

**RESOLUTION NO. 32-30**

**RESOLUTION OF THE COUNCIL OF THE CITY OF RICHMOND, CALIFORNIA,  
AUTHORIZING THE CITY MANAGER TO EXECUTE DEEDS IN LIEU OF  
FORCLOSURE TO TRANSFER THE 1<sup>ST</sup> AND NEVIN AVENUE (NEVIN COURT)  
AND 313-315 MACDONALD AVENUE PROPERTIES BACK TO THE CITY OF  
RICHMOND FROM COMMUNITY HOUSING DEVELOPMENT CORPORATION  
(CHDC)**

---

**WHEREAS**, the former Richmond Redevelopment Agency, in July 2003, transferred the real properties at 1<sup>st</sup> and Nevin Avenue (Nevin Court) and at 313 and 315 Macdonald Avenue (together, the "Property") to CHDC for the development of affordable housing, and

**WHEREAS**, since July 2003 CHDC has been working to develop affordable housing at the Property; and

**WHEREAS**, difficulties identifying funding sources and cost increases have made it economically infeasible for CHDC to move forward with the developments; and

**WHEREAS**, the City of Richmond and CHDC agree that transferring the Property back to the City of Richmond will improve the development opportunity of the properties; and

**WHEREAS**, by the Agenda Report accompanying this Resolution ("Agenda Report") the City Council has been provided with additional information upon which the findings and actions set forth in this resolution are based.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council finds the above recitals are true and correct and have served, together with the Agenda Report, as the basis for the findings and actions set forth in this resolution.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Council of the City of Richmond hereby authorizes the City Manager or her designee to execute the respective Deeds In Lieu of Forclosure for 1<sup>st</sup> and Nevin Avenue (Nevin Court) and 313-315 Macdonald Avenue transferring these properties from CHDC back to the City of Richmond (attached as Exhibits A&B).

\*\*\*\*\*

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held April 21, 2020, by the following vote:

AYES: Councilmembers Choi, Johnson, Martinez, Myrick, Willis,  
and Mayor Butt.  
NOES: None.  
ABSTENTIONS: None.  
ABSENT: Vice Mayor Bates.

PAMELA CHRISTIAN  
CLERK OF THE CITY OF RICHMOND  
(SEAL)

Approved:

TOM BUTT  
Mayor

Approved as to form:

BRUCE GOODMILLER  
City Attorney

State of California            }  
County of Contra Costa        } : ss.  
City of Richmond               }

I certify that the foregoing is a true copy of **Resolution No. 32-20**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on April 21, 2020.



\_\_\_\_\_  
Pamela Christian, Clerk of the City of Richmond

<p>RECORDING REQUESTED BY AND WHEN RECORDED, MAIL TO:</p> <p>City of Richmond as the Housing Successor to the Redevelopment Agency of the City of Richmond 450 Civic Center Plaza Richmond, California 94804 Attn:</p> <p>NO RECORDING FEE PURSUANT TO GOVERNMENT CODE SECTION 27383</p>	
--	--

**DEED IN LIEU OF FORECLOSURE AGREEMENT  
(313 and 315 Macdonald Avenue)**

This DEED IN LIEU OF FORECLOSURE AGREEMENT (“**Agreement**”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2020 by and between the City of Richmond, a municipal corporation and charter city, in its capacity as the housing successor of the former Redevelopment Agency of the City of Richmond (“**Lender**”) and Community Housing Development Corporation of North Richmond, a California nonprofit public benefit corporation (“**Borrower**”), with reference to the following facts.

**RECITALS**

A. Borrower now holds fee simple title to certain real property located in Contra Costa County, California and legally described on *Exhibit A* attached hereto and made a part hereof (the “**Land**”), together with all improvements situated thereon (the “**Improvements**”). The Land and Improvements are sometimes hereinafter collectively referred to as the “**Property**.”

B. To evidence and secure those certain mortgage loans, as described below (collectively, the “**Loan**”) from Lender to Borrower, the following documents were duly executed and delivered to Lender:

1. Acquisition Loan Agreement between Borrower and the Redevelopment Agency of the City of Richmond, dated July 1, 2003, including a Promissory Note in the amount of One Hundred Seventy-Two Thousand Four Hundred Thirty-Four Dollars (\$172,434) (the “**Note**”), secured by a Deed of Trust and Security Agreement (the “**Deed of Trust**”) recorded as Document No. 2003-0391180-00 on August 8, 2003, in the Office of the Contra Costa County Recorder, and a Regulatory Agreement (CalHELP Rental) (the “**Regulatory Agreement**” dated July 1, 2003 and recorded as Document No. 2003-0391179-00 on August 8, 2003 in the Office of the Contra Costa County Recorder (collectively, the Loan Agreement, the Promissory Note, the Regulatory Agreement, and the Deed of Trust are referred to collectively herein as the “**Loan Documents**”); and

2. Any and all other Loan Documents as defined in the Deed of Trust.

All of the documents and instruments described in this Recital B, along with all other documents or instruments that may evidence, secure, modify or otherwise relate to the Loan, as each may from time to time be extended, amended, restated, supplemented or otherwise modified, are sometimes hereinafter collectively referred to as the “**Loan Documents**.”

C. As authorized by the Community Redevelopment Law (Health & Saf. Code section 33000 *et seq.*), the Redevelopment Agency of the City of Richmond, also sometimes referred to in the Loan Documents as the Richmond Community Redevelopment Agency (“**Former Agency**”) provided a portion of the funds for the Loan Agreements described in Recital B, above. In 2011, the Legislature enacted ABx1-26, which mandated the dissolution of redevelopment agencies statement; consequently, the Former Agency was dissolved as of February 1, 2012. Pursuant to the dissolution law, the City is the designated housing successor to the Former Agency and succeeded to all of its assets, rights, and obligations related to affordable housing.

D. Certain material defaults have occurred under the Loan and the Loan Documents by reason of, among other things, Borrower’s failure to commence and complete the rehabilitation of the Improvements and failure to rent or sell the Property according to the Approved Schedule set out in the Loan Agreement. The Borrower acknowledges and agrees that (i) any required notices of such defaults have been waived by the Borrower, (ii) any and all cure and grace periods have been waived with respect to such defaults, (iii) Lender has the right to exercise any or all of its rights and remedies under the Loan Documents and applicable law, (iv) all indebtedness evidenced or secured by the Loan Documents continues to be due and owing to Lender by Borrower without any defenses, setoffs or counterclaims, and (v) as of January 1, 2020, the outstanding principal balance of the Loan of One Hundred Seventy-Two Thousand Four Hundred Thirty-Four Dollars (\$172,434.00), plus accrued and accruing unpaid interest thereon.

E. The Borrower is unwilling or unable to cure the defaults or otherwise pay and perform in full all of the Borrower’s indebtedness and obligations under the Loan and the Loan Documents (collectively, the “**Obligations**”) and the Borrower has determined that it is in its best interests for Borrower to convey, assign and transfer the Property (as hereinafter defined) to Lender by way of a deed in lieu of foreclosure as provided in this Agreement, and Lender is willing to accept such a conveyance upon the terms and conditions set forth herein.

#### AGREEMENTS

In consideration of the foregoing Recitals and the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals Incorporated.** All Recitals to this Agreement are fully incorporated herein and the parties hereto acknowledge the truth of each of the statements contained therein.
2. **Capitalized Terms.** All capitalized terms used but not defined herein shall have the meaning given to them in the Loan Agreement.

**3. Conveyance of Property to Lender.** Subject to the terms and conditions of this Agreement, Borrower shall convey to Lender absolutely and free of any right of redemption, rights under homestead exemption laws or other rights or interests of the Borrower, or anyone claiming by, through or under the Borrower, the Property (as defined below), free and clear of any liens, claims, charges, pledges, security interests and other encumbrances (collectively, “**Liens**”), with the exception of such title matters set forth in Section 7(a)(ii) of this Agreement (the “**Permitted Exceptions**”):

(a) By recordable deed in lieu of foreclosure in the form attached hereto as *Exhibit B* (the “**Deed**”), marketable fee simple title to the Property, and all right, title and interest in and to all easements, rights, privileges and appurtenances to the Property and all streets, alleys and other public ways adjacent thereto.

**4. Closing Documents.** Concurrently with or prior to the execution of this Agreement, Borrower and Lender shall deliver to Title Company (defined below) the following documents (collectively, the “**Closing Documents**”), each in form and substance satisfactory to Lender and any title insurer selected by Lender (the “**Title Company**”):

- (a) The Deed, duly executed (and acknowledged, as applicable) by Borrower;
- (b) An Estoppel Affidavit, duly executed and acknowledged by Borrower, in the form attached hereto as *Exhibit C*;
- (c) An Agreement Terminating the Regulatory Agreement, executed by Borrower and Lender;
- (d) Affidavits satisfying the requirements of Section 1445 of the Internal Revenue Code and the applicable I.R.S. regulations, and a properly executed California Form 593-C, duly executed by Borrower;
- (e) Certified Resolutions of Borrower with respect to this Agreement and the other Closing Documents and the transactions contemplated thereby;
- (f) Reconveyance of the Deed of Trust executed by Lender; and
- (g) All such further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents, title affidavits and other instruments and documents as may be necessary, expedient or proper in the sole opinion of Lender in order to complete any and all conveyances, transfers, sales and assignments contemplated herein.

**5. Conditions to Closing.** Lender shall not be required to close the transaction provided for herein unless and until each and every one of the following conditions has been satisfied or waived by Lender in writing, in its sole and absolute discretion:

(a) Lender has received a commitment for a current CLTA form owner’s title insurance policy issued by the Title Company, in an amount satisfactory to Lender (the “**Coverage Amount**”), showing Borrower to be the owner of the Property, subject only to the

Permitted Exceptions, and with such endorsements as Lender may request, in its sole and absolute discretion.

