

**COOPERATION AGREEMENT
(11742 Stuart Drive - Permanent Supportive Housing Project)**

This **COOPERATION AGREEMENT (11742 Stuart Drive - Permanent Supportive Housing Project)** (“Cooperation Agreement”) dated as of September 14, 2021 (“Date of Agreement”) is entered into by and between the **CITY OF GARDEN GROVE**, a California municipal corporation (“City”), and the **GARDEN GROVE HOUSING AUTHORITY**, a public body, corporate and politic (“Authority”).

RECITALS

A. City is a California general law city and municipal corporation and a participating jurisdiction with the United States Department of Housing and Urban Development (“HUD”) that has received funds (“HOME Funds”) from HUD pursuant to Title II of the Cranston Gonzalez National Affordable Housing Act (42 U.S.C. 12701 12839) and the HOME Program regulations codified at 24 CFR Part 92, as amended by the “2013 HOME Final Rule” at 24 CFR Part 92 (Complete Rule) http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title24/24cfr92_main_02.tpl (together, “HOME Program”). The HOME Program has, among its purposes, the strengthening of public-private partnerships to provide more affordable housing, and particularly to provide decent, safe, sanitary, and affordable housing, with primary attention to housing for extremely low, very low, and lower income households in accordance with the HOME Program. The HOME Program funds are used by the City, as a participating jurisdiction, to carry out multi-year housing strategies through acquisition, rehabilitation, and new construction of housing for target income persons and families.

B. Authority is a California housing authority acting under the California Housing Authorities Law, Part 2 of Division 24, Section 34200, *et seq.*, of the Health and Safety Code (“HAL”); further, Authority serves as the “housing successor” to the former Garden Grove City for Community Development, a dissolved redevelopment agency pursuant to Part 1.85 of Division 24 of the Health and Safety Code, in particular Sections 34176 and 34176.1 (“Dissolution Law” or “Housing Successor Law”).

C. American Family Housing, a California nonprofit public benefit corporation (“Developer”), is the owner of that certain real property located at 11742 Stuart Drive, City of Garden Grove, California that is improved with ten (10) residential rental apartments in one (1) two-story building with appurtenant amenities and improvements (“Property”).

D. Developer desires to cause the substantial rehabilitation of the Property, and then operate, maintain, and manage the Property, long-term, as a permanent supportive affordable housing Project. Nine of the ten apartments will be made available to and occupied by qualified and eligible tenants including (i) one (1) Very Low Income Household as to a one 1-bedroom unit, (ii) eight (8) Extremely Low Income Households as to five 2-bedroom units and three 1-bedroom units (together, nine “Housing Units” and each a “Housing Unit”), and (iii) one (1) Manager’s Unit that is unrestricted as to income and rent, with the nine (9) restricted apartments operated and leased at an Affordable Rent pursuant that certain *HOME Investment Partnership Affordable Housing and Loan Agreement (11742 Stuart Drive)* (“HOME Agreement”), which is to be presented to the Authority

Board after the City and Authority consider and take action on this Cooperation Agreement , in their sole and complete discretion.

E. Capitalized terms used in this Cooperation Agreement are as defined in the HOME Agreement unless otherwise defined herein.

F. If and after this Cooperation Agreement is approved, if at all, then the Authority Board, in its sole and complete discretion, will consider and take action to approve (or disapprove) the HOME Agreement that sets forth the terms and conditions of certain Authority Assistance, which includes a HOME Loan of \$1,400,000 and the provision of eight (8) Mainstream PBVs, and other provisions to implement the permanent supportive housing Project for the 55-year Affordability Period.

G. The City desires that the HOME Program funds proposed to be transferred by the City to the Authority pursuant to this Cooperation Agreement shall be used by the Authority to provide the HOME Loan to the Developer under the HOME Agreement.

