

GRANT AGREEMENT
Heritage Point Apartments
(Livable Communities Trust Fund)

This Grant Agreement ("Agreement") is dated December 1, 2017, and is between the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (the "County") and COMMUNITY HOUSING DEVELOPMENT CORPORATION OF NORTH RICHMOND, a California nonprofit public benefit corporation ("Grantee").

RECITALS

A. Defined terms used but not defined in these recitals are as defined in Article 1 of this Agreement.

B. The Board of Supervisors of Contra Costa County (the "Board") adopted Resolution No. 2002/262 as part of the July 9, 2002, approval of the Camino Tassajara Combined General Plan Amendment (the "Plan Amendment"). The resolution included conditions of approval that required the establishment of a Livable Communities Trust Fund (the "Trust Fund").

C. Through a board order dated November 15, 2005, the Board authorized the establishment of the Trust Fund, as identified in the Plan Amendment. The Trust Fund was established to implement the County's Smart Growth Action Plan. The goals of the Smart Growth Action Plan include enabling communities to meet affordable and regional fair share housing goals through the construction, development and renovation of affordable and senior housing.

D. The County has succeeded to the housing assets of the former Contra Costa County Redevelopment Agency (the "Former Agency") in accordance with California Health and Safety Code Section 34176. In its capacity as housing successor, the County owns certain real property, fronting the east side of Fred Jackson Way, between Grove Street and Chesley Avenue, in North Richmond, commonly referred to as the Heritage Point Unified Development Area (and formerly known as the Grove Point Unified Development Area), (the "Site"). The Site is located within the North Richmond Redevelopment Project Area (the "Project Area").

E. The Site has been identified as a "housing asset" pursuant to California Health and Safety Code Section 34176. The Oversight Board of the Contra Costa County Successor Agency and the California Department of Finance have approved such identification. The Former Agency acquired the Site using the Former Agency's low and moderate housing fund, which was established pursuant to California Health and Safety Code Section 33334.2.

F. Pursuant to a Disposition and Development Agreement dated as of May 9, 2017, by and between Grantee and the County (the "Initial DDA"), the County agreed to sell the Site to Grantee for the development of affordable housing and related residential and commercial improvements as a unified development.

G. The County has subdivided the Site into two parcels through a metes and bounds division, to facilitate the construction of forty-two (42) housing units for rental to extremely low

and very low income households, including one (1) manager's unit and attendant improvements (the "Development") on one parcel of the Site (the "Housing Parcel"), and commercial and retail improvements on the adjacent parcel of the Site. The Housing Parcel is more particularly described in Exhibit A. As contemplated by the Initial DDA, Grantee has formed Heritage Point A/G, L.P., a California limited partnership (the "Partnership") in order to qualify for certain financing for the development of the Development on the Housing Parcel.

H. The County and the Partnership are entering into a Disposition Development and Loan Agreement of even date herewith (the "DDLA"), pursuant to which the County is agreeing to transfer the Housing Parcel to the Partnership to facilitate the construction of the Development on the Housing Parcel.

I. Construction of the Development is not financially feasible in the absence of the County providing financial assistance to Grantee.

J. Subject to the terms of this Agreement, the County is granting funds to Grantee from the Trust Fund for the purpose of supporting construction of the Development.

The parties therefore agree as follows:

AGREEMENT

ARTICLE 1 DEFINITIONS AND EXHIBITS

Section 1.1 Definitions.

The following terms have the following meanings:

- (a) "Agreement" means this Grant Agreement.
- (b) "Approved Development Budget" means the proforma development budget, including sources and uses of funds, as approved by the County, and attached hereto and incorporated herein as Exhibit B.
- (c) "County" has the meaning set forth in the first paragraph of this Agreement.
- (d) "DDLA" has the meaning set forth in Paragraph H of the Recitals.
- (e) "Development" has the meaning set forth in Paragraph G of the Recitals.
- (f) "Expiration Date" has the meaning set forth in Section 2.3.
- (g) "Event of Default" has the meaning set forth in Section 4.1.
- (h) "Former Agency" has the meaning set forth in Paragraph D of the Recitals.