(b) Lender has received an owner's title policy, in the Coverage Amount, insuring the fee simple title to the Property in Lender, subject only to the Permitted Exceptions, and with such endorsements as Lender may request, in its sole and absolute discretion (the "**Title Policy**").

(c) Borrower shall have made all of the deliveries and payments to Lender or the Title Company required by this Agreement (including the Closing Documents and the Property Materials), and the Borrower shall have observed and performed all other covenants and agreements on their respective parts to be observed and performed hereunder.

(d) All of the representations, warranties and covenants of the Borrower contained in this Agreement shall be true and correct in all material respects as of the Closing Date.

In the event any of the conditions to Lender's obligation to proceed to Closing set forth in this Agreement are not satisfied by the Closing Date or waived by Lender in writing, Lender shall have the right, in addition to any and all rights specified elsewhere in this Agreement, to terminate this Agreement upon written notice to Borrower, whereupon this Agreement shall become null and void.

**6. Closing.**

(a) Subject to the conditions precedent in, and terms of, this Agreement, the transfer of the Property to Lender pursuant to the Closing Documents (the "**Closing**") shall occur simultaneously with the execution and delivery of this Agreement by all of the parties hereto and the delivery of the Closing Documents to Lender (the "**Closing Date**"). The Closing shall be held at Old Republic Title, 555 12<sup>th</sup> Street, Suite 2000, Oakland, California 94507, under a deed and money escrow with the Title Company.

(b) Lender and Borrower shall prorate all real estate taxes and other governmental taxes as of the Closing Date. There shall be no other prorations in connection with the Intangibles, or utilities relating to the Property, except as otherwise expressly set forth herein. Borrower shall be solely responsible for the payment of any fees in connection with any environmental investigations related to the Property.

(c) Borrower hereby agrees to promptly deliver to Lender any payments received by Borrower from any tenants, or any other amounts attributable to the Property, after Closing, and Lender shall have the right to retain such amounts for its own accounts.

**7. Representations and Warranties.**

(a) Borrower hereby represents and warrants to Lender as of the Closing Date as follows:

(i) (A) Borrower is a nonprofit public benefit corporation duly organized, validly existing and in good standing under the laws of the State of California; (B) Borrower has the requisite power and authority to own its assets and conduct its business as presently owned

and conducted; (C) Borrower has the full right and authority to execute, deliver and perform its obligations under this Agreement, (including the right and authority to convey, assign and transfer the Property to Lender), which execution, delivery and performance (1) have been duly authorized by all necessary corporate proceedings, (2) do not and will not require any notice to, or any consent or approval of, any person or entity (except for such as have been duly obtained and given in writing and are in full force and effect) and (3) to Borrower's knowledge, do not and will not violate or conflict with, or result in or permit the acceleration of any indebtedness or the creation of any Lien under, any organizational documents of Borrower, any agreement to which Borrower is a party or by which Borrower or any of its property is bound, or any Laws binding on or affecting Borrower or any of its property. To Borrower's knowledge, all consents and approvals which are required in connection with such conveyances, assignments, execution, delivery and performance have been duly obtained and given and are in full force and effect.

(ii) Borrower holds fee simple title to the entire Property and title to the other Property, in each case free and clear of any and all Liens, claims, charges other than the Permitted Exceptions shown as (i) exceptions 1-8 on the Preliminary Report issued by the Title Company on January 26, 2018, Order No. 1117018774-JS (with respect to 313 Macdonald Avenue; and (ii) exceptions 1-8 on the Preliminary Report issued by the Title Company on January 26, 2018, Order No. 1117018775-JS (with respect to 315 Macdonald Avenue).

(iii) No litigation or other proceedings are pending, or to Borrower's knowledge, threatened against the Property, or Borrower, which litigation or other proceedings may adversely affect the Property or the ability of Borrower to perform their respective obligations pursuant to and as contemplated by this Agreement and the Closing Documents.

(iv) There are no pending or, to Borrower's knowledge, threatened claims, demands, violations, defaults, investigations or other adverse matters relating to or which may materially adversely affect any of the Property, other than from Lender with respect to the Loan. Without limiting the generality of the foregoing, Borrower has not received any written notice of (A) any special assessment, condemnation or similar matter affecting the Property, (B) any violation of any zoning, building, health, environmental or similar Laws affecting the Property, or (C) any defects or inadequacies in the Property, which defects or inadequacies would either adversely affect the insurability of Property or increase the cost of insuring a Property beyond that which is customarily charged for similar property in the vicinity of the Property used for a similar purpose. Borrower does not have any outstanding income, sales, occupation, use, employment or substantially similar tax liabilities, the non-payment of which would result in any liability of Lender.

(v) Borrower does not employ a property manager for any of the Property. Borrower does not employ any leasing agent or other broker for the Property. There are no outstanding fees, commissions, reimbursements or other sums due to any developer, construction manager, property manager, leasing agent or other broker with respect to any of the Property, and no costs or expenses have been or will be incurred which are payable subsequent to the Closing Date.

(vi) There are no leases or occupancy agreements affecting the Property as of the date hereof.

(vii) The Recitals of this Agreement relating to the Borrower are true and accurate. To Borrower's knowledge, all information and documents heretofore furnished and hereafter to be furnished by any of the Borrower to Lender pursuant to or in connection with this Agreement or any of the Loan Documents if prepared by Borrower is and will be true, correct, accurate and complete in all material respects at the time of delivery of such information and documents or if prepared by a third party is and will be a true, correct, accurate and complete copy of what is in Borrower's possession or control, and Borrower has no knowledge that any such information or documents prepared by a third party and furnished by or on behalf of Borrower to Lender is not true, correct, accurate and complete in all material respects.

As used in this Agreement, the term "to Borrower's knowledge," or any similar term, is limited to the actual knowledge of Donald Gilmore without any duty of inquiry.

(b) The continued completeness and accuracy in all respects of the representations and warranties set forth in this Section 7 shall be a condition precedent to Lender's obligation to perform any and all of its other obligations contained in this Agreement. All representations and warranties contained in this Section 7 or elsewhere in this Agreement shall survive the Closing until the Obligations have been paid and performed in full.

**8. Purpose and Effect of Closing Documents; Lender's Authority.**

(a) Borrower acknowledges and agrees that a foreclosure sale of the Property would be a costly and time-consuming endeavor. Therefore, concurrently herewith, all of the original Closing Documents shall be delivered to Lender and, on the Closing Date, this Agreement and the Deed shall be recorded by or on behalf of Lender.

(b) Borrower acknowledges and agrees that effective as of Closing the Closing Documents are intended to effect a present, unconditional and absolute conveyance, assignment and transfer of the Property and all rights, privileges and appurtenances associated therewith, and are not given as security. Contemporaneously with Closing, Borrower shall deliver to Lender complete and exclusive use, possession and enjoyment of the Property, subject only to the Permitted Exceptions, and Lender shall have the immediate right to occupy, operate, use, enjoy and dispose of the Property or any part thereof or interest therein for its own account and in its sole and absolute discretion, subject only to the Permitted Exceptions.

**9. Obligations of Lender to Third Parties.** Borrower acknowledges and agrees that acceptance by Lender of title to the Property pursuant to the terms of this Agreement shall not create any obligations on the part of Lender or its successors and assigns to third parties that may have claims, demands, or causes of action of any kind against Borrower or any portion of the Property, and, except as otherwise expressly provided herein, Lender does not assume or agree to discharge any such claims, demands or causes of action which were made or arose prior to or on account of events or circumstances preceding Closing. No person or entity not a party to this Agreement shall have any "third party beneficiary" rights or any other rights hereunder.

**10. Absolute Conveyance.**

(a) Borrower acknowledge and agree that (i) this Agreement to convey, assign and transfer the Property to Lender is being entered into voluntarily and is intended to be and is an absolute conveyance, assignment and transfer of all of Borrower's right, title and interest in and to the Property, in fact as well as form, and is not intended as a mortgage, trust conveyance, deed of trust or security instrument of any kind; and (ii) the consideration for such conveyance, assignment and transfer is exactly as recited herein and, upon the consummation thereof in accordance herewith, Borrower will not have any further interest or claim of any kind (including homestead rights and rights of redemption) in or to the Property or any part thereof or interest therein, or to the proceeds and profits which may be derived thereof, whether sold for more or less than the outstanding indebtedness due under the Loan Documents.

(b) Borrower hereby renounces and waives its right to notice of the intended disposition of the Property, whether by public or private sale, and hereby consents to any method of disposition Lender may select. Borrower hereby renounces and waives its right, if any, to notice, reinstatement or redemption, and hereby consents to any method of disposition of the Property that Lender may select in its sole discretion. Without limiting the generality of the foregoing, Borrower hereby fully and irrevocably waives (i) notice of default and right to cure; (ii) notice of the intended disposition of the Property, whether by public or private sale, and any other notice provided by Uniform Commercial Code §§ 9-611 and 9-613 or other applicable statute; (iii) any and all right to redeem as provided by Uniform Commercial Code § 9-623 or other applicable redemption statute; and (iv) any right to require disposition of the Property under Uniform Commercial Code §§ 9-620 and 9-621 or other applicable statute.

