

SUPPLEMENT TO BASE CLOSURE HOMELESS ASSISTANCE AGREEMENT

This Supplement to Base Closure Homeless Assistance Agreement (“**Agreement**”) is entered into on _____ 2013 (“**Effective Date**”) between COMMUNITY ACTION PARTNERSHIP OF ORANGE COUNTY, a California Nonprofit Corporation (“**Homeless Services Provider**”), and the COUNTY OF ORANGE, a political subdivision of the State of California (“**County**”), as the Local Redevelopment Authority (“**LRA**”) for Marine Corps Air Station El Toro (“**MCAS El Toro**”). Homeless Services Provider and the County are collectively referred to as the “**Parties**” and individually as a “**Party**.”

A. MCAS El Toro is owned by United States of America and held by the Department of the Navy (“**Navy**”). The closing of MCAS El Toro is being managed by the Base Realignment and Closure Commission (“**BRAC**”).

B. MCAS El Toro is being made available for civilian reuse pursuant to the reuse processes prescribed in accordance with the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. § 2687), as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, Public Law 103-42. As a part thereof, Homeless Services Provider was selected to obtain an interest in the “**Premises**,” as defined below.

C. As part of the closure of MCAS El Toro the Navy has conveyed the Premises to the County, as the LRA, with the intent that an interest in the Premises be conveyed to Homeless Services Provider.

D. Prior to the execution of this Agreement the County and Homeless Services Provider have entered into the Base Closure Homeless Assistance Agreement (“**Base Closure Agreement**”) pursuant to which the County as the LRA has conveyed to Homeless Services Provider an interest in the Premises.

E. The Premises is to be used by Homeless Services Provider as a “Homeless Assistance Provider” as defined in the Base Closure Agreement, in accordance with the MCAS El Toro Community Reuse Plan (“**CRP**”) and the MCAS El Toro Homeless Assistance Submission (“**HAS**”) prepared by the County and approved by U.S. Department of Housing and Urban Development.

With reference to the facts recited above, the Parties agree as follows:

1. **Supplement to Base Closure Agreement.** This Agreement supplements and clarifies the Base Closure Agreement.
2. **Defined Terms.** Except as otherwise provided in this Agreement all capitalized words and phrases shall have the same meanings given them in the Base Closure Agreement.
3. **Alternative to Homeless Assistance Conveyance.** Pursuant to the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, Public Law 103-42 the County as the LRA is tasked with providing “for the use to assist the homeless of buildings and property, resources, and assistance on and off the installation.” Currently, pursuant to the Base

Closure Agreement, the County has identified the Premises as being available to the Homeless Service Provider for their Program, as identified in the Base Closure Agreement. The Parties understand that once the Premises is conveyed pursuant to the Base Closure Agreement, the Homeless Service Provider will take appropriate action to commence the Program, including research and investigation as to whether the Premises can reasonably be used for uses and services that primarily benefit the homeless. The Parties understand that based on that research and investigation it is possible that the Premises cannot reasonably be used for the Program and for uses and services that primarily benefit the homeless. In the event that the Homeless Service Provider determines in its sole discretion that the Premises cannot reasonably be used for the Program, the Homeless Service Provider shall notify the County of such, with the reasons for such decision, in writing. If such determination is made by the Homeless Service Provider, within sixty (60) days after receipt of such notice from the Homeless Service Provider, the Premise shall be reconveyed to the County under Section 13 of the Base Closure Agreement. If this occurs, consistent with the HAS, the County has identified as an alternative to conveyance of the Premises to Homeless Service Provider the conveyance of certain properties in the Anaheim Independencia area of the City of Anaheim and the Unincorporated County of Orange which may be conveyed to the Homeless Service Provider for the Program (“***Alternate Homeless Assistance Conveyance***”). The Alternate Homeless Assistance Conveyance consists of the conveyance of the Anaheim Independencia Community Center and seven (7) supporting affordable residential properties owned by the County of Orange and the Orange County Housing Authority (“***OCHA***”) (acting as the Successor Housing Agency to the former Orange County Development Agency), and are described on Exhibit A, attached hereto and incorporated herein by this reference. Upon transfer the properties will be encumbered by certain restrictions as set forth more fully in the Quitclaim Deed for the Alternate Homeless Assistance Conveyance, in substantially the form as Exhibit B, attached hereto (“***Quitclaim***”). Each of the properties making up the Alternate Homeless Assistance Conveyance may be transferred by separate Quitclaim in substantially the form as Exhibit B.

