards, damages, rights of action and proceeds awarded to Trustor by reason of any such taking or damage shall hereinafter be referred to as "**Condemnation Proceeds**", and 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 Loan Agreement, Trustor shall apply all such Condemnation Proceeds to the restoration of the Improvements, provided that (i) the taking or

damage will not, in Trustor's reasonable judgment, materially and adversely affect the contemplated use and operation of Property and the Improvements.

(b) If any one or more of such conditions is not met, Trustor 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 Loan 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 Loan 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, subject to the rights of tenants, 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 loan secured by this Deed of Trust shall be nonrecourse to Beneficiary, and 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 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; 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 Loan 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, reasonable attorneys' fees and all costs which may be imposed upon, incurred by or asserted against Beneficiary and its authorized representatives 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 gross 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 Loan 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 Regulatory Agreement, this Deed of Trust or the Loan 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 negligence or willful misconduct of Beneficiary, its officers, agents or employees.

## ARTICLE 2 ASSIGNMENT OF RENTS, ISSUES AND PROFITS

2.1 Assignment. Subject to the provisions of any senior liens, 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, subject to the rights of tenants, 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, reasonable 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; Cure. 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 Trustor) for a monetary default and thirty (30) days for a non-monetary default; provided, however, that if the non-monetary default is of the type cannot reasonably be cured within thirty (30) days, Trustor shall have such additional 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 other Loan Documents.

3.2 Acceleration Upon Default, Additional Remedies. Upon the occurrence and continuance 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, subject to the rights of tenants, 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, reasonable 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 and continuance 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 Loan 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 appraisal before sale of any portion of the Trust Estate, (b) all rights of redemption, valuation, appraisal, 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 Loan Agreement or any other obligation secured by this Deed of Trust, and (e) any rights, legal or equitable, to require marshalling of assets or to require upon foreclosure sales in a particular order, including any rights under California Civil Code Sections 2899 and 3433. Beneficiary shall have the right to determine the order in which any or all of the Trust Estate shall be subjected to the remedies provided herein. Beneficiary shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Nothing contained herein shall be deemed to be a waiver of Trustor's rights under Section 2924c of the California Civil Code.

4.3 Notices. All notices and demands given under the terms hereof shall be in writing and sent by first-class registered or certified mail, postage prepaid, return receipt requested, or by

private courier service which provides evidence of delivery. Unless a different address is given by any party as provided in this Section, all such communication will be addressed as follows:

If to Trustor:	Golden Pierce Housing Partners L.P. 9421 Haven Avenue Rancho Cucamonga, CA 91730 Attn: Michael Finn
With a copy to:	National Community Renaissance of California 9421 Haven Avenue Rancho Cucamonga, CA 91730 Attn: General Counsel
With a copy to:	[Investor Limited Partner to be identified]
If to Beneficiary:	City of Riverside Attn: City Manager 3900 Main Street Riverside, California 92522
Copies to:	City of Riverside Attn: City Attorney 3900 Main Street Riverside, California 92522

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

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

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

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

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

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

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

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

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

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

4.13 Completion of Construction. This Deed of Trust is a construction deed of trust within the meaning of California Commercial Code § 9313. For purposes of subdivision (6) of that statute, "completion of construction" shall not be deemed to occur prior to completion of all

work as evidenced by a certificate of occupancy or equivalent document from the jurisdiction, and installation or incorporation into the Improvements of all materials, for which sums secured hereby are disbursed by Beneficiary.

4.14 Reconveyance by Trustee. Upon written request of Beneficiary stating that all sums secured hereby have been paid or that all obligations under the Regulatory Agreement have been satisfied, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment by Trustor of Trustee's fees, or upon Trustor's delivery to Trustee of evidence satisfactory to Trustee in its sole discretion that the same shall have occurred, 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 ("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 is \_\_\_\_\_; and (c) Trustor's principal place of business is 9421 Haven Avenue, Rancho Cucamonga, California 91730. 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. TO THE EXTENT PERMITTED BY LAW, 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 LOAN 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 § 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 Loan Agreement.

4.22 Subordination. This Deed of Trust and the provisions contained herein shall be subordinate to any liens, covenants and encumbrances with recording priority, unless the same are expressly subordinated hereto.

**4.23 Tax Credit Provisions.** Notwithstanding anything to the contrary contained herein or in any documents secured by this Deed of Trust or contained in any subordination agreement, and to the extent applicable, the Beneficiary acknowledges and agrees that in the event of a foreclosure or deed-in-lieu of foreclosure (collectively, "**Foreclosure**") with respect to the Security encumbered by this Deed of Trust, the following rule contained in 26 U.S.C.