**11. Waiver of Jury Trial.** TO THE EXTENT NOW OR HEREAFTER PERMITTED BY LAW, BORROWER HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT, THE CLOSING DOCUMENTS, THE LOAN DOCUMENTS OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF LENDER OR BORROWER WITH RESPECT THERETO. THIS PROVISION MEMORIALIZES THE MUTUAL DESIRE OF LENDER AND BORROWER TO AVOID DELAYS IN THE RESOLUTION OF DISPUTES INVOLVING THIS AGREEMENT. BORROWER ACKNOWLEDGES THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER TO ENTER INTO THIS AGREEMENT. THE PARTIES EACH HEREBY AGREE THAT THIS SECTION 11 CONSTITUTES A WRITTEN CONSENT TO WAIVER OF TRIAL BY JURY PURSUANT TO THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURES SECTION 631 AND BORROWER DOES HEREBY CONSTITUTE AND APPOINT LENDER ITS TRUE AND LAWFUL ATTORNEY-IN-FACT, WHICH APPOINTMENT IS COUPLED WITH AN INTEREST, AND BORROWER DOES HEREBY AUTHORIZE AND EMPOWER LENDER, IN THE NAME, PLACE AND STEAD OF BORROWER, TO FILE THIS AGREEMENT WITH THE CLERK OR JUDGE OF ANY COURT OF COMPETENT JURISDICTION AS A STATUTORY WRITTEN CONSENT TO WAIVER OF TRIAL BY JURY.

**12. Invalidation of Closing Documents.** If, in any insolvency, bankruptcy or reorganization proceedings or other proceedings similar to the foregoing which may be instituted in any state or federal court or other tribunal, by or against Borrower, any of the Closing Documents, or any other documents and instruments executed and delivered pursuant to the terms of this Agreement, are challenged or sought to be canceled, invalidated, nullified or set



conservator or liquidator, or (v) be the subject of any order, judgment or decree entered by any court of competent jurisdiction approving a petition filed against such party for any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal or state act or law relating to bankruptcy, insolvency or relief for debts, Lender shall thereupon be entitled to relief from any automatic stay imposed by Section 362 of the U.S. Bankruptcy Code, or any other stay on or against the exercise of the rights and remedies otherwise available to Lender, as provided in the Loan Documents, as hereby amended and supplemented, and as otherwise provided by applicable Laws, and Borrower hereby waives the benefit of such automatic stay and consents to raise no objection to such relief.

(b) As additional consideration for Lender's execution of this Agreement, Borrower agrees that: (i) in the event of a bankruptcy or insolvency filing by or against Borrower, this Agreement shall not be rejected, and Borrower shall not contest any claim or assertion by Lender that this Agreement is binding on the parties hereto, and that valuable consideration has been received by Borrower for this Agreement; (ii) Lender shall, at its option, receive immediate relief from the automatic stay provisions of the U.S. Bankruptcy Code, or otherwise, following any bankruptcy or insolvency petition filed by or against Borrower, and in no event shall Borrower contest a motion to lift the automatic stay filed by Lender; and (iii) any contrary action taken by Borrower with respect to the matters set forth above shall be deemed to be in bad faith and are agreed to constitute violations of Federal Rule of Civil Procedure 11 and U.S. Bankruptcy Rule 9011.

(c) Borrower hereby represents and warrants to Lender and acknowledges and agrees as follows: (i) Borrower has assured Lender that, if the transactions contemplated in this Agreement cannot be carried out by Borrower in accordance with the terms of this Agreement, they shall allow Lender to foreclose and exercise all of its other rights and remedies as a secured creditor under the Loan Documents; (ii) Borrower does not intend to file a bankruptcy or insolvency petition or has any intention of seeking a non-consensual plan of reorganization in any bankruptcy or insolvency forum; (iii) any attempt to sell the Property or any portion thereof or otherwise to reorganize its financial affairs and to pay and perform its obligations to Lender under the Loan Documents would be fruitless and impracticable to achieve; (iv) in light of the foregoing, if any voluntary or involuntary proceeding in bankruptcy or under similar Laws as to Borrower is filed by or against Borrower, Lender shall have the right to seek and obtain immediate relief from any stay as to the Property and the other collateral for the Obligations and to have the exclusivity period for the filing of any plan of reorganization terminated, and Borrower shall be estopped from objecting to or opposing in any manner the relief requested by Lender or the termination of any such exclusivity period in a bankruptcy or similar proceeding; and (v) Borrower will not solicit, assist or encourage any third party to file an involuntary bankruptcy petition against any of the Borrower.

(d) Lender is entering into this Agreement in reliance on, among other things, the Borrower's respective acknowledgements, representations, warranties, covenants and agreements set forth in this Section 14, and Borrower is making and entering into those acknowledgements, representations, warranties, covenants and agreements in order to induce Lender to enter into this Agreement.

**15. Miscellaneous.**

(a) Time is of the essence of this Agreement. Whenever under the terms of this Agreement the time for performance or satisfaction of a covenant or condition or for giving of a notice falls upon a Saturday, Sunday or holiday, such time for performance shall be extended to the next business day. Otherwise, all references to “days” mean calendar days.

(b) This Agreement and all provisions hereof, including all representations and warranties made hereunder, shall extend to and be binding upon and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties hereto. No party shall assign or delegate this Agreement or any interest or obligation hereunder, in whole or in part, directly or indirectly, without the prior written consent of the other parties in each instance, except that Lender may assign its interest in and obligations under this Agreement to any party acquiring an interest in the Loan or any other party through merger or an acquisition of substantially all assets of Lender by such party.

(c) The section headings of this Agreement are for convenience of reference only and in no way limit or enlarge the scope or meaning of the language hereof.

(d) This Agreement, together with the Loan Documents, contains the entire agreement between the parties relating to the subject matter hereof, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein. No modification or amendment of this Agreement or any waiver of any provision hereof shall be effective unless the same is in writing signed by the party against whom enforcement of such modification, amendment or waiver is sought.

(e) This Agreement shall be governed by and construed in accordance with the internal, substantive laws of the State of California. If any of the provisions of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be deemed invalid or unenforceable, the remainder of this Agreement and the application of such provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable shall not be affected thereby, and every provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(f) Borrower has executed this Agreement voluntarily, in the absence of coercion or duress, has been represented by counsel in the negotiation and documentation of this Agreement, understands the terms hereof, is not acting under any misapprehension as to the effect hereof, and intends to be legally bound hereby. The parties hereto have negotiated this Agreement at arms-length and no provision is to be construed more strictly against one party than the other.

(g) The words “hereof,” “herein,” “hereunder” and similar words refer to the entire Agreement and not the paragraph or section in which such word appears, unless the context clearly indicates otherwise. The word “including” and variants thereof (whether or not accompanied by any phrase such as “without limitation” or “but not limited to”) are strictly inclusive and shall not be construed to imply any limitation or exclusion. In addition to the terms defined elsewhere in this Agreement, any and all capitalized terms used, but not defined herein, shall have the respective meanings ascribed to them in the Loan Agreement.

(h) This Agreement, and each of the Closing Documents and other documents and instruments executed pursuant hereto, may be executed in any number of counterparts, each of which may contain the signatures of each party and shall be deemed an original, but all of which together shall constitute one and the same instrument.

**16. Acknowledgment.** Borrower acknowledges and agrees that the Loan Documents are in full force and effect and are the valid and legally binding obligations of Borrower free from all legal and equitable defenses, offsets and counterclaims. Borrower hereby ratifies and confirms its respective liabilities, obligations and agreements under all of the Loan Documents, except as may be specifically and expressly modified by this Agreement, and the liens and security interests created thereby, and acknowledges that (a) Borrower is in default of its liabilities and obligations under the Loan Documents and that Borrower has no defenses, claims, counterclaims or set-offs of any kind or nature whatsoever to the enforcement by Lender of the liabilities, obligations and agreements contained in the Loan Documents, and hereby forever waives any right to assert any such defense, claim, counterclaim, or setoff, (b) Lender has fully performed all obligations to Borrower that it may have had or has on and as of the date hereof, and (c) Lender does not waive, diminish or limit any term or condition contained in any of the Loan Documents, except as specifically and expressly set forth in this Agreement. The acknowledgements, waivers and other statements contained in this Section 16 shall survive the Closing or any termination of this Agreement.

**17. General Release.** Except for claims filed for the sole purpose of enforcing the Covenant Not to Sue set forth in Section 18 below, Borrower hereby forever irrevocably releases, discharges and acquits Lender and its affiliates, agents, officers, directors, shareholders and employees, and their respective successors and assigns, of and from all rights, claims, demands, obligations, liabilities, causes of action, breaches, damages, costs and expenses of any kind whatsoever, whether known or unknown, suspected or unsuspected, liquidated or unliquidated, whether disclosed or undisclosed, whether heretofore, now or hereafter existing, whether based on contract, tort, breach of any duty or any other legal or equitable theory of recovery arising out of, are connected with or relating to the Loan, any of the Loan Documents, the Obligations or the Property.

In connection with the foregoing, Borrower expressly waive the benefits of Section 1542 of the California Civil Code, which provides as follows: **“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”**

Borrower \_\_\_\_\_ Lender \_\_\_\_\_

The terms of this Section 17 shall survive the Closing indefinitely.

