

**LOAN AGREEMENT
(\$300,000)**

Between

County of Santa Barbara

and

Isla Vista Youth Projects, Inc.



Community Development Block Grant

Catalog of Federal Domestic Assistance Number 14.218

**CDBG
LOAN AGREEMENT
(Isla Vista Youth Projects Building Acquisition)**

This Loan Agreement is made as of this 4th day of April, 2017, by and between the County of Santa Barbara, political subdivision of the State of California (“Lender”), and Isla Vista Youth Projects, Inc, a California nonprofit public benefit corporation (“Borrower”).

RECITALS

- A. Lender wishes to build community infrastructure and service capacity in Santa Barbara County.
- B. Borrower is acquiring a property in order to continue to provide low-cost professional childcare and enrichment to children. The property is located at 6842 Phelps Road in the City of Goleta, which is located in Santa Barbara County, California, as more particularly described in Exhibit A. (the “Property”).
- C. Lender has received Community Development Block Grant funds (“CDBG Funds”) from the United States Department of Housing and Urban Development (“HUD”).
- D. Borrower wishes to borrow from Lender and Lender wishes to extend to Borrower a loan in the amount of Three Hundred Thousand Dollars (\$300,000) to repay a bridge loan obtained to acquire the Property (the “Loan”). Lender intends to fund the entire Loan with CDBG Funds. The terms of the Loan are set out in this Loan Agreement.
- E. Pursuant the FY 2016-17 Annual Action Plan approved by the Board of Supervisors of the County of Santa Barbara (“Board”) on May 03, 2016, CDBG funding has been designated for the Project.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, obligations, and representations, and in further consideration for the making of the Loan, Borrower and Lender hereby agree as follows:

ARTICLE 1 DEFINITIONS

The following terms have the meanings and content set forth in this section wherever used in this Loan Agreement, attached Exhibits, or documents incorporated into this Loan Agreement by reference.

1.1 **“ANNUAL FINANCIAL STATEMENT”** means the financial statement of Operating Expenses and Revenues, prepared at Borrower’s expense, by an independent certified accountant acceptable to Lender, which shall be provided as part of the Annual Report to Lender.

1.2 **“BORROWER”** is Isla Vista Youth Projects, Inc. a California nonprofit public benefit corporation, and its authorized representatives, assigns, transferees, or successors-in-interest thereto.

1.3 **“BUDGET”** means that budget for the operations of the Property.

1.4 “**CDBG Funds**” means funds provided by the Lender from the Community Development Block Grant program, as stated in CFR Title 24: Part 570 – Community Development Block Grants.

1.5 “**COUNTY**” means the County of Santa Barbara, political subdivision of the State of California.

1.6 “**DEED OF TRUST**” is that deed of trust, assignment of rents, and security agreement placed on the Property as security for the Loan by Borrower as trustor with Lender as beneficiary, as well as any amendments to, modifications of, and restatements of said deed of trust, attached hereto as Exhibit C. The terms of the Deed of Trust have been incorporated into this Loan Agreement.

1.7 “**ESCROW HOLDER**” means the person or entity designated by the Borrower and approved by Lender to hold all Loan proceeds and documents until receiving written instructions to record the documents and disburse the funds.

1.8 “**HAZARDOUS MATERIALS**” means any hazardous or toxic substances, materials, wastes, pollutants, or contaminants which are defined, regulated, or listed as “hazardous substances,” “hazardous wastes,” “hazardous materials,” “pollutants,” “contaminants,” or “toxic substances,” under federal or state environmental and health and safety laws and regulations, including without limitation petroleum and petroleum byproducts, flammable explosives, urea formaldehyde insulation, radioactive materials, asbestos, and lead. Hazardous Materials do not include substances that are used or consumed in the normal course of developing, operating, or occupying a housing project, to the extent and degree that such substances are stored, used, and disposed of in the manner and in amounts that are consistent with normal practice and legal standards at the time of such use.

1.9 “**HUD**” means the United States Department of Housing and Urban Development.

1.10 “**INSURANCE REQUIREMENTS**” means the insurance coverage which must be in full force and effect during the term of the Regulatory Agreement, as specified in Exhibit E.

1.11 “**LENDER**” means the County of Santa Barbara, political subdivision of the State of California and its authorized representatives, officers, officials, directors, employees, and agents.

1.12 “**LOAN**” means the loan of funds in the amount of Three Hundred Thousand Dollars (\$300,000) from the Lender to the Borrower as provided in this Loan Agreement to finance certain development costs of the Project.

1.13 “**LOAN AGREEMENT**” means this loan agreement entered into between Lender and Borrower.

1.14 “**LOAN DOCUMENTS**” are collectively the Loan Agreement, the Note, the Deed of Trust, and the Regulatory Agreement, as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to these documents.