Section 42(h)(6)(E)(ii), as amended, applies:

For a period of three (3) years from the date of Foreclosure, with respect to an existing tenant of any low-income unit, (i) such tenant may not be subject to eviction or termination of their tenancy (other than for good cause), (ii) nor may such tenant's gross rent with respect to such unit be increased, except as otherwise permitted under Section 42 of the Internal Revenue Code of 1986, as amended.

**[SIGNATURES ON FOLLOWING PAGE.]**

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

TRUSTOR:

GOLDEN PIERCE HOUSING PARTNERS L.P., a  
California limited partnership, by its General Partner:

By: NCRC GOLDEN PIERCE LLC, a California limited  
liability company, by its Manager and Sole Member:

By: NATIONAL COMMUNITY RENAISSANCE  
OF CALIFORNIA, a California nonprofit  
public benefit corporation

By: \_\_\_\_\_  
Name:  
Its:

By: \_\_\_\_\_  
Name:  
Its:

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

[illegible]

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

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

WITNESS my hand and official seal.

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



**EXHIBIT “A”**

**LEGAL DESCRIPTION**

**[Attached]**

**ATTACHMENT NO. 8**  
**CITY REGULATORY AGREEMENT**

RECORDING REQUESTED BY )  
AND WHEN RECORDED MAIL TO: )  
)  
)  
City of Riverside )  
3900 Main Street )  
Riverside, CA 92522 )  
Attn: Housing Project Manager )  
)  
Project: Vista de La Sierra )

(Space above for Recorder's Use Only)

This document is exempt from the payment of a recording fee  
pursuant to Government Code § 6103 and 27388.1

### REGULATORY AGREEMENT (PLHA)

THIS REGULATORY AGREEMENT (PLHA) ("Regulatory Agreement") dated for identification purposes only as of \_\_\_\_\_, 20\_\_, by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation ("**City**") and GOLDEN PIERCE HOUSING PARTNERS L.P., a California limited partnership ("**Developer**").

### RECITALS

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

- A. The City is a California charter city and municipal corporation.
- B. The Developer is a California limited partnership controlled by an experienced affordable housing developer.

C. In furtherance of the City's affordable housing goals and activities, the City and the Developer have entered into that certain Permanent Local Housing Allocation Program Loan Agreement dated for identification purposes only as of \_\_\_\_\_, 2020 ("**Loan Agreement**"), which is incorporated herein by this reference and a copy of which is on file as public record of the City at its offices located at 3900 Main Street, Riverside, CA 92522. Pursuant to the Loan Agreement, the City has agreed to provide financial assistance ("**City Loan**") to the Developer in connection with the development of certain real property located in the City of Riverside, as more particularly described on Exhibit A, attached hereto and incorporated herein by this reference ("**Site**"), to consist of eighty (80) residential units on the Site, including twenty (20) PLHA-Assisted Units, together with any improvements appurtenant thereto ("**Project**"). Developer is leasing the Site pursuant to a ground lease whose term exceeds the Affordability Period; Developer's title in the Site is referred to herein as the "**Leasehold**". Project

D. This Regulatory Agreement is intended to ensure that Developer, its successors, its assigns and every successor in interest to the Project or any part thereof, shall use, maintain and operate the Project in accordance with the terms and conditions of this Regulatory Agreement, including that the PLHA-Assisted Units shall be available only to Qualified Low Income Households at Affordable Rent as specified herein for a term of fifty-five (55) years from the date of recordation of the Release of Construction Covenants.

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

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

## 1. DEFINITIONS

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

“Affordable Rent” means..., the amount of monthly rent, including reasonable utility allowance, which does not exceed, for a Low Income Household, the High PLHA Rent. For purposes of calculating Affordable Rent, a “reasonable utility allowance” shall be the allowance established by the Tax Credit Rules or such lesser allowance reasonably permitted by the City including, but not limited to, the California Utility Allowance Calculator, if applicable.

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

“Authority” means the Housing Authority of the City of Riverside, a public entity.

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

“City Loan” means the loan from the City to the Developer in an amount not to exceed One Million Dollars (\$1,000,000) to be used for Project Costs, referenced in Recital E.

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

“Developer” means Golden Pierce Housing Partners L.P., a California limited partnership, and any permitted successors and assigns.

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

“Event of Default” means the failure of a party to perform any action or covenant required by this Regulatory Agreement within the time periods provided herein following notice and opportunity to cure.