**18. Covenant Not To Sue.** From and after Closing and subject to the condition precedent that no material breach or default or other non-compliance has occurred under any provision of this Agreement (including, without limitation, the obligations and covenants set

forth in Section 19) or any of the Closing Documents by Borrower, subject to the terms and provisions of Section 12 hereof and except as specifically set forth above, Lender, for itself and its affiliates, successors and its assigns, hereby covenants and agrees that it shall not sue, commence, assert, bring or file in any court or other tribunal, in any jurisdiction, any suit, action, litigation, complaint, counterclaim, cross-claim, cross-complaint, third-party complaint or other pleading (with the exception of mandatory counter or cross-claims) setting forth any claim or cause of action as described below (and shall promptly hereafter dismiss without prejudice any such suit, action, litigation or complaint existing on the date hereof), or otherwise seeking affirmative relief against Borrower hereunder or any of Borrower's heirs, executors, spouses, children, administrators, personal representatives, its affiliates, agents, attorneys, officers, directors, shareholders and employees, and their respective successors and/or assigns (collectively, the "**Borrower Related Parties**"), for any claims or causes of action of any kind or nature whatever, known or unknown, which Lender has, has had or may have against any or all of Borrower and the Borrower Related Parties, in any way arising from or connected with the Loan or the Loan Documents (including, but not limited to, a claim for a deficiency judgment), but excluding any breach or default by Borrower under this Agreement or the Closing Documents and otherwise subject to the terms and conditions of this Agreement (the "**Covenant Not to Sue**"). Nothing contained herein shall be deemed to be a waiver of any rights that Lender may have as a result of claims asserted against Lender by third parties arising out of events occurring during Borrower's ownership of the Property. Nothing in the foregoing sentence shall limit any other right or remedy of Lender, including, without limitation, those other rights and remedies set forth in Section 14 above. The terms of this Section 18 shall survive the Closing indefinitely.

**19. Further Assurances.** Borrower hereby covenants and agrees that, upon written demand by Lender, Borrower shall promptly sign and deliver to Lender such further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents, title affidavits and other instruments and documents as may be necessary, expedient or proper in the reasonable opinion of Lender in order to complete any and all conveyances, transfers, sales and assignments contemplated herein, including, without limitation, any documents or instruments required by the Title Company. Upon written demand by Lender, Borrower further hereby covenants and agrees to (i) re-execute and acknowledge any Closing Document executed by such party at Closing, (ii) certify, confirm and remake (as of the Closing Date) any representation, warranty, covenant, indemnification, waiver or release made or given by Borrower herein, and (iii) cooperate fully, now and at any time in the future, to effectuate a full transfer of some and/or all of the Property to Lender and take all actions reasonably requested by Lender to effectuate such transfer(s) or perfection, including, without limitation, supplying information regarding the Property in Borrower's possession or control, completing and executing such further documentation as is reasonably necessary to effectuate any such transfer, and otherwise assisting Lender in any reasonable manner to effectuate any such transfer. Further, if, after the Closing, Borrower receives or controls any amounts whatsoever relating to, or in connection with, the Property, then Borrower shall promptly pay, to Lender, all such amounts. Borrower's obligations under this Section 19 shall survive the Closing indefinitely.

**20. NOTICE.** THIS AGREEMENT AND THE LOAN DOCUMENTS ARE THE FINAL EXPRESSION OF AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY

EVIDENCE OF ANY PRIOR ORAL AGREEMENT OR OF ANY CONTEMPORANEOUS ORAL AGREEMENT BETWEEN THE PARTIES. THE FOLLOWING SPACE IS RESERVED FOR THE PLACEMENT OF NON-STANDARD TERMS, INCLUDING FOR THE PURPOSE OF REDUCING TO WRITING ANY AND ALL PREVIOUS ORAL AGREEMENTS:

NONE

The parties hereby acknowledge and affirm that no unwritten oral credit agreement between the parties exists.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW.]

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the date first written above.

**BORROWER:** Community Housing Development Corporation of North Richmond, a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Donald Gilmore, Executive Director

**LENDER:** City of Richmond, a municipal corporation and charter city, in its capacity as the housing successor to the former Redevelopment Agency of the City of Richmond

By: \_\_\_\_\_  
Laura Snideman, City Manager

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Bruce R. Goodmiller, City Attorney

ATTEST:

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

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF THE LAND**

Lot 20 and 21, Block E as designated on the map entitled "Map of Richmond Tract, being a portion of Lot No. 54 of the Final Partition of the San Pablo Rancho, Contra Costa County", which map was filed in the office of the Recorder of the County of Contra Costa, State of California on November 30, 1901 in Volume C of Maps at page 65.

Assessor's Parcel Nos.: 538-162-012-8 and 538-162-011-0

## EXHIBIT B

### DEED

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

City of Richmond as Housing Successor to the  
Redevelopment Agency of the City of Richmond  
450 Civic Center Plaza  
Richmond, CA 94804  
Attention: City Attorney

No fee for recording pursuant to Government  
Code Section 27383

---

*(Space above this line for Recorder's use)*

### GRANT DEED

The undersigned Grantor declares:

No Documentary Transfer Tax is due under R&T Code Sec. 11922 (Grantee is a governmental agency)

- [        ] computed on the consideration or full value of property conveyed, OR  
[        ] computed on the consideration or full value less value of liens and/or encumbrances remaining  
          at time of sale,  
[        ] unincorporated area; [ XX ] City of Richmond.

In accordance with Section 11926 of the California Taxation and Revenue Code, no transfer tax is due for this transfer in lieu of foreclosure. The unpaid debt that was subject to foreclosure was in the amount of One Hundred Seventy-Two Thousand Four Hundred Thirty-Four Dollars (\$172,434.00) plus accrued interest thereon. Grantee (defined below) has paid no additional consideration to Grantor (defined below). The above debt is evidenced by the Loan Documents as described in that certain Deed in Lieu of Foreclosure Agreement executed concurrently herewith between the Grantor and the Grantee (the "Deed Agreement").

FOR VALUE RECEIVED, Community Housing Development Corporation of North Richmond, a California nonprofit public benefit corporation ("**Grantor**"), grants to the City of Richmond, a municipal corporation and charter city, in its capacity as the housing successor to the form Redevelopment Agency of the City of Richmond ("**Grantee**"), subject to the terms and conditions of the Deed Agreement, all that certain real property situated in the County of Contra

Costa, State of California, described on *Exhibit A* attached hereto and by this reference incorporated herein, together with all improvements, buildings, structures, easements, privileges and rights appurtenant thereto (collectively, the “**Property**”).

This Grant Deed is an absolute conveyance, Grantor having conveyed the Property to Grantee for a fair and adequate consideration, in addition to that above recited, being the agreement of Grantee to forbear from exercising its remedies under the Deed of Trust (as hereinafter defined) during the period in which Grantor owned the Property. As used herein, “**Deed of Trust**” means that certain Deed of Trust and Security Agreement (313 and 315 Macdonald Avenue), dated as of July 1, 2003, executed by Borrower, as Trustor, to Fidelity National Title Company, as Trustee, for the benefit of Lender and recorded in the Contra Costa County Recorder’s Office August 8, 2003 as document 2003-0391180-00.. Grantor declares that this conveyance is freely and fairly made, and that the consideration for this conveyance is fair and adequate.

IN WITNESS WHEREOF, Grantor has caused its corporate name to be hereunto subscribed as of \_\_\_\_\_, 2020.

**GRANTOR:** Community Housing Development Corporation of North Richmond, a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Donald Gilmore, Executive Director

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

STATE OF CALIFORNIA )

COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_ before me \_\_\_\_\_  
(insert name and title of the officer) personally appeared

\_\_\_\_\_, the Executive Director of Community Housing Development Corporation of North Richmond, a California nonprofit public benefit corporation who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

EXHIBIT A

**LEGAL DESCRIPTION OF PROPERTY**

Lots 20 and 21, Block E as designated on the map entitled "Map of Richmond Tract, being a portion of Lot No. 54 of the Final Partition of the San Pablo Rancho, Contra Costa County", which map was filed in the office of the Recorder of the County of Contra Costa, State of California on November 30, 1901 in Volume C of Maps at page 65.

Assessor's Parcel Nos.: 538-162-012-8 and 538-162-011-0



(as defined in the Deed in Lieu of Foreclosure Agreement)) as they become due; and that immediately following the delivery of the Deed, the aggregate value of Grantor's assets shall exceed the aggregate value of its liabilities; as used herein, "Deed of Trust" means that certain Deed of Trust and Security Agreement (313 and 315 Macdonald Avenue), dated as of July 1, 2003, executed by Borrower, as Trustor, to Fidelity National Title Company, as Trustee, for the benefit of Lender and recorded in the Contra Costa County Recorder's Office on August 8, 2003 as Document No. 2003-0391180-00 .

This affidavit is made for the protection and benefit of Grantee, as grantee under the Deed, its successors and assigns, and all other parties hereafter dealing with or who may acquire an interest in the Property, and particularly for the benefit of Old Republic Title Company which is about to insure the title to the Property in reliance thereon, and any other title company which may hereafter insure the title to the Property; and

That Grantor will provide a competent witness who will testify, declare, dispose or certify before any competent tribunal, officer, or person, in any case now pending or which-may hereafter be instituted, to the truth of the particular facts hereinabove set forth.

\_\_\_\_\_, 2020

**GRANTOR:** Community Housing Development Corporation  
of North Richmond, a California nonprofit  
public benefit corporation

By: \_\_\_\_\_  
Donald Gilmore, Executive Director

EXHIBIT A

**LEGAL DESCRIPTION**

Lots 20 and 21, Block E as designated on the map entitled "Map of Richmond Tract, being a portion of Lot No. 54 of the Final Partition of the San Pablo Rancho, Contra Costa County", which map was filed in the office of the Recorder of the County of Contra Costa, State of California on November 30, 1901 in Volume C of Maps at page 65.

Assessor's Parcel Nos.: 538-162-012-8 and 538-162-011-0

<p>RECORDING REQUESTED BY AND WHEN RECORDED, MAIL TO:</p> <p>City of Richmond as the Housing Successor to the former Community Redevelopment Agency of the City of Richmond 450 Civic Center Plaza Richmond, California 94804 Attn:</p> <p>NO RECORDING FEE PURSUANT TO GOVERNMENT CODE SECTION 27383</p>	
---	--

**DEED IN LIEU OF FORECLOSURE AGREEMENT  
(Nevin Court)**

This DEED IN LIEU OF FORECLOSURE AGREEMENT (“**Agreement**”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2020 by and between the City of Richmond, a municipal corporation and charter city, in its capacity both as the City and as the housing successor of the former Community Redevelopment Agency of the City of Richmond (“**Lender**”) and Community Housing Development Corporation of North Richmond, a California nonprofit public benefit corporation (“**Borrower**”), with reference to the following facts.