- Agreement.
- (i) "Grantee" has the meaning set forth in the first paragraph of this Agreement.
 - (j) "Grant Funds" has the meaning set forth in Section 2.1.
 - (m) "Housing Parcel" has the meaning set forth in Paragraph G of the Recitals.
 - (k) "Initial DDA" has the meaning set forth in Paragraph F of the Recitals.
 - (l) "Partnership" has the meaning set forth in Paragraph G of the Recitals.
 - (m) "Site" has the meaning set forth in Paragraph D of the Recitals.
 - (n) "Trust Fund" has the meaning set forth in Paragraph B of the Recitals.

Section 1.2 Exhibits

The following exhibits are attached to this Agreement and incorporated into this Agreement by this reference:

- Exhibit A: Legal Description of the Housing Parcel
- Exhibit B: Approved Development Budget

ARTICLE 2
GRANT PROVISIONS

Section 2.1 Grant.

Subject to the conditions set forth in this Agreement, the County hereby grants to Grantee One Million Four Hundred Thirty-Two Thousand Eight Hundred Thirty Dollars (\$1,432,830) (the "Grant Funds") for the purpose set forth in Section 2.2 (Use of Grant Funds) below. The Grant Funds will be disbursed by the County upon the satisfaction of the conditions set forth in Section 2.5 (Conditions Precedent to Disbursement of Grant Funds) below.

Section 2.2 Use of Grant Funds.

Grantee shall use the Grant Funds to support the construction of the Development, consistent with the Approved Development Budget. Grantee may not use the Grant proceeds for any other purpose without the prior written consent of the County.

Section 2.3 Term.

This Agreement will remain in effect through April 30, 2020 (the "Expiration Date"). The County has no obligation to disburse the Grant Funds to Grantee after the Expiration Date.

Section 2.4 Special Conditions.

Upon the occurrence of either of the following events, (i) the County is relieved of any obligation to disburse the Grant Funds to Grantee, and (ii) Grantee shall repay all Grant Funds that have been disbursed by the County:

- (a) The Partnership fails to close on the loans it is obtaining to finance the construction of the Development on or before April 30, 2018;
- (b) The construction of the Development is not complete on or before the Expiration Date.

This section 2.4 will survive the expiration or termination of this Agreement.

Section 2.5 Conditions Precedent to Disbursement of Grant Funds.

The County is not obligated to disburse any portion of the Grant Funds unless all of the following conditions have been and continue to be satisfied:

- (a) There exists no Event of Default nor any act, failure, omission or condition that would constitute an Event of Default under this Agreement;
- (b) The Partnership has satisfied all conditions to disbursement set forth in Section 3.6 of the Disposition Development and Loan Agreement between the County and the Partnership of even date herewith;
- (c) All other documents and instruments required to be executed and delivered by the County, have been executed and delivered, all in form and substance satisfactory to the County;
- (d) All representations and warranties of Grantee set forth in this Agreement continuing to be true as of the disbursement date;
- (e) There exists no material adverse change in the financial condition of Grantee from that shown by the financial statements and other data and information furnished by Grantee to the County prior to the date of this Agreement; and
- (f) The County has received a written draw request from Grantee, including:
 - (i) certification that the condition set forth in Section 2.5(a) continues to be satisfied;
 - (ii) certification that the proposed uses of funds is consistent with the Approved Development Budget;
 - (iii) the amount of funds needed; and,
 - (iv) where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. Grantee shall request such documentation from the Partnership as necessary to comply with this Section 2.5(f).

Section 2.6 Information.

Grantee shall provide any information reasonably requested by the County in connection with the Development and in connection with Grantee's use of the Grant Funds.

Section 2.7 Records.

Grantee shall maintain complete, accurate, and current records pertaining to this Agreement and its use of the Grant Funds for a period of five (5) years after the creation of such records, and shall permit any duly authorized representatives of the County to inspect and copy records.

Section 2.8 Construction and Operation of the Development.