“Governmental Regulations” means any applicable 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, rehabilitation, 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 urea formaldehyde, and (v) any petroleum, natural gas, natural gas liquid, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas), ash produced by a resource recovery facility utilizing a municipal solid waste stream, and drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal resources. Notwithstanding the foregoing, “Hazardous Substances” shall not include any household cleaning supplies or chemical, compound, material, mixture or substance used in the normal course of operating an apartment complex, so long as such household cleaning supplies, chemical, compound, material, mixture or substance is used in accordance with Environmental Laws and stored in reasonable quantities.

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

“High PLHA Rent” means the tenant paid rent that is the maximum amount allowed per the PLHA Guidelines and MHP Regulations (Section 7312 and Section 7301), as may be amended from time to time.

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

“Leasehold” means Developer’s leasehold interest in the Site. The Parties intend that as used herein, “Site” shall refer to the physical real estate and “Leasehold” shall refer to

Developer's title therein, and any rights and obligations of the Parties hereunder shall be understood accordingly whether or not explicitly distinguished.

"Loan Agreement" has the meaning set forth in Recital C.

"Management Plan" means the plan for the management of the Project to be submitted by the Developer, as set forth in Section 3.C. of this Regulatory Agreement.

"Manager's Unit" means one (1) unrestricted Unit in the Project reserved for occupancy by an on-site manager of the Project who performs substantial duties directly related to the management and/or the maintenance of the Project.

"Marketing Plan" has the meaning set forth in Section 5.A. of this Regulatory Agreement.

"MHP Regulations" means the Multifamily Housing Program Regulations (California Code of Regulations, Title 25, Division 1, Chapter 7, Subchapter 4), as may be amended from time to time.

"Operating Expenses" has the meaning set forth in Section 3.9. of the City Promissory Note.

"Operating Reserve" has the meaning set forth in Section 3.F. of this Regulatory Agreement.

"Parties" means the City and the Developer.

"Project" has the meaning set forth in Recital E.

"Property Manager" means the manager of the Project, as set forth in Section 3.C.

"PLHA-Assisted Units" means the twenty (20) Units to be constructed on the Site to be restricted to Qualified Low Income Households for which all PLHA Guidelines apply, including without limitation, requirements for Affordable Rent, occupancy, and monitoring.

"Project Manager" means the property manager of the Project.

"Qualified Low Income Household" means a household whose gross annual income does not exceed eighty (80%) of the Riverside County median income adjusted for family size as set forth from time to time by regulation of the California Department of Housing and Community Development.

"Request For Notice of Default" means a request for notice of default to be recorded against the Site substantially in the form shown in Attachment No. 11 to the Loan Agreement.

"Schedule of Performance" means that certain Schedule of Performance attached to the Loan Agreement as Attachment No. 4 as it may be amended in accordance with the Loan Agreement, setting out the dates and/or time periods by which certain obligations set forth in this

Regulatory Agreement must be accomplished. The Schedule of Performance is subject to revision from time to time as mutually agreed upon in writing between the Developer and the City. The City authorizes the City Manager to make such revisions to the Schedule of Performance as he/she deems reasonably necessary to effectuate the purposes of this Regulatory Agreement.

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

“Title Company” means First American Title Company at 3400 Central Avenue, Suite 100, Riverside, CA 92506 or other qualified title company approved in writing by the Parties.

“Unit” means an individual dwelling unit within the Project to be constructed and operated by the Developer on the Site, in accordance with the terms and conditions of this Regulatory Agreement.

## 2. USE RESTRICTIONS

A. Permitted Uses. The Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Site or any part thereof, that the Developer, and such successors and assigns, shall (i) acquire the Leasehold and construct, use, maintain and operate the Project as a housing development containing eighty (80) Units; and (ii) make available, restrict occupancy to, and rent the PLHA-Assisted Units at an Affordable Rent to Qualified Low Income Households.

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

B. Affordable Housing. Except as provided herein, commencing upon and throughout the Affordability Period, the Developer covenants and agrees that all of the PLHA-Assisted Units in the Project shall be operated and maintained for affordable housing purposes available for occupancy exclusively to Qualified Low Income Households at an Affordable Rent in accordance with the provisions of this Regulatory Agreement.

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

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

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

D. Determination of Affordable Rent. All PLHA-Assisted Units shall be rented at an Affordable Rent.

(1) Rent Schedule and Utility Allowance. TCAC (or, if TCAC fails to do so, the Authority will establish maximum monthly allowances for utilities and services to be used by the Developer in calculating Affordable Rent. The Developer shall submit to the Housing Project Manager for review and approval the Affordable Rent proposed by the Developer for all of the PLHA-Assisted Units. The maximum monthly rent must be recalculated by the Developer and reviewed and approved by the City annually.