**RECITALS**

A. Borrower now holds fee simple title to certain real property located in Contra Costa County, California and legally described on *Exhibit A* attached hereto and made a part hereof (the “**Land**”), together with all improvements situated thereon (the “**Improvements**”). The Land and Improvements are sometimes hereinafter collectively referred to as the “**Property**.”

B. To evidence and secure those certain mortgage loans, as described below collectively, (the “**Loan**”) from Lender to Borrower, the following documents were duly executed and delivered to Lender:

1. Acquisition Loan Agreement between Borrower and the Redevelopment Agency of the City of Richmond, dated July 1, 2003 (the “**Acquisition Loan Agreement**”), including a Promissory Note in the amount of Seventeen Thousand Two Hundred Sixty-Nine Dollars (\$17,269) (the “**Acquisition Note**”), secured by a Regulatory Agreement (“**Acquisition Regulatory Agreement**”) dated July 1, 2003, recorded as Document 2003-0390101-00 on August 8, 2003, in the Office of the Contra Costa County Recorder (the “**Official Records**”) and that Deed of Trust and Security Agreement (the “**Acquisition Deed of Trust**”) recorded as Document No. 2003-

0391178-00 on August 8, 2003, in the Official Records (collectively, the Acquisition Loan Agreement, the Acquisition Promissory Note, the Acquisition Regulatory Agreement, and the Acquisition Deed of Trust are referred to collectively herein as the **“Acquisition Loan Documents**

2. HOME Predevelopment Loan Agreement (Nevin Court Homeownership Development Project), dated as of May 1, 2005, between Borrower and Lender”), (the **“Predevelopment Loan Agreement”**) in the amount of Two Hundred and Twenty Seven Thousand Dollars (\$227,000), and secured by that Regulatory Agreement (**“Predevelopment Regulatory Agreement”**) dated May 1, 2005, and recorded in the Official Records as Document No. 2005-0244218-00, and that Deed of Trust and Security Agreement dated May 1, 2005, and recorded in the Official Records on July 5, 2005 as Document No.2005-0244219-00 (the **“Predevelopment Deed of Trust”**), as amended by the First Amendment to Loan Agreement (Nevin Court Homeownership Housing Project) between Borrower and Lender dated April 4, 2007, and recorded in the Official Records on August 14, 2007 as Document 2007-0233232-00 which increased the loan amount to Three Hundred and Seventy Seven Dollars (\$377,000) (the **“Amended Predevelopment Loan Agreement”**), and secured by that Deed of Trust and Security Agreement dated August 13, 2007 and recorded in the Official Records as Document Number 2007-0233231-00 (the **“Amended Deed of Trust”**) (as extended, amended, restated, supplemented or otherwise modified from time to time); (collectively, the Predevelopment Loan Agreement, the Predevelopment Note, the Predevelopment Regulatory Agreement, the Predevelopment Deed of Trust, the Amended Predevelopment Loan Agreement and the Amended Deed of Trust are referred to collectively herein as the **“Predevelopment Loan Documents”**);

3. Any and all other Loan Documents as defined in the Acquisition Deed of Trust and the Amended Predevelopment Deed of Trust.

All of the documents and instruments described in this Recital B, along with all other documents or instruments that may evidence, secure, modify or otherwise relate to the Loan, as each may from time to time be extended, amended, restated, supplemented or otherwise modified, are sometimes hereinafter collectively referred to as the **“Loan Documents.”**

C. As authorized by the Community Redevelopment Law (Health & Saf. Code section 33000 *et seq.*), the Redevelopment Agency of the City of Richmond, also sometimes referred to in the Loan Documents as the Richmond Community Redevelopment Agency (**“Former Agency”**) provided a portion of the funds for the Loan Agreements described in Recital B, above. In 2011, the Legislature enacted ABx1-26, which mandated the dissolution of redevelopment agencies; consequently, the Former Agency was dissolved as of February 1, 2012. Pursuant to the dissolution law, the City is the designated housing successor to the Former Agency and succeeded to all of its assets, rights, and obligations related to affordable housing.

D. Certain material defaults have occurred under the Loan and the Loan Documents by reason of, among other things, Borrower’s failure to commence and complete the rehabilitation of the Improvements and failure to rent or sell the Property according to the Approved Schedule set out in the Loan Documents. The Borrower acknowledges and agrees that

(i) any required notices of such defaults have been waived by the Borrower, (ii) any and all cure and grace periods have been waived with respect to such defaults, (iii) Lender has the right to exercise any or all of its rights and remedies under the Loan Documents and applicable law, (iv) all indebtedness evidenced or secured by the Loan Documents continues to be due and owing to Lender by Borrower without any defenses, setoffs or counterclaims, and (v) as of January 1, 2020, the outstanding principal balance under the Loan Documents is Three Hundred Ninety-Four Thousand Two Hundred Sixty-Nine Dollars (\$394,269.00) plus accrued and accruing unpaid interest thereon.

E. The Borrower is unwilling or unable to cure the defaults or otherwise pay and perform in full all of the Borrower's indebtedness and obligations under the Loan and the Loan Documents (collectively, the "**Obligations**") and the Borrower has determined that it is in its best interests for Borrower to convey, assign and transfer the Property (as hereinafter defined) to Lender by way of a deed in lieu of foreclosure as provided in this Agreement, and Lender is willing to accept such a conveyance upon the terms and conditions set forth herein in full satisfaction of the Obligations as evidenced by the Loan Documents..

#### AGREEMENTS

In consideration of the foregoing Recitals and the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals Incorporated.** All Recitals to this Agreement are fully incorporated herein and the parties hereto acknowledge the truth of each of the statements contained therein.
2. **Capitalized Terms.** All capitalized terms used but not defined herein shall have the meaning given to them in the Loan Agreement.
3. **Conveyance of Property to Lender.** Subject to the terms and conditions of this Agreement, Borrower shall convey to Lender absolutely and free of any right of redemption, rights under homestead exemption laws or other rights or interests of the Borrower, or anyone claiming by, through or under the Borrower, the Property free and clear of any liens, claims, charges, pledges, security interests and other encumbrances (collectively, "**Liens**"), with the exception of such title matters exceptions set forth in Section 7 (a)(ii) of this Agreement (the "**Permitted Exceptions**"):
  - (a) By recordable deed in lieu of foreclosure in the form attached hereto as ***Exhibit B*** (the "**Deed**"), marketable fee simple title to the Property, and all right, title and interest in and to all easements, rights, privileges and appurtenances to the Property and all streets, alleys and other public ways adjacent thereto.

**4. Closing Documents.** Concurrently with or prior to the execution of this Agreement, Borrower and Lender shall deliver to Title Company (defined below) the following documents (collectively, the “**Closing Documents**”), each in form and substance satisfactory to Lender and any title insurer selected by Lender (the “**Title Company**”):

- (a) The Deed, duly executed (and acknowledged, as applicable) by Borrower;
- (b) An Estoppel Affidavit, duly executed by Borrower, in the form attached hereto as *Exhibit C*;
- (c) An Agreement Terminating the Acquisition Regulatory Agreement and Predevelopment Regulatory Agreement, executed by Borrower and Lender;
- (d) Affidavits satisfying the requirements of Section 1445 of the Internal Revenue Code and the applicable I.R.S. regulations, and a properly executed California Form 593-C, duly executed by Borrower;
- (e) Certified Resolutions of Borrower with respect to this Agreement and the other Closing Documents and the transactions contemplated thereby;
- (f) Reconveyances of the Acquisition Deed of Trust and Predevelopment Deed of Trust, executed by Lender; and
- (g) All such further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents, title affidavits and other instruments and documents as may be necessary, expedient or proper in the sole opinion of Lender in order to complete any and all conveyances, transfers, sales and assignments contemplated herein.

**5. Conditions to Closing.** Lender shall not be required to close the transaction provided for herein unless and until each and every one of the following conditions has been satisfied or waived by Lender in writing, in its sole and absolute discretion:

- (a) Lender has received a commitment for a current CLTA form owner’s title insurance policy issued by the Title Company, in an amount satisfactory to Lender (the “**Coverage Amount**”), showing Borrower to be the owner of the Property, subject only to the Permitted Exceptions, and with such endorsements as Lender may request, in its sole and absolute discretion.
- (b) Lender has received an owner’s title policy, in the Coverage Amount, insuring the fee simple title to the Property in Lender, subject only to the Permitted Exceptions, and with such endorsements as Lender may request, in its sole and absolute discretion (the “**Title Policy**”).
- (c) Borrower shall have made all of the deliveries and payments to Lender or the Title Company required by this Agreement (including the Closing Documents), and the Borrower shall have observed and performed all other covenants and agreements to be observed and performed hereunder.

(d) All of the representations, warranties and covenants of the Borrower contained in this Agreement shall be true and correct in all material respects as of the Closing Date.

In the event any of the conditions to Lender's obligation to proceed to Closing set forth in this Agreement are not satisfied by the Closing Date or waived by Lender in writing, Lender shall have the right, in addition to any and all rights specified elsewhere in this Agreement, to terminate this Agreement upon written notice to Borrower, whereupon this Agreement shall become null and void.

## **6. Closing.**

(a) Subject to the conditions precedent in, and terms of, this Agreement, the transfer of the Property to Lender pursuant to the Closing Documents (the "**Closing**") shall occur simultaneously with the execution and delivery of this Agreement by all of the parties hereto and the delivery of the Closing Documents to Lender (the "**Closing Date**"). The Closing shall be held at Old Republic Title, 555 12<sup>th</sup> Street, Suite 2000, Oakland, California 94507, under a deed and money escrow with the Title Company.