1.15 “**MEDIAN INCOME**” means the median income for the Santa Barbara/Santa Maria/ Lompoc Primary Metropolitan Statistical Area as determined by HUD with adjustments for household size.

1.16 **“NOTE”** means the promissory note executed by the Borrower in favor of Lender in the amount of Three Hundred Thousand (\$300,000) to evidence the Loan as well as any amendments to, modifications of, or restatements of said promissory note, substantially in the form attached hereto as Exhibit D.

1.17 **“OPERATING EXPENSES”** shall mean, actual, reasonable and customary costs, fees and expenses directly attributable to the operation, maintenance, and management of the Project, including staff payroll costs, painting, cleaning, repairs, landscaping, utilities, rubbish removal, permits and licenses, sewer charges, real and personal property taxes and assessments, insurance, reasonable property management fee, security, advertising, promotion and publicity, office, janitorial, cleaning and building supplies, lease payments if any, cash deposited into reserves for capital replacements with respect to the Project in an amount not to exceed reserve requirements reasonably imposed by any lender, cash deposited into an operating reserve in an amount not to exceed the amount reasonably required by any lender, purchase, repair, servicing and installation of appliances, equipment, fixtures and furnishings, fees and expenses of accountants, attorneys, consultants and other professionals, and any required debt service under senior loans. The Operating Expenses shall be reported in the Annual Financial Statement.

1.18 **“PROJECT”** means the acquisition, operation and management of the Property according to the terms of this Loan Agreement.

1.19 **“PROPERTY”** means property located at 6842 Phelps Road in the City of Goleta, which is located in Santa Barbara County, California, as more particularly described in Exhibit A. (the “Property”).

1.20 This paragraph is left intentionally blank.

1.21 **“REGULATORY AGREEMENT”** means the agreement executed by Borrower and Lender, attached as Exhibit E, and recorded against the Property prior to or contemporaneously with the Loan which regulates the use of the Project.

1.22 **“REVENUE”** means all income derived from the Project, including but not limited to fees charged for services provided by Borrower at the Property.

1.23 This paragraph is left intentionally blank.

ARTICLE 2 TERMS OF THE LOAN

2.1 **LOAN.** On and subject to the terms and conditions of the Loan Documents, Lender agrees to make and Borrower agrees to accept a loan with the following terms:

2.2 **AMOUNT.** The principal amount of the Loan shall be an amount not to exceed Three Hundred Thousand Dollars (\$300,000) and shall be evidenced by the Note. In the event Lender is unable to secure CDBG Funds for this County Loan Agreement for any reason, Lender shall not be obligated to make payments to Borrower until CDBG Funds become available to Lender, and Borrower shall hold Lender harmless.

2.3 **INTEREST.** Subject to the provisions of Section 2.4, the Note shall bear simple interest at a rate of zero percent (0%) per annum from the date on which the principal amount of the Loan is initially advanced to Borrower through the loan term.

2.4 **DEFAULT INTEREST.** In the event of a default by Borrower of any of its obligations under this Loan Agreement and expiration of applicable cure periods, Borrower shall pay to Lender interest on the outstanding principal of the Loan, at an annual rate equal to the lesser of (i) ten percent (10%) or (ii) the highest interest allowed by law, from the date of the default until the date that the default is cured or the Loan is repaid in full.

2.5 **TERM OF LOAN.** The principal of the Loan shall be due and payable on the earlier of: (a) five (5) years from the date of the closing of the permanent loan on the Project, or (b) the date the Property is sold or otherwise transferred or (c) an Event of Default by Borrower which has not been cured as provided for in this Loan Agreement. In any event, the principal of the Loan shall be due and payable no later than April 04, 2022. In the Event of Default by Borrower, which has not been cured as provided for in this Loan Agreement, all current and accrued interest shall be due and payable. The foregoing notwithstanding, if Borrower remains compliant with the terms of the Regulatory Agreement, as determined by the County through periodic inspections of the Project and files documenting compliance, and as indicated with monitoring close-out letters from Lender to Borrower indicating compliance with the Regulatory Agreement, for the five (5) year term described therein, then the principal amount of the loan, along with all accrued interest, except interest accrued pursuant to Section 2.4, shall be forgiven.

2.6 **USE OF FUNDS.** CDBG Loan proceeds shall be used only for the repayment of a loan obtained to acquire the Property.

2.7 **SECURITY.** Borrower shall secure its obligation to repay the Loan by executing a Deed of Trust, in substantially the form attached hereto as Exhibit C and recording it as a lien against the Property.

2.8 **REPAYMENT OF THE LOAN.** All accrued interest and principal shall be due and payable in accordance with the terms set forth in Section 2.5.

