

COUNTY OF SHASTA
Department of Housing and Community Action Agency

LOAN AGREEMENT AND PROMISSORY NOTE SECURED BY DEED OF TRUST

(Deferred Payment Loan)

Date: November 7, 2017

Amount: \$248,000

Redding, California

THIS LOAN AGREEMENT AND PROMISSORY NOTE (hereinafter the “**Note**”) is made this ____ day of November, 2017, by and between Veterans Housing Development Corporation, a California Nonprofit corporation (“**Borrower**”) and the County of Shasta, a political subdivision of the State of California (“**County**”). Borrower and County shall collectively be known herein as the “Parties.”

RECITALS

WHEREAS, Borrower seeks to secure permanent supportive housing for veterans and offers a supportive services and programs such as access to medical care, job training and placement assistance, 12-step and other sobriety support, and case management, to address the needs of veterans;

WHEREAS, Borrower seeks to carry out a project consisting of construction of a 30-unit affordable housing complex for veterans (supportive housing) who are very low-income and eligible for Veterans Affairs Supported Housing (VASH) and to whom Borrower would provide supportive services (the “**Project**”);

WHEREAS, Borrower has requested a deferred payment loan from Shasta County in the amount of \$248,000 (the “**Loan**”) for preconstruction expenses for the Project, including but not limited to architecture, engineering, consultant fees, permit fees, and other related preconstruction fees and costs for the Project;

WHEREAS, Government Code Section 26227 authorizes the Shasta County Board of Supervisors to finance or assist in the financing of the acquisition or improvement of real property and furnishings to be owned or operated by any public agency, nonprofit corporation, or nonprofit association to carry out programs deemed by the Board of Supervisors to be necessary to meet the social needs of the population of the County, including but not limited to, the health needs of the population of the County;

WHEREAS, the Shasta County Board of Supervisors has deemed the Project to be necessary to meet the social needs of the population of the County and serve purposes that will benefit the City of Shasta Lake and this deferred payment loan is in the best interests of Shasta County, the community of the City of Shasta Lake, and the general public; and

WHEREAS, Borrower, desires to borrow money from the County of Shasta in the amount of the Loan, and County desires to provide the Loan to Borrower, for the purpose of improving real property to be acquired by the Borrower and described as follows:

The real property commonly known as and located at 4275 Meade Street in the City of Shasta Lake, Shasta County, California, located at the northwest corner of Meade Street and Locust Avenue, Assessor's Parcel Numbers 005-060-025, 005-060-053, 005-060-058, and 005-060-059, (as more particularly described in the attached "Exhibit A", collectively, the "**Property**");

WHEREAS, as of the date of this Note, the Property is owned by the City of Shasta Lake Housing Authority, ("**Housing Authority**"), and the Housing Authority intends to convey the Property to Borrower at the closing for Project construction financing; and

WHEREAS, the Housing Authority has agreed to provide County with a security interest in the Property as collateral for repayment of the Loan.

NOW THEREFORE,

1. County agrees to provide the Loan to Borrower, in accordance with the terms and conditions and for the purposes set forth in this Note.
2. FOR VALUE RECEIVED, Borrower promises to pay to County at its principal office or at such other place as shall be designated by the County, the principal sum of \$248,000.00 (Two Hundred Forty-Eight Thousand dollars), or so much thereof as County disburses to Borrower pursuant to this Note, with interest accruing from the date of disbursement, on the outstanding principal balance, at the simple interest rate of 95/100 percent (.95 %) per annum, until paid.
3. Payment of both principal and accrued interest is deferred until the date (the "**Maturity Date**") which is the earlier of: (i) eighteen (18) months from the date of this Note (provided however, Borrower shall have the right to request an extension for a period of up to six (6) months if necessary to accommodate delays in the commencement or completion of Project construction or delay in conversion of the Project construction loan and in the event Borrower requests an extension, County shall have the right in its sole discretion to reject or grant such extension request), or (ii) upon Borrower's obtaining construction financing. The entire unpaid principal balance and accrued interest, plus any other sums payable pursuant to this Note or the Deed of Trust, shall be due and payable in full on the Maturity Date, unless otherwise approved by the County in its reasonable discretion. Borrower shall have the right to prepay the Loan in whole or in part without penalty or premium.
4. This Note is secured by a Deed of Trust executed by the Housing Authority, for the benefit of County, given to First American Title Insurance Company, a corporation, as trustee, and duly filed for record against the Property in the Official Records of Shasta County (the "**Deed of Trust**").