Grantee shall cause the Partnership to construct and operate the Development (i) in accordance with all applicable laws, codes, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter, and (ii) as an affordable housing development consistent with: (1) the DDLA; and (2) any regulatory requirements imposed on the Partnership related to financing and rental subsidies provided to the Development.

Section 2.9 Nondiscrimination.

Grantee covenants by and for itself and its successors and assigns that there will be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age (except for lawful senior housing in accordance with state and federal law), familial status, disability, sex, sexual orientation, marital status, ancestry or national origin in the use of the Grant.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES OF BORROWER

Section 3.1 Representations and Warranties.

Grantee hereby represents and warrants to the County as follows:

(a) Organization. Grantee is a duly organized, validly existing California nonprofit public benefit corporation, and is in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted.

(b) Authority of Grantee. Grantee has full power and authority to execute and deliver this Agreement and to make and accept the borrowings contemplated hereunder, to execute and deliver all documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

(c) Authority of Persons Executing Documents. This Agreement is being executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of Grantee, and all actions required under Grantee's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.

(d) Valid Binding Agreements. This Agreement and all other documents or instruments that have been executed and delivered pursuant to or in connection with this Agreement constitute, or, if not yet executed or delivered, will when so executed and delivered, constitute legal, valid and binding obligations of Grantee enforceable against it in accordance with their respective terms.

(e) No Breach of Law or Agreement. Neither the execution nor delivery of this Agreement, nor the performance of any provision, condition, covenant or other term hereof, will conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever that is binding on Grantee, or any provision of the organizational documents of Grantee, or will conflict with or constitute a breach of or a default under any agreement to which Grantee is a party.

(f) Pending Proceedings. Grantee is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of Grantee, threatened against or affecting Grantee, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to Grantee, materially affect Grantee's ability to carry on its business.

(g) Financial Statements. The financial statements of Grantee and other financial data and information furnished by Grantee to the County fairly and accurately present the information contained therein. As of the date of this Agreement, there has not been any material adverse change in the financial condition of Grantee from that shown by such financial statements and other data and information.

(h) Taxes. Grantee and its subsidiaries have filed all federal and other material tax returns and reports required to be filed, and have paid all federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their income otherwise due and payable, except those that are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with generally accepted accounting principles.

ARTICLE 4 DEFAULT AND REMEDIES

Section 4.1 Events of Default.

Any one or more of the following constitutes an "Event of Default" by Grantee under this Agreement:

(a) Breach of Covenants. If Grantee fails to duly perform, comply with or observe any condition, term, or covenant contained in this Agreement, including but not limited to the special conditions set forth in Section 2.4 (Special Conditions), and Grantee fails to cure such default within thirty (30) days after receipt of written notice from the County to Grantee.

(b) Default under Other Agreements. The occurrence of any event that acts,

or with the passage of time would act, to accelerate any indebtedness owed by Grantee or owed by the Partnership.

(c) Suspension. Grantee voluntarily suspends its business or the Grantee is dissolved or terminated.

Section 4.2 Remedies.

Upon the occurrence of an Event of Default on or prior to the Expiration Date, (i) the County is relieved of any obligation to disburse any undisbursed portion of the Grant, and (ii) Grantee shall immediately repay the Grant Funds to the County.

ARTICLE 5
GENERAL PROVISIONS

Section 5.1 Relationship of Parties.

Nothing contained in this Agreement is to be interpreted or understood by any of the Parties, or by any third persons, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the County and Grantee or its agents, employees or contractors, and Grantee will at all times be deemed an independent contractor and to be wholly responsible for the manner in which it or its agents, or both, perform the services required of it by the terms of this Agreement. Grantee has and retains the right to exercise full control of employment, direction, compensation, and discharge of all persons assisting in the performance of services under the Agreement. Grantee is solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and all other laws and regulations governing such matters. Grantee is solely responsible for its own acts and those of its agents and employees.

Section 5.2 No Claims.

Nothing contained in this Agreement creates or justifies any claim against the County by any person that Grantee may have employed or with whom Grantee may have contracted relative to the obligations set forth in this Agreement.

Section 5.3 Indemnification.