4. **Conveyance of Alternate Homeless Assistance Conveyance.** The Alternate Homeless Assistance Conveyance shall be conveyed to the Homeless Service Provider (by Quitclaim) by the County concurrently with the reversion and reconveyance of the Premises to the County pursuant to Section 3, herein and Section 13 of the Base Closure Agreement. The Alternate Homeless Assistance Conveyance shall be utilized by the Homeless Service Provider for the Program or to support the continued operation of the Program to benefit the homeless as more fully set forth in the Quitclaim. The County and the OCHA will record Quitclaims as part of the Alternate Homeless Assistance Conveyance, which restricts the use of the property while it is owned by the Homeless Service Provider. In the event that the Alternate Homeless Assistance Conveyance or any part thereof is sold, the Homeless Service Provider shall be required to use any and all proceeds for the Program or to support the continued operation of the Program to benefit the homeless. If the Alternate Homeless Assistance Conveyance is used for any purpose not set forth in the Quitclaim, while the Homeless Service Provider owns any portion of it, the property will revert back to the County, as set forth therein.

5. **Reconveyance of Premises.** Concurrently with, or prior to, the Alternate Homeless Assistance Conveyance by the County to Homeless Service Provider, the Homeless Service Provider shall, consistent with the Base Closure Agreement, reconvey the Premises to

the County using by executing the Quitclaim Deed attached hereto as Exhibit C, and delivering such to the County.

6. **Assignment.** Homeless Services Provider is not entitled to assign its rights under this Agreement, whether voluntarily or by operation of law and any such assignment shall have no effect.

7. **Attorneys' Fees.** In the event of a dispute between the Parties, the Parties shall each be responsible for their own attorneys' fees, court costs and litigation expenses of any kind.

8. **Notices.**

All written notices pursuant to this Agreement shall be addressed as set forth below or as either Party may hereafter designate by written notice and shall be deemed delivered upon personal delivery, delivery by facsimile machine, or seventy-two (72) hours after deposit in the United States Mail.

TO: Homeless Service Provider

TO: County

Community Action Partnership
11870 Monarch
Garden Grove, CA 92841
Attn: Executive Director

County of Orange
County Executive Office,
333 W. Santa Ana Blvd, Third Floor
Santa Ana, CA 92701
Attn: Chief Real Estate Officer

9. **Miscellaneous.**

(a) This Agreement, along with the Base Closure Agreement, constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof and all prior and contemporaneous agreements, representations and understandings of the Parties hereto, oral or written, are hereby superseded and merged herein. No supplement, modification or amendment of this Agreement shall be binding unless in writing and executed by the Parties hereto.

(b) No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions, whether or not similar, nor shall any waiver be a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

(c) This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of California as if both Parties prepared this Agreement.

(d) Time is of the essence of every provision hereof.

(e) The Parties warrant and represent that they have the full right and authority to enter into this Agreement and do not require the consent or permission of any other person, authority or entity to enter into and perform their obligations under this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

**[SIGNATURE PAGE TO
SUPPLEMENT TO BASE CLOSURE AGREEMENT]**

HOMELESS SERVICES PROVIDER:

COUNTY:

COMMUNITY ACTION PARTNERSHIP
OF ORANGE COUNTY

COUNTY OF ORANGE

(print name)

By: _____

Scott Mayer
Chief Real Estate Officer
Pursuant to Minute Order dated

(title)

(signature)

APPROVED AS TO FORM
COUNTY COUNSEL

(print name)

(title)

By:  _____

Title: Deputy

(signature)

EXHIBIT "A"

ALTERNATE HOMELESS ASSISTANCE CONVEYANCE

LEGAL DESCRIPTIONS

PARCEL 1

10782 & 10786 Garza Ave., Unincorporated Orange County
"Duplex"

The certain property in the Unincorporated County of Orange, adjacent to the City of Anaheim, California, more particularly described as follows:

Lot 17, Tract No. 585, in the County of Orange, State of California, as per map recorded on pages 19-21 of Miscellaneous Maps, Records in the Office of the County Recorder of said county.