H. The HOME Agreement sets forth the specific terms and conditions under which the Authority will make the HOME Loan for the Project.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES, COVENANTS AND CONDITIONS CONTAINED HEREIN, THE CITY AND AUTHORITY AGREE AS FOLLOWS:

Section 1. TRANSFER OF FUNDS BY CITY TO AUTHORITY. City agrees to transfer to Authority One Million Four Hundred Thousand Dollars (\$1,400,000.00) of HOME Funds (“Project Funds”) held by the City to enable the Authority to make the HOME Loan to the Developer for the Project. Expressly subject to approval and execution of the HOME Agreement in the Authority Board’s sole and complete discretion, the City agrees to transfer \$1,400,000 of HOME Program funds for the Project. Authority shall not disburse the HOME Loan proceeds to the Developer until the Authority has confirmed that the Developer has satisfied all of the Conditions Precedent to the disbursement of the HOME Loan pursuant to HOME Agreement; provided that the Authority Director may waive, defer or modify such Conditions Precedent in accordance with the authority granted by the Authority Board thereunder.

(a) Further, Authority covenants and agrees to use the Project Funds (i) in strict conformance with Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701-12839) and the HOME Program Regulations codified at 24 CFR Part 92, as amended by the 2013 HOME Final Rule, and (ii) to implement the HOME Agreement in order to expand the supply of decent, safe, sanitary and affordable housing for Extremely Low and Very Low Income Households.

(b) This Cooperation Agreement does not constitute a “commitment” of HOME Funds, as the term “commitment” is defined in 24 CFR 92.2; provided however, that the HOME Agreement is intended to be a commitment of such funds as provided and subject to the provisions of the HOME Agreement, if approved by the Authority Board in its sole and complete discretion.

Section 2. LIABILITY AND INDEMNIFICATION. In contemplation of the provision of Section 895.2 of the California Government Code imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Section 895.4 and 895.6 of such Code, each of the City and Authority, as between themselves, pursuant to the authorization contained in Section 895.4 and 895.6 of such Code, will each assume the full liability imposed on it, or any of its officers, agents, or employees by law for injury caused by negligent or wrongful act or omission occurring in the performance of this Cooperation Agreement to the same extent that such liability would be imposed in the absence of Section 895.2 of such Code.

(a) To achieve the above-stated purposes, each of the City and Authority indemnifies and holds harmless the other party for any loss, costs or expense that may be imposed upon such other party solely by virtue of such Section 895.2. The provisions of Section 2778 of the California Civil Code are made part hereof as if fully set forth herein.

Section 3. EFFECTIVE DATE. This Cooperation Agreement shall take effect from and after the date of approval hereof by the Authority Board and the City Council.

Section 4. TERMINATION. If the HOME Agreement is terminated prior disbursement of the HOME Loan proceeds, then this Cooperation Agreement shall also be terminated and neither the City nor Authority shall have any obligation to the other as a result of this Cooperation Agreement.

Section 5. REPRESENTATIONS AND WARRANTIES

(a) *Representations and Warranties of Authority.* Authority hereby represents and warrants to City as follows:

(i) Authority of Garden Grove Housing Authority. Authority represents and warrants to City it is a public body, corporate and politic, duly existing pursuant to the HAL, and it has been authorized to transact business pursuant to action of the City Council. Authority has full power and authority to execute and deliver this Cooperation Agreement and to accept the HOME Program funds contemplated hereunder, to execute and deliver documents or instruments, if any, executed and delivered, or to be executed and delivered, pursuant to this Cooperation Agreement, and to perform and observe the terms and provisions of all of the above.

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

(b) *Representations and Warranties of City.* City represents and warrants to Authority that it is a general law city and municipal corporation. City has full right, power and lawful authority to enter into this Cooperation Agreement and the execution, performance and delivery of this

Cooperation Agreement by City, and persons on behalf of City, have been fully authorized by all requisite actions on the part of the City Council.

Section 6. DEFAULT AND REMEDIES.