Grantee shall indemnify, defend and hold the County and its board members, supervisors, directors, officers, employees, agents, successors and assigns harmless against any and all claims, suits, actions, losses and liability of every kind, nature and description made against it and expenses (including reasonable attorneys' fees) which arise out of or in connection with this Agreement, except to the extent such claim arises from the gross negligence or willful misconduct of the County, its agents, and its employees. This Section 5.3 will survive the expiration or termination of this Agreement.

Section 5.4 No Third Party Beneficiaries.

There are no third party beneficiaries to this Agreement.

Section 5.5 Notices, Demands and Communications.

All notices required or permitted by any provision of this Agreement must be in writing and sent by registered or certified mail, postage prepaid, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, to the principal office of the Parties as follows:

County: County of Contra Costa
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553
Attention: Assistant Deputy Director

Grantee: Community Housing Development Corporation of North Richmond
1535A Fred Jackson Way
Richmond, California 94801
Attention: Executive Director

Written notices, demands and communications may be sent in the same manner to other addresses that the affected party may from time to time designate by mail as provided in this Section. Receipt will be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

Section 5.6 Applicable Law.

This Agreement is governed by the laws of the State of California.

Section 5.7 Title of Parts and Sections.

Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and are to be disregarded in interpreting any part of the Agreement's provisions.

Section 5.8 Multiple Originals; Counterpart.

This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

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The parties are entering into this Agreement as of date first set forth above.

COUNTY:

COUNTY OF CONTRA COSTA, a political
subdivision of the State of California

By: _____
John Kopchik
Director, Department of Conservation and
Development

APPROVED AS TO FORM:

SHARON L. ANDERSON
County Counsel

By: _____
Kathleen Andrus
Deputy County Counsel

GRANTEE:

COMMUNITY HOUSING DEVELOPMENT
CORPORATION OF NORTH RICHMOND, a
California nonprofit public benefit corporation

By: _____
Donald Gilmore, Executive Director

EXHIBIT A

LEGAL DESCRIPTION OF THE HOUSING PARCEL

The real property located in the unincorporated area of the County of Contra Costa, State of California, described as follows:

All of Lots 1, 2, 26 through 34, and a portion of Lots 24 and 25 in Block 69, as shown on that certain map entitled, "Map of North Richmond Land and Ferry Co. Tract No. 2" filed for record September 19, 1911 in Book 5 of maps, at Page 124, Contra Costa County Records, described as follows:

Beginning at the Northwestern corner of said Lot 1, said point being at the intersection of the Easterly line of 3rd Street (70 feet wide) (formerly Seventh Street) with the Southerly line of Grove Avenue (60 feet wide) (formerly Park Avenue) as said Street and Avenue are shown on said map; thence along the said Southerly line of Grove Avenue, North 89°59'00" East, 50.01 feet to the Northeasterly corner of said Lot 2; thence leaving last said line and along the Easterly line of said Lot 2, South 00°01'31" East, 99.98 feet to the Southeasterly corner of said Lot 2, said point being on the Northerly line of said Lot 34; thence along last said line, North 89°59'00" East, 50.03 feet to the Northeasterly corner of said Lot 34; thence along the Easterly lines of said Lots 34 through 26, South 00°02'03" East, 230.72 feet to the Southeasterly corner of said Lot 26; thence along the Southerly line of said Lot 26, South 89°59'40" West, 50.06 feet to the Northeasterly corner of said Lot 24; thence along the Easterly line of said Lot 24, South 00°01'33" East, 36.54 feet; thence leaving last said line, South 89°59'40" West, 50.07 feet to said Easterly line of 3rd Street; thence along last said line, North 00°01'00" West, 367.22 feet to the Point of Beginning.

APN: 409-080-001, 014, 015, 016, 020 and portion 409-080-013

EXHIBIT B

APPROVED DEVELOPMENT BUDGET

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GRANT AGREEMENT

Between

COUNTY OF CONTRA COSTA

And

COMMUNITY HOUSING DEVELOPMENT CORPORATION OF NORTH RICHMOND

Heritage Point Apartments

dated December 1, 2017