2.9 **PREPAYMENT OF LOAN.** No prepayment penalty will be charged to Borrower for payment of all or any portion of the Loan amount prior to the end of the term described herein. However, prepayment of the Loan shall not affect Borrower's obligations under the Regulatory Agreement.

2.10 **ANNUAL OPERATING EXPENSES AND FINANCIAL STATEMENTS.** Thirty (30) days prior to end of the Borrower's fiscal year, Borrower shall submit to Lender, a copy of the operating budget for the Project, for the following calendar year. Ninety (90) days following the end of the Borrower's fiscal year, Borrower shall submit to Lender copies of the year-end audited financial statements.

2.11 **RECORDING.** Upon closing date, Escrow Holder shall record the Deed of Trust and the Regulatory Agreement with the Recorder for the County of Santa Barbara, and shall deliver conformed copies of the recorded documents to the Lender and Borrower.

2.12 **OPERATING AND REPLACEMENT RESERVE FUND.** This paragraph is left intentionally blank. .

ARTICLE 3 LOAN DISBURSEMENT

3.1 **CONDITIONS PRECEDENT TO DISBURSEMENT.** Lender shall not be obligated to make any disbursements of the Loan proceeds or take any other action under the Loan Documents unless the following conditions precedent are satisfied prior to the disbursement of the Loan:

A. There exists no Event of Default nor any act, failure, omission or condition that with the giving of notice or passage of time would constitute an Event of Default;

B. Borrower has executed and delivered to Lender all documents, instruments, and policies required under the Loan Documents, including but not limited to an ALTA Lender's policy of title insurance from a title insurance company approved by the Lender in a form reasonably acceptable to Lender;

C. Borrower has provided to Lender a certificate of insurance or copy of the insurance policy, which policy shall be satisfactory to the Lender;

D. Borrower has complied with all reporting requirements set forth in this Loan Agreement;

E. Lender has reviewed and approved the proposed use of the Loan proceeds, as shown on Exhibit B.

3.2 **DISBURSEMENT OF LOAN PROCEEDS.** Disbursement of Loan proceeds shall not exceed Three Hundred Thousand Dollars (\$300,000). All CDBG funds shall be used for property acquisition, as specified in the Sources and Uses identified in the Budget attached hereto as Exhibit B and incorporated herein by this reference.

3.3 **AMOUNT OF DISBURSEMENT.** Loan proceeds shall be disbursed up to the amount of the Loan shown in the Budget and only for Lender approved items. Lender's obligations shall in no event exceed the Loan amount specified in this Loan Agreement. Any costs above this amount necessary for the completion of the Project shall be the sole responsibility of Borrower.

ARTICLE 4 DEVELOPMENT OF PROJECT

4.1 **SCOPE OF WORK.** This paragraph is left intentionally blank.

4.2 **COMMENCEMENT OF CONSTRUCTION.** This paragraph is left intentionally blank.
4.3 **COMPLETION OF CONSTRUCTION.** This paragraph is left intentionally blank.

4.4 **BARRIERS TO THE DISABLED.** The Project shall be maintained to comply with all applicable federal, state, and local requirements for access for disabled persons.

4.5 **LEAD-BASED PAINT AND ASBESTOS REMOVAL.** Borrower and its contractors and subcontractors shall not use lead-based paint or asbestos in the construction, rehabilitation or maintenance of the Property and shall comply with Federal Regulations 24 C.F.R., 29 C.F.R., 40 C.F.R., Title X, California O.S.H.A., California health codes, and all County standards. Borrower shall incorporate or cause to be incorporated this provision in all contracts and subcontracts for work performed on the Property which involve the application of paint or removal of asbestos.

4.6 **QUALITY OF WORK** This paragraph is left intentionally blank.

4.7 **MECHANICS LIENS AND STOP NOTICES.** If any claim of lien is filed against the Property or a stop notice affecting the Loan is served on Lender or any other lender or other third party in connection with the Project, Borrower shall, within sixty (60) days of such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to Lender a surety bond in sufficient form and amount, provide Lender with a lien-free endorsement or provide Lender with other assurance reasonably satisfactory to Lender that the claim of lien or stop notice will be paid or discharged.

If Borrower fails to discharge any lien, encumbrance, charge, or claim referred to herein, then in addition to any other right or remedy, Lender may, but shall be under no obligation to, discharge such lien, encumbrance, charge, or claim at Borrower's expense. Alternatively, Lender may require Borrower to immediately deposit with Lender the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. Lender may use such deposit to satisfy any claim or lien that is adversely determined against Borrower.

Borrower shall record a valid notice of cessation or notice of completion upon cessation of construction work on the Project for a continuous period of 30 days or more, and take all other reasonable steps to forestall the assertion of claims of lien against the Property. Borrower authorizes Lender, but without any obligation, to record any notices of completion or cessation of labor, or any other notice that Lender deems necessary or desirable to protect its interest in the Project and Property.