(a) *Events of Default.* Failure by either party to duly perform, comply with, or observe any of the conditions, terms, or covenants of this Cooperation Agreement shall be an Event of Default. The party who so fails or delays must immediately commence to cure, correct or remedy such failure or delay, and shall complete such cure, correction or remedy with reasonable diligence and during any period of curing shall not be in default. The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. If the default is not commenced to be cured within thirty (30) days after service of such notice of default and is not cured promptly in a continuous diligent manner in a reasonable period of time after commencement, the defaulting party shall be liable for any damages caused by such default, and the non-defaulting party may thereafter commence action for damages with respect to such default or for specific performance of this Cooperation Agreement.

(b) *Remedies.* The occurrence of an Event of Default by Authority that is not cured within the time set forth herein shall relieve City of any obligation to disburse the HOME Program funds for the HOME Loan and Project. The Authority may seek specific performance of this Cooperation Agreement for City's failure to provide such funds. The non-defaulting party may seek money damages or any other remedy available at law or equity against the defaulting party for an Event of Default hereunder.

Section 7. MISCELLANEOUS

(a) *Time.* Time is of the essence in this Cooperation Agreement.

(b) *Notices.* Any notice requirement set forth herein shall be deemed to be satisfied as follows: (i) three (3) days after mailing of the notice first class United States certified mail, postage prepaid, or (ii) the next business day after the notice or communication has been delivered by hand or sent by telecopy or overnight delivery service, addressed to the appropriate party. The designated person for delivery of notices hereunder shall be as follows: (i) to the City Manager for notices to City, and (ii) to the Authority Director for notices to Authority.

(c) *Attorneys' Fees.* If either party brings an action or proceeding to enforce, protect or establish any right or remedy hereunder, the prevailing party shall be entitled to recover from the other party its costs of suit and reasonable attorneys' fees.

(d) *No Third Parties Benefited.* This Cooperation Agreement is made and entered into for the sole protection and benefit of City, its successors and assigns, and the Authority, its successors and assigns, and no other person or persons shall have the right of action hereon.

(e) *Successors and Assigns.* The terms hereof shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, that no assignment of Authority's rights hereunder shall be made, voluntarily or by operation of law, without the prior written consent of City and that any such assignment without said consent shall be void.

(f) *Construction of Words.* Except where the context otherwise requires, words imparting the singular number shall include the plural number and vice versa, words imparting

persons shall include firms, associations, partnerships and corporations, and words or either gender shall include the other gender.

(g) *Partial Invalidity.* If any provision of this Cooperation Agreement shall be declared invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

(h) *Governing Law.* This Cooperation Agreement and any instruments given pursuant hereto shall be construed in accordance with and be governed by the laws of the State of California.

(i) *Amendment.* This Cooperation Agreement may not be changed orally, but only by agreement in writing signed by Authority and City.

(j) *Captions and Headings.* Captions and headings in this Cooperation Agreement are for convenience of reference only, and are not to be considered in construing the Cooperation Agreement.

(k) *Authority to Execute.* The City Manager of the City and the Authority Director of the Authority, respectively, each is authorized to execute and implement this Cooperation Agreement on behalf of such parties.

IN WITNESS WHEREOF, THE CITY AND AUTHORITY HAVE EXECUTED THIS COOPERATION AGREEMENT (11742 STUART DRIVE - PERMANENT SUPPORTIVE HOUSING PROJECT) AS OF THE DATE OF AGREEMENT.

“CITY”

CITY OF GARDEN GROVE
a municipal corporation

By: _____
Scott Stiles, City Manager
or Authorized Designee

ATTEST:
CITY CLERK

Teresa Pomeroy, CMC, or Authorized Designee

APPROVED AS TO FORM:
WOODRUFF, SPRADLIN & SMART

Omar Sandoval, City Attorney

[Signature block for Cooperation Agreement continued on next page]

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AUTHORITY:

GARDEN GROVE HOUSING AUTHORITY,
a public body, corporate and politic

By: _____
Scott Stiles, Authority Director
or Authorized Designee

ATTEST:

AUTHORITY SECRETARY

Teresa Pomeroy, CMC or Authorized Designee

APPROVED AS TO FORM:

STRADLING YOCCA CARLSON & RAUTH

Celeste Stahl Brady, Authority Counsel