(b) Lender and Borrower shall prorate all real estate taxes and other governmental taxes as of the Closing Date. There shall be no other prorations in connection with the Intangibles, or utilities relating to the Property, except as otherwise expressly set forth herein. Borrower shall be solely responsible for the payment of any fees in connection with any environmental investigations related to the Property.

(c) Borrower hereby agrees to promptly deliver to Lender any payments received by Borrower from any tenants, or any other amounts attributable to the Property, after Closing, and Lender shall have the right to retain such amounts for its own accounts.

## **7. Representations and Warranties.**

(a) Borrower hereby represents and warrants to Lender as of the Closing Date as follows:

(i) (A) Borrower is a nonprofit public benefit corporation duly organized, validly existing and in good standing under the laws of the State of California; (B) Borrower has the requisite power and authority to own its assets and conduct its business as presently owned and conducted; (C) Borrower has the full right and authority to execute, deliver and perform its obligations under this Agreement, (including the right and authority to convey, assign and transfer the Property to Lender), which execution, delivery and performance (1) have been duly authorized by all necessary corporate proceedings, (2) do not and will not require any notice to, or any consent or approval of, any person or entity (except for such as have been duly obtained and given in writing and are in full force and effect) and (3) to Borrower's knowledge, do not and will not violate or conflict with, or result in or permit the acceleration of any indebtedness or the creation of any Lien under, any organizational documents of Borrower, any agreement to which Borrower is a party or by which Borrower or any of its property is bound, or any Laws binding on or affecting Borrower or any of its property. To Borrower's knowledge, all consents

and approvals which are required in connection with such conveyances, assignments, execution, delivery and performance have been duly obtained and given and are in full force and effect.

(ii) Borrower holds fee simple title to the Property free and clear of any and all Liens, claims, charges other than the Permitted Exceptions shown as exceptions 1-10 on the Preliminary Report issued by the Title Company on January 31, 2018, Order Number 1117018776-JS..

(iii) No litigation or other proceedings are pending, or to Borrower's knowledge, threatened against the Property, or Borrower, which litigation or other proceedings may adversely affect the Property or the ability of Borrower to perform its obligations pursuant to and as contemplated by this Agreement and the Closing Documents.

(iv) There are no pending or, to Borrower's knowledge, threatened claims, demands, violations, defaults, investigations or other adverse matters relating to or which may materially adversely affect any of the Property, other than from Lender with respect to the Loan. Without limiting the generality of the foregoing, Borrower has not received any written notice of (A) any special assessment, condemnation or similar matter affecting the Property, (B) any violation of any zoning, building, health, environmental or similar Laws affecting the Property, or (C) any defects or inadequacies in the Property, which defects or inadequacies would either adversely affect the insurability of Property or increase the cost of insuring a Property beyond that which is customarily charged for similar property in the vicinity of the Property used for a similar purpose. Borrower does not have any outstanding income, sales, occupation, use, employment or substantially similar tax liabilities, the non-payment of which would result in any liability of Lender.

(v) Borrower does not employ a property manager for any of the Property. Borrower does not employ any leasing agent or other broker for the Property. There are no outstanding fees, commissions, reimbursements or other sums due to any developer, construction manager, property manager, leasing agent or other broker with respect to any of the Property, and no costs or expenses have been or will be incurred which are payable subsequent to the Closing Date.

(vi) There are no leases or occupancy agreements affecting the Property as of the date hereof.

(vii) The Recitals of this Agreement related to the Borrower are true and accurate. To Borrower's knowledge, all information and documents heretofore furnished and hereafter to be furnished by the Borrower to Lender pursuant to or in connection with this Agreement or any of the Loan Documents if prepared by Borrower is and will be true, correct, accurate and complete in all material respects at the time of delivery of such information and documents or if prepared by a third party is and will be a true, correct, accurate and complete copy of what is in Borrower's possession or control, and Borrower has no knowledge that any such information or documents prepared by a third party and furnished by or on behalf of Borrower to Lender is not true, correct, accurate and complete in all material respects.

As used in this Agreement, the term “to Borrower’s knowledge,” or any similar term, is limited to the actual knowledge of Donald Gilmore, without any duty of inquiry.

(b) The continued completeness and accuracy in all respects of the representations and warranties set forth in this Section 7 shall be a condition precedent to Lender’s obligation to perform any and all of its other obligations contained in this Agreement. All representations and warranties contained in this Section 7 or elsewhere in this Agreement shall survive the Closing until the Obligations have been paid and performed in full.

**8. Purpose and Effect of Closing Documents; Lender’s Authority.**

(a) Borrower acknowledges and agrees that a foreclosure sale of the Property would be a costly and time-consuming endeavor. Therefore, concurrently herewith, all of the original Closing Documents shall be delivered to Lender and, on the Closing Date, this Agreement and the Deed shall be recorded by or on behalf of Lender.

(b) Borrower acknowledges and agrees that effective as of Closing the Closing Documents are intended to effect a present, unconditional and absolute conveyance, assignment and transfer of the Property and all rights, privileges and appurtenances associated therewith, and are not given as security. Contemporaneously with Closing, Borrower shall deliver to Lender complete and exclusive use, possession and enjoyment of the Property, subject only to the Permitted Exceptions, and Lender shall have the immediate right to occupy, operate, use, enjoy and dispose of the Property or any part thereof or interest therein for its own account and in its sole and absolute discretion, subject only to the Permitted Exceptions.

**9. Obligations of Lender to Third Parties.** Borrower acknowledges and agrees that acceptance by Lender of title to the Property pursuant to the terms of this Agreement shall not create any obligations on the part of Lender or its successors and assigns to third parties that may have claims, demands, or causes of action of any kind against Borrower or any portion of the Property, and, except as otherwise expressly provided herein, Lender does not assume or agree to discharge any such claims, demands or causes of action which were made or arose prior to or on account of events or circumstances preceding Closing. No person or entity not a party to this Agreement shall have any “third party beneficiary” rights or any other rights hereunder.

**10. Absolute Conveyance.**

(a) Borrower acknowledge and agree that (i) this Agreement to convey, assign and transfer the Property to Lender is being entered into voluntarily and is intended to be and is an absolute conveyance, assignment and transfer of all of Borrower’s right, title and interest in and to the Property, in fact as well as form, and is not intended as a mortgage, trust conveyance, deed of trust or security instrument of any kind; and (ii) the consideration for such conveyance, assignment and transfer is exactly as recited herein and, upon the consummation thereof in accordance herewith, Borrower will not have any further interest or claim of any kind (including homestead rights and rights of redemption) in or to the Property or any part thereof or interest therein, or to the proceeds and profits which may be derived thereof, whether sold for more or less than the outstanding indebtedness due under the Loan Documents.

(b) Borrower hereby renounces and waives its right to notice of the intended disposition of the Property, whether by public or private sale, and hereby consents to any method of disposition Lender may select. Borrower hereby renounces and waives its right, if any, to notice, reinstatement or redemption, and hereby consents to any method of disposition of the Property that Lender may select in its sole discretion. Without limiting the generality of the foregoing, Borrower hereby fully and irrevocably waives (i) notice of default and right to cure; (ii) notice of the intended disposition of the Property, whether by public or private sale, and any other notice provided by Uniform Commercial Code §§ 9-611 and 9-613 or other applicable statute; (iii) any and all right to redeem as provided by Uniform Commercial Code § 9-623 or other applicable redemption statute; and (iv) any right to require disposition of the Property under Uniform Commercial Code §§ 9-620 and 9-621 or other applicable statute.

**11. Waiver of Jury Trial.** TO THE EXTENT NOW OR HEREAFTER PERMITTED BY LAW, BORROWER HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT, THE CLOSING DOCUMENTS, THE LOAN DOCUMENTS OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF LENDER OR BORROWER WITH RESPECT THERETO. THIS PROVISION MEMORIALIZES THE MUTUAL DESIRE OF LENDER AND BORROWER TO AVOID DELAYS IN THE RESOLUTION OF DISPUTES INVOLVING THIS AGREEMENT. BORROWER ACKNOWLEDGES THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER TO ENTER INTO THIS AGREEMENT. THE PARTIES EACH HEREBY AGREE THAT THIS SECTION 11 CONSTITUTES A WRITTEN CONSENT TO WAIVER OF TRIAL BY JURY PURSUANT TO THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURES SECTION 631 AND BORROWER DOES HEREBY CONSTITUTE AND APPOINT LENDER ITS TRUE AND LAWFUL ATTORNEY-IN-FACT, WHICH APPOINTMENT IS COUPLED WITH AN INTEREST, AND BORROWER DOES HEREBY AUTHORIZE AND EMPOWER LENDER, IN THE NAME, PLACE AND STEAD OF BORROWER, TO FILE THIS AGREEMENT WITH THE CLERK OR JUDGE OF ANY COURT OF COMPETENT JURISDICTION AS A STATUTORY WRITTEN CONSENT TO WAIVER OF TRIAL BY JURY.

**12. Invalidation of Closing Documents.** If, in any insolvency, bankruptcy or reorganization proceedings or other proceedings similar to the foregoing which may be instituted in any state or federal court or other tribunal, by or against Borrower, any of the Closing Documents, or any other documents and instruments executed and delivered pursuant to the terms of this Agreement, are challenged or sought to be canceled, invalidated, nullified or set aside, in whole or in part, and if any of the Closing Documents, or any other such document or instrument, is canceled, invalidated, nullified or set aside, in whole or in part, by a final non-appealable decision of a state or federal court of competent jurisdiction, then all of the Closing Documents and any and all other such documents and instruments, shall, at the sole option of Lender, be void and of no further force and effect and, in such event, Lender shall have any and all rights and remedies available to it under the Loan Documents, this Agreement, at law or in equity.