APN 127-561-04

PARCEL 2

10821 Garza Avenue, Anaheim, CA 92804

The certain property in the City of Anaheim, California, more particularly described as follows:

Lot 27, Tract No. 585, in the County of Orange, State of California, as per map recorded on pages 19-21 of Miscellaneous Maps, Records in the Office of the County Recorder of said county.

Excluding the northern 35' of Lot 27.

APN 127-562--37

PARCEL 3

9301A & 9301B Katella Avenue, Anaheim, CA 92804

The certain property in the City of Anaheim, California, more particularly described as follows:

The northern 57.87' of Lots 41, 42, 43, and 44, Tract No. 585, in the County of Orange, State of California, as per map recorded on pages 19-21 of Miscellaneous Maps, Records in the Office of the County Recorder of said county.

APN 127-562-39

PARCEL 4

10881A, 10881B & 10841 Garza Avenue, Anaheim, CA, 92804
Duplex - Community Center - Park

The certain property in the City of Anaheim, California, more particularly described as follows:

The eastern 109' of Lots 28, 29, 30, 31, and 32, Tract No. 585, in the County of Orange, State of California, as per map recorded on pages 19-21 of Miscellaneous Maps, Records in the Office of the County Recorder of said county.

APN 127-562-43

EXHIBIT B

**QUITCLAIM DEED
FOR THE ALTERNATE HOMELESS ASSISTANCE CONVEYANCE**

Recording requested by and
when recorded, return to:

County of Orange
OC Public Works/Land Development
300 North Flower, 6th Floor
Santa Ana, CA 92702
Attn: Manager

Recording Fee Exempt
Per Govt. Code 27383

Facility: _____
Location: _____

QUITCLAIM DEED

For valuable consideration, receipt of which is hereby acknowledged,

COUNTY OF ORANGE,
a political subdivision of the State of California,
(hereinafter referred to as "**County**")

does hereby remise, release and forever Quitclaim to the

COMMUNITY ACTION PARTNERSHIP,
(hereinafter referred to as "**Grantee**")

all right, title and interest in and to the real property in the, County of Orange, State of California,
described as:

See EXHIBIT A,
attached and by reference made a part.
(**"Property"**)

In consideration of the transfer of the Property and the mutual covenants, terms, conditions, and restrictions contained herein, Grantee hereby voluntarily restricts the use of the Property as follows.

1. Purpose. Grantee covenants and agrees that the Property shall be used only for a Community Center, Park and Affordable Housing Purposes to support the homeless and clients who are at risk of becoming homeless (as more fully set forth below).

2. Housing and Community Development Purposes. For the purposes of this Quitclaim Deed, "**Housing and Community Development Purposes**" means activities for persons and families of low or very low income, as defined in 24 CFR 570.3 (1) (iii) (2), for the Community Development Block Grant Program, as well as related uses such as parking, landscaping, playgrounds, laundries, community rooms, recreation areas and other similar uses and services to serve this particular population. The Grantee shall ensure that the Property remains available only to low or very low income and homeless/at-risk homeless households from the date of recordation of this Quitclaim Deed or on the date that current occupants (at the time of the recordation of this Quitclaim Deed) vacate the units if the units are occupied at the time of the recordation of this Quitclaim Deed. The Property may be used for park, community center and Affordable Housing purposes, specifically to support the homeless and clients who are at risk of becoming homeless, as consistent with the Housing and Community Development Purposes. The restriction herein shall not prohibit additional uses of the community center and park for neighborhood residents nor restrict services and programs for community/neighborhood improvement and benefit.

3. Prohibited Uses. Any activity on or use of the Property inconsistent with the purposes of this Quitclaim Deed is prohibited unless otherwise approve in writing through an amendment to this Declaration by Grantee and the County.

4. Binding Effect. Grantee agrees that restrictions contained herein shall remain in full force and effect while the Grantee owns and/or operates the Property and shall not be amended or modified except by writing agreed to by Grantee and the County.