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

A Qualified Low Income Household occupying a PLHA-Assisted Unit whose income increases to an amount that exceeds the maximum qualifying income of a Qualified Low Income Household may continue to occupy his or her Unit subject to the requirements of the PLHA Program.

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

E. Tenant Protections.

(1) Rental Agreement/Lease. Prior to rental of any of the PLHA-Assisted Units, the Developer shall submit a standard lease form to the Housing Project Manager for



approval, which approval shall not unreasonably be withheld or delayed. The Developer shall enter into a lease, in the form approved by the Housing Project Manager, with each Qualified Low Income Household of a PLHA-Assisted Unit, which lease must be for not less than six (6) months, unless otherwise mutually agreed by the tenant and the Developer.

(2) Prohibited Rental Agreement/Lease Terms. The Developer shall not permit the lease to contain any provision that is prohibited by the PLHA Guidelines.

F. Termination of Tenancy. The Developer may not terminate the tenancy of a tenant of the Project except for an uncured violation(s) of the terms and conditions of the lease; for violation of applicable federal, state, or local law; or for other good cause. Any termination or refusal to renew must be preceded by not less than thirty (30) days' notice by the Developer's service upon the tenant of a written notice specifying the grounds for the action, unless a shorter notice period is authorized by applicable federal, state, or local law (e.g. in the case of criminal activities posing a threat to other residents).

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

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

### 3. OPERATION AND MANAGEMENT OF THE PROJECT

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

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

(2) Landscape maintenance shall include, but not be limited to: watering/irrigation; fertilization; mowing; edging; trimming of grass; tree and shrub pruning; trimming and shaping of trees and shrubs to maintain a healthy, natural appearance and safe road

conditions and visibility, and irrigation coverage; replacement, as needed, of all plant materials; control of weeds in all planters, shrubs, lawns, ground covers, or other planted areas; and staking for support of trees.

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

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

B. Management of the Project.

(1) Property Manager. The Developer shall cause the Project to be managed in a prudent and business-like manner, consistent with property management standards for other comparable first quality, well-managed rental housing projects in Riverside County, California. If the Developer contracts with a property management company or property manager to operate and maintain the Project ("Property Manager"), the selection and hiring of the Property Manager shall be subject to prior written approval of the City Manager, which approval shall not be unreasonably withheld provided that the Property Manager has prior experience with rental housing projects and properties comparable to the Project.

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

C. Capital Replacement Reserve Requirements. The Developer shall, or shall cause the Property Manager to set aside an amount equal to Two Hundred Fifty Dollars (\$250) per Unit per year ("Capital Replacement Reserve"), or as otherwise approved by the other lenders. Funds

in the Capital Replacement Reserve shall be used for capital replacements to the Project fixtures and equipment which are normally capitalized under generally accepted accounting principles. Interest on funds in the Capital Replacement Reserve shall remain in the Capital Replacement Reserve. The non-availability of funds in the Capital Replacement Reserve does not in any manner relieve the Developer of the obligation to undertake necessary capital repairs and improvements and to continue to maintain the Project in the manner prescribed herein. The City approval is not required for withdrawals from the Capital Replacement Reserve in accordance with this Regulatory Agreement. Not less than once per year, the Developer, at its expense, shall submit to the City an accounting for the Capital Replacement Reserve, preferably set forth in an annual financial statement, demonstrating compliance with this Section 3.C.

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

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

F. Monitoring and Recordkeeping. The Developer shall comply with all applicable recordkeeping and monitoring requirements set forth in the PLHA Guidelines and shall annually complete and submit to the City a certification of compliance in such form as provided by the City. Representatives of the City shall be entitled to enter the Site, upon at least forty-eight (48) hours' notice, to monitor compliance with this Regulatory Agreement, to inspect the records of the Project, and to conduct an independent audit or inspection of such records. The Developer agrees to cooperate with the City in making the Site and all PLHA-Assisted Units thereon available for such inspection or audit. The Developer agrees to maintain records in a businesslike manner, to make such records available to the City upon seventy-two (72) hours' notice, and to maintain such records for the entire Affordability Period.

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

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

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

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

If subject to the rights of senior lenders and any limited partners under applicable documents, if the Site is abandoned by the Developer, or if the Developer fails to respond to the City within thirty (30) days from the date notice is mailed by the City to the Developer that the insurance carrier offers to settle a claim for insurance benefits, the City is authorized to collect and apply the insurance proceeds at its option either to restoration or repair of the Site.