**13. Notices.** Any notice, demand, request or other communication which any party hereto may be required or may desire to give under this Agreement shall be in writing and shall be deemed to have been properly given (a) if hand delivered (effective upon delivery), (b) if mailed (effective three (3) days after mailing) by United States registered or certified mail,

postage prepaid, return receipt requested, (c) if sent by a nationally recognized overnight delivery service (effective one (1) day after delivery to such courier), or (d) if sent by facsimile (effective upon electronic confirmation of transmission), in each case addressed as set forth below, or such other address which any party entitled to receive notice hereunder designates by notice to the others. The notice address for Lender and Borrower and methods of delivery set forth herein shall be valid and operative for all purposes of this Agreement and each of the Loan Documents, and shall replace any and all notice addresses for Lender and Borrower and methods of delivery set forth in any of the Loan Documents.

If to Lender: City of Richmond, as Housing Successor to the  
Redevelopment Agency of the City of Richmond  
450 Civic Center Plaza  
Richmond, CA 94804  
Attention: City Manager

If to Borrower: Community Housing Development Corporation of  
North Richmond  
1535-A Fred Jackson Way  
Richmond, CA 94801  
Attention: Donald Gilmore

#### **14. Bankruptcy.**

(a) Borrower hereby acknowledges and agrees that, in consideration of the recitals and mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, in the event that Borrower shall (i) file with any bankruptcy court of competent jurisdiction or be the subject of any petition under the U.S. Bankruptcy Code, (ii) be the subject of any order for relief issued under the U.S. Bankruptcy Code, (iii) file or be the subject of any petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for debts, (iv) have sought, consented to or acquiesced in the appointment of any trustee, receiver, conservator or liquidator, or (v) be the subject of any order, judgment or decree entered by any court of competent jurisdiction approving a petition filed against such party for any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal or state act or law relating to bankruptcy, insolvency or relief for debts, Lender shall thereupon be entitled to relief from any automatic stay imposed by Section 362 of the U.S. Bankruptcy Code, or any other stay on or against the exercise of the rights and remedies otherwise available to Lender, as provided in the Loan Documents, as hereby amended and supplemented, and as otherwise provided by applicable Laws, and Borrower hereby waives the benefit of such automatic stay and consents to raise no objection to such relief.

(b) As additional consideration for Lender's execution of this Agreement, Borrower agrees that: (i) in the event of a bankruptcy or insolvency filing by or against Borrower, this Agreement shall not be rejected, and Borrower shall not contest any claim or assertion by Lender that this Agreement is binding on the parties hereto, and that valuable consideration has been

received by Borrower for this Agreement; (ii) Lender shall, at its option, receive immediate relief from the automatic stay provisions of the U.S. Bankruptcy Code, or otherwise, following any bankruptcy or insolvency petition filed by or against Borrower, and in no event shall Borrower contest a motion to lift the automatic stay filed by Lender; and (iii) any contrary action taken by Borrower with respect to the matters set forth above shall be deemed to be in bad faith and are agreed to constitute violations of Federal Rule of Civil Procedure 11 and U.S. Bankruptcy Rule 9011.

(c) Borrower hereby represents and warrants to Lender and acknowledges and agrees as follows: (i) Borrower has assured Lender that, if the transactions contemplated in this Agreement cannot be carried out by Borrower in accordance with the terms of this Agreement, it shall allow Lender to foreclose and exercise all of its other rights and remedies as a secured creditor under the Loan Documents; (ii) Borrower does not intend to file a bankruptcy or insolvency petition or has any intention of seeking a non-consensual plan of reorganization in any bankruptcy or insolvency forum; (iii) any attempt to sell the Property or any portion thereof or otherwise to reorganize its financial affairs and to pay and perform its obligations to Lender under the Loan Documents would be fruitless and impracticable to achieve; (iv) in light of the foregoing, if any voluntary or involuntary proceeding in bankruptcy or under similar Laws as to Borrower is filed by or against Borrower, Lender shall have the right to seek and obtain immediate relief from any stay as to the Property and the other collateral for the Obligations and to have the exclusivity period for the filing of any plan of reorganization terminated, and Borrower shall be estopped from objecting to or opposing in any manner the relief requested by Lender or the termination of any such exclusivity period in a bankruptcy or similar proceeding; and (v) Borrower will not solicit, assist or encourage any third party to file an involuntary bankruptcy petition against any of the Borrower.

(d) Lender is entering into this Agreement in reliance on, among other things, the Borrower's respective acknowledgements, representations, warranties, covenants and agreements set forth in this Section 14, and Borrower is making and entering into those acknowledgements, representations, warranties, covenants and agreements in order to induce Lender to enter into this Agreement.

## **15. Miscellaneous.**

(a) Time is of the essence of this Agreement. Whenever under the terms of this Agreement the time for performance or satisfaction of a covenant or condition or for giving of a notice falls upon a Saturday, Sunday or holiday, such time for performance shall be extended to the next business day. Otherwise, all references to "days" mean calendar days.

(b) This Agreement and all provisions hereof, including all representations and warranties made hereunder, shall extend to and be binding upon and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties hereto. No party shall assign or delegate this Agreement or any interest or obligation hereunder, in whole or in part, directly or indirectly, without the prior written consent of the other parties in each instance, except that Lender may assign its interest in and obligations under this Agreement to any party acquiring an interest in the Loan or any other party through merger or an acquisition of substantially all assets of Lender by such party.

(c) The section headings of this Agreement are for convenience of reference only and in no way limit or enlarge the scope or meaning of the language hereof.

(d) This Agreement, together with the Loan Documents, contains the entire agreement between the parties relating to the subject matter hereof, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein. No modification or amendment of this Agreement or any waiver of any provision hereof shall be effective unless the same is in writing signed by the party against whom enforcement of such modification, amendment or waiver is sought.

(e) This Agreement shall be governed by and construed in accordance with the internal, substantive laws of the State of California. If any of the provisions of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be deemed invalid or unenforceable, the remainder of this Agreement and the application of such provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable shall not be affected thereby, and every provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(f) Borrower has executed this Agreement voluntarily, in the absence of coercion or duress, has been represented by counsel in the negotiation and documentation of this Agreement, understands the terms hereof, is not acting under any misapprehension as to the effect hereof, and intends to be legally bound hereby. The parties hereto have negotiated this Agreement at arms-length and no provision is to be construed more strictly against one party than the other.

(g) The words “hereof,” “herein,” “hereunder” and similar words refer to the entire Agreement and not the paragraph or section in which such word appears, unless the context clearly indicates otherwise. The word “including” and variants thereof (whether or not accompanied by any phrase such as “without limitation” or “but not limited to”) are strictly inclusive and shall not be construed to imply any limitation or exclusion. In addition to the terms defined elsewhere in this Agreement, any and all capitalized terms used, but not defined herein, shall have the respective meanings ascribed to them in the Loan Agreement.

(h) This Agreement, and each of the Closing Documents and other documents and instruments executed pursuant hereto, may be executed in any number of counterparts, each of which may contain the signatures of each party and shall be deemed an original, but all of which together shall constitute one and the same instrument.

**16. Acknowledgment.** Borrower acknowledges and agrees that the Loan Documents are in full force and effect and are the valid and legally binding obligations of Borrower free from all legal and equitable defenses, offsets and counterclaims. Borrower hereby ratifies and confirms its liabilities, obligations and agreements under all of the Loan Documents, except as may be specifically and expressly modified by this Agreement, and the liens and security interests created thereby, and acknowledges that (a) Borrower is in default of its liabilities and obligations under the Loan Documents and that Borrower has no defenses, claims, counterclaims or set-offs of any kind or nature whatsoever to the enforcement by Lender of the liabilities, obligations and agreements contained in the Loan Documents, and hereby forever waives any right to assert any such defense, claim, counterclaim, or setoff, (b) Lender has fully performed all

obligations to Borrower that it may have had or has on and as of the date hereof, and (c) Lender does not waive, diminish or limit any term or condition contained in any of the Loan Documents, except as specifically and expressly set forth in this Agreement. The acknowledgements, waivers and other statements contained in this Section 16 shall survive the Closing or any termination of this Agreement.

**17. General Release.** Except for claims filed for the sole purpose of enforcing the Covenant Not to Sue set forth in Section 18 below, Borrower hereby forever irrevocably releases, discharges and acquits Lender and its affiliates, agents, officers, and employees, and its successors and assigns, of and from all rights, claims, demands, obligations, liabilities, causes of action, breaches, damages, costs and expenses of any kind whatsoever, whether known or unknown, suspected or unsuspected, liquidated or unliquidated, whether disclosed or undisclosed, whether heretofore, now or hereafter existing, whether based on contract, tort, breach of any duty or any other legal or equitable theory of recovery arising out of, are connected with or relating to the Loan, any of the Loan Documents, the Obligations or the Property.

In connection with the foregoing, Borrower expressly waive the benefits of Section 1542 of the California Civil Code, which provides as follows: **“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”**

Borrower \_\_\_\_\_ Lender \_\_\_\_\_

The terms of this Section 17 shall survive the Closing indefinitely.