5. The makers, sureties, guarantors and endorsers of this Note hereby consent to renewals and extension of time at or after the maturity hereof, waive diligence, presentment, protest and demand and notice of every kind, and to the extent permitted by law, waive the right to plead any exemption rights or statute of limitations as a defense to any action or proceeding to enforce the terms of this Note. This Note is the joint and several obligations of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their heirs, personal representatives, successors and assigns.
6. Borrower understands and agrees that any construction improvements, including preconstruction work and expenses, for the Project must comply with prevailing wage requirements in accordance with the provisions of Article 2 (commencing with section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code.
7. The term of this Note shall commence on the date of signing by all parties of this Note and shall end on the Maturity Date as defined above.
8. Termination. At any time prior to expiration of the term of this Note, County, acting either through its Board of Supervisors or its County Executive Officer, shall have the right to terminate this Note effective immediately upon the County giving written notice thereof to Borrower and to demand return to the County of all funds loaned to Borrower under this Note, if any of the following occurs:
 - a. Borrower fails to perform its responsibilities under this Note or fails to comply with any and/or all of the terms and conditions in this Note as determined by County;
 - b. Borrower does not commence and complete the Project within the time specified in Section 2 above;
 - c. Borrower is dissolved during the term of this Note.

Upon the occurrence of any of the foregoing, County shall have the right to immediately demand the return of all funds disbursed hereunder within 30 days of County's written demand for return of the funds.

9. Publicity. Publicity generated by Borrower for the Project during the initial year of this Note shall make reference to the contribution of County.
10. Non-Discrimination. Borrower agrees to comply with applicable laws prohibiting discrimination in employment or in the provision of services because of race, color, religion, national origin, age, sex, sexual orientation, mental or physical disability, or any additional classification or status protected by law. This non-discrimination section shall remain in full force and effect after termination of this Note.
11. Indemnity. Borrower agrees to defend, indemnify, hold harmless, reimburse and release County, its elected officials, agents, officers, attorneys, employees, volunteers, boards and commissions, from and against any and all actions, claims, damages, disabilities,

liabilities and expenses, including but not limited to attorney's fees and the cost of litigation (including, but not limited to, attorney's fees and costs of litigation incurred in an action by County to enforce the indemnity provisions herein), that may be asserted by any person or entity, including Borrower, arising out of or in connection with the performance of Borrower hereunder, whether or not there is concurrent negligence on the part of County, but, to the extent required by law, excluding liability due to the sole negligence of or due to the willful misconduct of County or the other indemnified parties. If there is a possible obligation to indemnify, Borrower's duty to defend exists regardless of whether it is ultimately determined that there is not a duty to indemnify. County shall have the right to select its own legal counsel at the expense of Borrower, subject to Borrower's approval, which approval shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Borrower or its agents under workers' compensation acts, disability benefit acts, or other employee benefit acts.

Borrower agrees to defend, indemnify, release and hold harmless County, its elected officials, agents, officers, attorneys, employees, volunteers, boards and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of which is to attack, set aside, void, or annul the approval of this Note. This indemnification shall include but not be limited to, damages, costs, expenses, attorney's fees or expert witness fees that may be asserted by any person or entity, including Borrower, arising out of or in conjunction with the approval of this Note, whether or not there is concurrent passive or active negligence on the part of County.

This indemnification section shall remain in full force and effect after termination of this Note.

12. As County is merely loaning funds to Borrower, the provisions of this section are intended to be construed as broadly as permitted under California law and are intended to relieve County of any liability associated with the ownership, construction, or operation of the Project.
13. Compliance with Laws, Prevailing Wages. Borrower understands and agrees that use of County funds in connection with Project shall require the payment of prevailing wages in accordance with the California Labor Code. Borrower agrees to comply with all applicable laws and regulations affecting the Project, and agrees to provide reasonable documentation of such compliance promptly upon County's request. Borrower further expressly warrants and agrees that at all times, VHDC or a public agency, nonprofit corporation or nonprofit association, shall own or operate the Project.
14. Right to Audit and Inspect. Borrower understands and agrees to permit County the right to audit and inspect all records, notes and writings of any kind for the purpose of monitoring Borrower's compliance with the terms and conditions of this Note.
15. Insurance.
 - a. Borrower shall maintain throughout the term of this Note, fire, flood, and extended coverage insurance to provide replacement coverage for the Project facilities.