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

#### 4. MISCELLANEOUS PROJECT REQUIREMENTS

A. Equal Opportunity. No person shall be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with the City Loan.

B. Affirmative Marketing. Within the time specified therefor in the Schedule of Performance, the Developer shall submit for the approval by the City, which approval shall not unreasonably be withheld, a plan for marketing the rental of the PLHA-Assisted Units ("Marketing Plan"). The Marketing Plan shall include a plan for publicizing the availability of the PLHA-Assisted Units within the City in a manner which gives notice to Qualified Low Income Households currently living within the City before residents of other cities receive such notice, such as notices in any City sponsored newsletter, newspaper advertising in local newspapers and notices in City offices.

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

D. Compliance with Laws. The Developer shall comply with all applicable Federal, State and Local Laws.

#### 5. COVENANTS

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

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

## 6. ENFORCEMENT AND REMEDIES

A. Remedies. Subject to the notice and cure rights of the Developer set forth in Section 8.1 of the Loan Agreement, in the Event of Default of any of the terms or conditions of this Regulatory Agreement by the Developer, its successors or assigns, the City may pursue the remedy thereof by any and all means of enforcement, both in equity and at law, as provided by the laws of the State of California, including, but not limited to, injunctive relief and/or specific performance.

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

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

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

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

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

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

7. HOLD HARMLESS

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

8. THIRD PARTY BENEFICIARIES

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

9. RECORDATION

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

10. NOTICE

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

To Developer: Golden Pierce Housing Partners L.P.  
9421 Haven Avenue  
Rancho Cucamonga, CA 91730  
Attn: Michael Finn

With a copy to: National Community Renaissance of California  
9421 Haven Avenue  
Rancho Cucamonga, CA 91730  
Attn: General Counsel

With a copy to: [Investor Limited Partner to be identified]

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

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

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

#### 11. WAIVER

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

#### 12. SEVERABILITY

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

#### 13. CAPTION AND PRONOUNS

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

#### 14. MODIFICATION OF AGREEMENT

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

15. **SOLE AND ONLY AGREEMENT**

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

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

**[SIGNATURES ON FOLLOWING PAGE.]**



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

“DEVELOPER”

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

GOLDEN PIERCE HOUSING PARTNERS L.P., a California limited partnership, by its General Partner:

By: NCRC GOLDEN PIERCE LLC, a California limited liability company, by its Manager and Sole Member:

By: NATIONAL COMMUNITY RENAISSANCE OF CALIFORNIA, a California nonprofit public benefit corporation

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

Name:

Its:

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

Name:

Its:

“CITY”

CITY OF RIVERSIDE, a California charter city and municipal corporation

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
City Manager

ATTEST:

By: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Deputy City Attorney

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

STATE OF CALIFORNIA    )  
  )  
COUNTY OF RIVERSIDE    )

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

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

WITNESS my hand and official seal.

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

**EXHIBIT “A”**

**LEGAL DESCRIPTION**

**[Attached]**

**ATTACHMENT NO. 9**

**RELEASE OF CONSTRUCTION COVENANTS**

City of Riverside )  
3900 Main Street )  
Riverside, CA 92522 )  
Attn: Housing Project Manager )  
Project: Vista de La Sierra )

This document is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

D. The City has conclusively determined that the construction of the Project on the Site has been satisfactorily completed in accordance with the Loan Agreement and the Regulatory Agreement.

**NOW, THEREFORE**, the City hereto certifies as follows:

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

2. After the recordation of this Release, any person or entity then owning or thereafter purchasing, or otherwise acquiring any interest in the Site will not (because of such ownership, purchase, or acquisition) incur any obligation or liability to construct the Project under the Loan Agreement, or the Regulatory Agreement; 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 first above written.

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

By: \_\_\_\_\_  
City Manager

ATTESTED TO:

By: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Deputy City Attorney

**EXHIBIT A**

**LEGAL DESCRIPTION**

[Attached]

**ATTACHMENT NO. 10**

**REQUEST FOR NOTICE OF DEFAULT**



RECORDING REQUESTED BY )  
AND WHEN RECORDED MAIL TO: )  
 )  
 )  
City of Riverside )  
3900 Main Street )  
Riverside, CA 92522 )  
Attn: Housing Project Manager )  
 )  
Project: Vista de La Sierra )

(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 of the California 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 \_\_\_\_\_, in Book \_\_\_, Page \_\_\_ of the official records of Riverside County, California, executed by GOLDEN PIERCE HOUSING PARTNERS L.P., a California limited partnership, as Trustor, in which the CITY OF RIVERSIDE, a California charter city and municipal corporation, is named as Beneficiary, and First American Title Company, to be mailed to:

City of Riverside  
3900 Main Street  
Riverside, CA 92522

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

CITY OF RIVERSIDE, a California charter city  
and municipal corporation

By: \_\_\_\_\_  
City Manager

EXHIBIT A