**18. Covenant Not To Sue.** From and after Closing and subject to the condition precedent that no material breach or default or other non-compliance has occurred under any provision of this Agreement (including, without limitation, the obligations and covenants set forth in Section 19) or any of the Closing Documents by Borrower, subject to the terms and provisions of Section 12 hereof and except as specifically set forth above, Lender, for itself and its affiliates, successors and its assigns, hereby covenants and agrees that it shall not sue, commence, assert, bring or file in any court or other tribunal, in any jurisdiction, any suit, action, litigation, complaint, counterclaim, cross-claim, cross-complaint, third-party complaint or other pleading (with the exception of mandatory counter or cross-claims) setting forth any claim or cause of action as described below (and shall promptly hereafter dismiss without prejudice any such suit, action, litigation or complaint existing on the date hereof), or otherwise seeking affirmative relief against Borrower hereunder or any of Borrower’s heirs, executors, spouses, children, administrators, personal representatives, its affiliates, agents, attorneys, officers, directors, shareholders and employees, and their respective successors and/or assigns (collectively, the **“Borrower Related Parties”**), for any claims or causes of action of any kind or nature whatever, known or unknown, which Lender has, has had or may have against any or all of Borrower and the Borrower Related Parties, in any way arising from or connected with the Loan or the Loan Documents (including, but not limited to, a claim for a deficiency judgment),

but excluding any breach or default by Borrower under this Agreement or the Closing Documents and otherwise subject to the terms and conditions of this Agreement (the “**Covenant Not to Sue**”). Nothing contained herein shall be deemed to be a waiver of any rights that Lender may have as a result of claims asserted against Lender by third parties arising out of events occurring during Borrower’s ownership of the Property. Nothing in the foregoing sentence shall limit any other right or remedy of Lender, including, without limitation, those other rights and remedies set forth in Section 14 above. The terms of this Section 18 shall survive the Closing indefinitely.

**19. Further Assurances.** Borrower hereby covenants and agrees that, upon written demand by Lender, Borrower shall promptly sign and deliver to Lender such further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents, title affidavits and other instruments and documents as may be necessary, expedient or proper in the reasonable opinion of Lender in order to complete any and all conveyances, transfers, sales and assignments contemplated herein, including, without limitation, any documents or instruments required by the Title Company. Upon written demand by Lender, Borrower further hereby covenants and agrees to (i) re-execute and acknowledge any Closing Document executed by such party at Closing, (ii) certify, confirm and remake (as of the Closing Date) any representation, warranty, covenant, indemnification, waiver or release made or given by Borrower herein, and (iii) cooperate fully, now and at any time in the future, to effectuate a full transfer of some and/or all of the Property to Lender and take all actions reasonably requested by Lender to effectuate such transfer(s) or perfection, including, without limitation, supplying information regarding the Property in Borrower’s possession or control, completing and executing such further documentation as is reasonably necessary to effectuate any such transfer, and otherwise assisting Lender in any reasonable manner to effectuate any such transfer. Further, if, after the Closing, Borrower receives or controls any amounts whatsoever relating to, or in connection with, the Property, then Borrower shall promptly pay, to Lender, all such amounts. Borrower’s obligations under this Section 19 shall survive the Closing indefinitely.

**20. NOTICE.** THIS AGREEMENT AND THE LOAN DOCUMENTS ARE THE FINAL EXPRESSION OF AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY PRIOR ORAL AGREEMENT OR OF ANY CONTEMPORANEOUS ORAL AGREEMENT BETWEEN THE PARTIES. THE FOLLOWING SPACE IS RESERVED FOR THE PLACEMENT OF NON-STANDARD TERMS, INCLUDING FOR THE PURPOSE OF REDUCING TO WRITING ANY AND ALL PREVIOUS ORAL AGREEMENTS:

NONE

The parties hereby acknowledge and affirm that no unwritten oral credit agreement between the parties exists.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW.]

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the date first written above.

**BORROWER:** Community Housing Development Corporation of North Richmond, a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Donald Gilmore, Executive Director

**LENDER:** City of Richmond, a municipal corporation and charter city and housing successor to the former Redevelopment Agency of the City of Richmond

By: \_\_\_\_\_  
Laura Snideman, City Manager

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Bruce R. Goodmiller, City Attorney

ATTEST:

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

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF THE LAND**

The real property situated in Contra Costa County, California, more particularly described as follows:

Lots 1, 2, 3, 4 and 5, Block H, Map of Richmond Tract, filed November 30, 1901, Map Book C, page 65, Contra Costa County Records.

APN: 538-171-001

**EXHIBIT B**

**DEED**

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

City of Richmond  
450 Civic Center Plaza  
Richmond, CA 94804  
Attention: City Attorney

No fee for recording pursuant to Government  
Code Section 27383

---

*(Space above this line for Recorder's use)*

**GRANT DEED**

The undersigned Grantor declares:

No Documentary Transfer Tax is due under R&T Code Sec. 11922 (Grantee is a governmental agency)

- computed on the consideration or full value of property conveyed, OR
- computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,
- unincorporated area;  City of Richmond.

In accordance with Section 11926 of the California Taxation and Revenue Code, no transfer tax is due for this transfer in lieu of foreclosure. The unpaid debt that was subject to foreclosure was in the amount of Three Hundred Ninety-Four Thousand and Two Hundred Sixty Nine Dollars (\$394,269.00), plus accrued interest thereon. Grantee (defined below) has paid no additional consideration to Grantor (defined below). The above debt is evidenced by the Loan Documents as described in that certain Deed in Lieu of Foreclosure Agreement executed concurrently herewith between the Grantor and the Grantee (the "Deed Agreement").

FOR VALUE RECEIVED, Community Housing Development Corporation of North Richmond, a California nonprofit public benefit corporation ("**Grantor**"), grants to the City of Richmond, a municipal corporation and charter city ("**Grantee**"), subject to the terms and conditions of the Deed Agreement, all that certain real property situated in the County of Contra Costa, State of California, described on *Exhibit A* attached hereto and by this reference

incorporated herein, together with all improvements, buildings, structures, easements, privileges and rights appurtenant thereto (collectively, the “**Property**”).

This Grant Deed is an absolute conveyance, Grantor having conveyed the Property to Grantee for a fair and adequate consideration, in addition to that above recited, being the agreement of Grantee to forbear from exercising its remedies under the Deed of Trust (as hereinafter defined) during the period in which Grantor owned the Property. As used herein, “**Deed of Trust**” means, collectively, (i) that certain Deed of Trust and Security Agreement, recorded in the Contra Costa County Recorder’s Office on August 8, 2003, as Document No. 2003-0391178-00, and (ii) that certain Deed of Trust and Security Agreement (Nevin Court Homeownership Development Project), dated as of August 13, 2007, executed by Grantor, as Trustor, to Fidelity National Title Company, as Trustee, for the benefit of Lender and recorded in the Contra Costa County Recorder’s Office August 14, 2007 as Document No. 2007-0233231-00. Grantor declares that this conveyance is freely and fairly made, and that the consideration for this conveyance is fair and adequate.

IN WITNESS WHEREOF, Grantor has caused its corporate name to be hereunto subscribed as of \_\_\_\_\_, 2020.

**GRANTOR:** Community Housing Development Corporation of North Richmond, a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Donald Gilmore, Executive Director

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

STATE OF CALIFORNIA )

COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_ before me \_\_\_\_\_  
(insert name and title of the officer) personally appeared \_\_\_\_\_, the Executive Director of Community Housing Development Corporation of North Richmond, a California nonprofit public benefit corporation who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

EXHIBIT A

**LEGAL DESCRIPTION**

That certain real property situated in Contra Costa County, California, more particularly described as follows:

Lots 1, 2, 3, 4 and 5, Block H, Map of Richmond Tract, filed November 30, 1901, Map Book C, page 65, Contra Costa County Records.

APN: 538-171-001



That the consideration for the Deed was and is the agreement of Lender to forbear from exercising its remedies under the Acquisition Deed of Trust and Predevelopment Deed of Trust during the period of time in which Grantor owned the Property; that at the time of making the Deed, Grantor believed, and now believes, that the aforesaid consideration represents fair value for the Property; that at the time of making the Deed, Grantor was and now is generally paying its debts (other than the Acquisition Note and Predevelopment Note (as defined in the Deed in Lieu of Foreclosure Agreement)) as they become due; and that immediately following the delivery of the Deed, the aggregate value of Grantor's assets shall exceed the aggregate value of its liabilities; as used herein, "**Acquisition Deed of Trust**" means that certain Deed of Trust and Security Agreement recorded as Document No. 2003-0391178-00 on August 8, 2003 in the Office of the Contra Costa County Recorder's Office; and "**Predevelopment Deed of Trust**" means that Deed of Trust and Security Agreement (Nevin Court Homeownership Development Project), dated as of August 13, 2007, executed by Borrower, as Trustor, to Fidelity National Title Company, as Trustee, for the benefit of Lender and recorded in the Contra Costa County Recorder's Office August 14, 2007 as Document No. 2007-0233231-00.

This affidavit is made for the protection and benefit of Grantee, as grantee under the Deed, its successors and assigns, and all other parties hereafter dealing with or who may acquire an interest in the Property, and particularly for the benefit of Old Republic Title Company which is about to insure the title to the Property in reliance thereon, and any other title company which may hereafter insure the title to the Property; and

That Grantor will provide a competent witness who will testify, declare, dispose or certify before any competent tribunal, officer, or person, in any case now pending or which may hereafter be instituted, to the truth of the particular facts hereinabove set forth.

\_\_\_\_\_, 2020

**GRANTOR:** Community Housing Development Corporation  
of North Richmond, a California nonprofit  
public benefit corporation

By: \_\_\_\_\_  
Donald Gilmore, Executive Director

EXHIBIT A

**LEGAL DESCRIPTION**

That certain real property situated in Contra Costa County, California, more particularly described as follows:

Lots 1, 2, 3, 4 and 5, Block H, Map of Richmond Tract, filed November 30, 1901, Map Book C, page 65, Contra Costa County Records.

APN: 538-171-001