5. Sale of Property. In the event the Property is sold to a party other than the Grantee the interest created by restrictions herein shall be quitclaimed by the County and thereafter shall be of no force an effect, on the condition that any funds received by the Grantee from the sale of the Property must be used solely for the purposes of providing affordable housing and services to support the homeless and clients who are at risk of becoming homeless, consistent with the provisions of this Quitclaim Deed and any other property purchased by the Grantee with those funds shall have restrictions substantially similar to those found in this Quitclaim Deed recorded on them by the Grantee and the County..

6. Remedies. The failure of the Grantee to follow the requirements of this Quitclaim Deed shall constitute an Event of Default, which shall give the County the right to proceed with any and all remedies set forth in this Quitclaim Deed or otherwise available at law or in equity or by statute (and all of the County's rights and remedies shall be cumulative), including but not

limited to the following:

(a) Specific Performance. The County shall have the right to mandamus or other suit, action or proceeding at law or in equity to require a successor or assign to perform its obligations and covenants under this Quitclaim Deed or to enjoin acts on things, which may be unlawful, or in violation of the provisions of this Quitclaim Deed.

(b) Remedies Cumulative. No right, power, or remedy given to the County by the terms of this Quitclaim Deed is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the County by the terms of any such instrument, or by any statute or otherwise against a successor or assign and any other person. Neither the failure nor any delay on the part of the County to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the County of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

(c) Waiver of Terms and Conditions. No waiver of any default or breach hereunder shall be implied from any omission by the County to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver, and such waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition. The consent or approval by the County to or of any act requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act. The exercise of any right, power, or remedy shall in no event constitute a cure or a waiver of any default under this Quitclaim Deed, nor shall it invalidate any act done pursuant to notice of default, or prejudice the County in the exercise of any right, power, or remedy hereunder.

7. Governing Law. This Quitclaim Deed shall be governed by the laws of the State of California. In the event of any legal action to enforce or interpret this Quitclaim Deed, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394

8. Amendments. This Quitclaim Deed shall be amended only by a written instrument executed by the County and the Grantee and any succor or assign, as applicable, or their successors in title and duly recorded in the real property records of the County of Orange.

IN WITNESS WHEREOF the parties have executed this Quitclaim Deed on the day and year first above written.

COUNTY:

COUNTY OF ORANGE
a political subdivision of the State of

California

By: _____
Director, OC Community Resources
County of Orange

APPROVED AS TO FORM:
Office of County Counsel
Orange County, California

By: _____
Deputy

GRANTEE:

COMMUNITY ACTION PARTNERSHIP
OF ORANGE COUNTY

Dated: _____

By: _____
Title: _____

By: _____
Title: _____

EXHIBIT C

**QUITCLAIM DEED
FOR THE PREMISES**

Recording requested by and
when recorded, return to:

County of Orange
OC Public Works/Land Development
300 North Flower, 6th Floor
Santa Ana, CA 92702
Attn: Manager

Recording Fee Exempt
Per Govt. Code 27383

Facility: El Toro Building 360
Location: Irvine, California

QUITCLAIM DEED

For valuable consideration, receipt of which is hereby acknowledged,

COMMUNITY ACTION PARTNERSHIP
and
FAMILIES FORWARD, INC., a California Nonprofit Public Benefit Corporation,
as Joint Tenants,
(hereinafter collectively referred to as "**Grantor**")

does hereby remise, release and forever Quitclaim to the

COUNTY OF ORANGE,
a political subdivision of the State of California,
(hereinafter referred to as "**County**")

all right, title and interest in and to the real property in the City of Irvine, County of Orange, State
of California, described as:

See EXHIBIT A,
attached and by reference made a part.

Exhibit A

“GRANTIOR”

Families Forward, Inc.,
a California Nonprofit Public Benefit Corporation

Dated: _____

By: _____
Title: _____

By: _____
Title: _____

Community Action Partnership of Orange County

Dated: _____

By: _____
Title: _____

By: _____
Title: _____

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the within deed or grant to the County of Orange, a political subdivision of the State of California, is hereby accepted by order of the Board of Supervisors of the County of Orange, and the County of Orange consents to recordation thereof by its duly authorized officer.

Dated: _____ By: _____

Scott D. Mayer
Chief Real Estate Officer
Pursuant to Minute Order dated

APPROVED AS TO FORM

County Counsel

By: _____

Date: _____