- b. Borrower shall also obtain, from an insurance carrier authorized to transact business in the State of California, and maintain during the term of this Note, Commercial General Liability Insurance for the Project facilities (including the building and premises) of not less than Two Million Dollars (\$2,000,000) combined single limit bodily injury and property damage per occurrence and Five Million Dollars (\$5,000,000) aggregate. Any of Borrower's Excess Insurance shall contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the County.
- c. Borrower shall obtain and maintain continuously all required Workers' Compensation and Employer's Liability Insurance to cover Borrower and Borrower's employees, with an insurance carrier authorized to transact business in the State of California covering the full liability for compensation for injury to those employed by Borrower. Borrower hereby certifies that Borrower is aware of the provisions of section 3700 of the Labor Code, which requires every employer to insure against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and Borrower shall comply with such provisions prior to the distribution of funds by County to Borrower under this Note.
- d. Any deductible or self-insured retention exceeding \$25,000 for Borrower shall be disclosed to and be subject to approval by the County Risk Manager prior to the distribution of funds by County to Borrower under this Note.
- e. All insurance (except workers' compensation and professional liability) shall include an endorsement or an amendment to the policy of insurance that names Shasta County, its elected officials, officers, employees, agents, volunteers, boards and commissions, as additional insureds and provides that coverage shall not be reduced or canceled without 30 days' written prior notice certain to the County. Any available insurance proceeds in excess of the specified minimum limits and coverage pursuant to the terms of this Note shall be applicable to the Additional Insured. The additional insureds coverage shall be equal to Insurance Service Office endorsement CG 20 10 for on-going operations, and CG 20 37 for completed operations. Borrower shall provide County the endorsements or amendments to Borrower's policies of insurance as evidence of insurance protection before the distribution of funds by County to Borrower under this Note.
- f. The insurance coverage required by this Note shall be in effect at all times during the Note. In the event any insurance coverage expires at any time during the term of the Note, Borrower shall provide, at least twenty (20) days prior to said expiration date, a new endorsement or policy amendment evidencing insurance coverage as provided for herein.
- g. Any of Borrower's excess insurance shall contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of County.

- h. Borrower releases County from liability for loss or damage covered by Borrower's fire, flood, and extended insurance coverage and waives subrogation rights of the insurer(s).
16. No Political or Religious Activity. County funds shall be used only for the purposes specified in this Note and in any attachments hereto. No County funds shall be used for any political activity, or to further the election or defeat of any candidate for political office. No County funds shall be used for purposes of religious worship, instruction, or proselytizing.
17. Merger. This writing is intended both as the final expression of the agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Note, pursuant to Code of Civil Procedure Section 1856. No modification of this Note shall be effective unless and until such modification is evidenced by a writing signed by both parties.
18. Severability. In the event that any provision of this Note shall be held by a court to be invalid or illegal for any reason, said invalidity or illegality shall not affect the remaining provisions of this Note.
19. Method and Place of Giving Notice. Any notice required to be given pursuant to the terms and provisions of this Note shall be in writing and shall be sent first-class mail to the following addresses:

If to County: Director
Shasta County Department of Housing and
Community Action Programs
1450 Court Street, Suite 108
Redding, CA 96001

If to Borrower: Veterans Housing Development Corporation
P.O Box 9007
Santa Rosa, CA 95406

Written notice shall be deemed to be effective two days after mailing.

20. Assignment/Delegation. Neither party shall assign, sublet, or transfer any interest in or delegate any duty under this Note without the written consent of the other, and no assignment shall have any force or effect whatsoever unless and until the other party shall have so consented.
21. Status of Parties. This Note shall not be construed to create a joint venture or partnership. Neither party is the agent of the other for any purpose. There are no third party beneficiaries to this Note, and it may be enforced only by the parties hereto.
22. Notice of Claim. If any claim for damages is received by Borrower or if any lawsuit is instituted that in any way, directly or indirectly, contingently or otherwise, affects or

might reasonably affect County, Borrower shall give prompt and timely notice thereof to County. Notice shall be prompt and timely if given within 30 days following the date of receipt of a claim or 10 days following the date of service of process of a lawsuit.

23. Note Preparation. It is agreed and understood by the parties that this Note has been arrived at through negotiation and that neither party is to be deemed the party which created any uncertainty in this Note within the meaning of Civil Code section 1654.
24. In the event of a conflict between the terms of this Note and the terms of any Deed of Trust securing this Note, the terms of this Note shall prevail.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, County and Borrower have executed this Note on the dates set forth below. By their signatures below, each signatory represents that he/she has the authority to execute this Note and to bind the party on whose behalf his/her execution is made.

Veterans Housing Development Corporation,
A subsidiary of Veterans Resource Centers of
America

Date: _____

Peter Cameron, President
Veterans Housing Development Corporation

Date: _____

Burt McChesney, Executive Director
Veterans Housing Development Corporation

COUNTY OF SHASTA

Date: _____

DAVID A. KEHOE, CHAIRMAN
Board of Supervisors
County of Shasta, State of California

ATTEST
LAWRENCE G. LEES
Clerk of the Board of Supervisors

By: _____

Approved as to form:

RISK MANAGEMENT APPROVAL

Matthew M. McOmber
Senior Deputy County Counsel

James Johnson
Risk Management Analyst