4.14 **COMPLIANCE WITH HUD REQUIREMENTS.** All requirements imposed on properties assisted under the CDBG program as contained in 24 C.F.R. Part 570, and other implementing rules and regulations are incorporated by this reference. In the event of any conflict between this Loan Agreement and the CDBG regulations, the CDBG regulations shall govern, unless otherwise waived by the Lender.

4.15 **RELOCATION.** This paragraph is left intentionally blank.

4.16 **UNAVOIDABLE DELAY IN PERFORMANCE.** This paragraph is left intentionally blank.

ARTICLE 5 OPERATION

5.1 **OPERATION OF PROJECT.** Borrower shall operate and manage the Project in full conformance with the terms of the Regulatory Agreement and other applicable federal, state and local laws.

5.2 **AFFORDABILITY RESTRICTIONS.** The Project must be operated and managed as set forth in the Regulatory Agreement.

5.3 **CONFLICTS BETWEEN COVENANTS OR RESTRICTIONS AFFECTING THE PROPERTY.** Any conflicts between the restrictive provisions contained in this Loan Agreement, Note, Deed of Trust, Regulatory Agreement, and any other agreements in connection with the Loan which affect the Property, are to be resolved by applying the more restrictive covenants or restrictions which affect the Property.

5.4 **NONDISCRIMINATION.** Borrower shall not discriminate or segregate in the development, construction, use, enjoyment, occupancy, conveyance, lease, sublease, or rental of any part of the Property on the basis of race, color, ancestry, national origin, religion, sex, sexual preference or orientation, age, marital status, family status, source of income, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC) acquired or perceived, or any other arbitrary basis. Borrower shall otherwise comply with all applicable local, state, and federal laws concerning discrimination in housing.

5.5 **RECORDS.** Borrower shall be accountable to Lender for all funds disbursed to Borrower pursuant to the Loan Documents. Borrower agrees to maintain records that accurately and fully show the date, amount, purpose, and payee of all expenditures drawn from Loan funds, and to keep all invoices, receipts, and other documents related to expenditures from said Loan funds for not less than three years after completion of the Project as evidenced by the recording of a Notice of Completion. Records must be kept accurate and current. Lender shall notify Borrower of any records it deems insufficient. Borrower shall have fifteen (15) calendar days from the date of said notice to correct any deficiency in the records specified by Lender in said notice, or, if more than fifteen (15) days shall be reasonably necessary to correct the deficiency, Borrower shall begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

Borrower shall promptly comply with all requirements or conditions of the Loan Documents relating to notices, extensions, and other events required to be reported or requested. Borrower shall promptly supply, upon the request of Lender, any and all information and documentation which involves the Project and cooperate with Lender in the development of the Project.

5.6 **AUDITS.** Borrower shall make available for examination at reasonable intervals and during normal business hours to Lender all books, accounts, reports, files, and other papers or property with respect to all matters covered by these Loan Documents, and shall permit Lender to audit, examine, and make excerpts or transcripts from such records. Lender may make audits of any conditions relating to this Loan.

5.7 **ENCUMBRANCE OF PROPERTY.** Except as otherwise provided in this Loan Agreement, Borrower shall not engage in any financing or any other transaction creating any security interest or other encumbrance or lien upon the Property, whether by express agreement or operation of law, or allow any encumbrance or lien to be made on or attached to the Property, except with the prior written consent of Lender. Borrower shall notify Lender in writing in advance of any financing secured by any deed of trust, mortgage, or other similar lien instrument that it proposes to enter into with respect to the Project or Property, and of any

encumbrance or lien that has been created on or attached to the Property whether by voluntary act of Borrower or otherwise.

5.8 **TRANSFER OF PROPERTY.** Borrower has not made or created, and shall not, make or permit any sale, assignment, conveyance, lease (other than the leasing of units in the Project pursuant to an approved lease), or other transfer of this Loan Agreement, the Project, or the Property, or any part thereof, including the sale or transfer of any general partnership interests, without the prior written consent of Lender. . 5.9 **FEES, TAXES, AND OTHER LEVIES.** Borrower shall be responsible for payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Property or the Project, and shall pay such charges prior to delinquency. However, Borrower shall not be required to pay and discharge any such charge so long as (a) the legality thereof is being contested diligently and in good faith and by appropriate proceedings, and (b) if requested by Lender, Borrower deposits with Lender any funds or other forms of assurance Lender in good faith from time to time determines appropriate to protect Lender from the consequences of the contest being unsuccessful.

5.10 **PROPERTY STANDARDS.** The Development shall meet the following minimum property standards.

- A. All applicable State and local codes and zoning ordinances;
- B. International Energy Conservation Code and applicable state and local energy conservation codes;
- C. Handicapped accessibility requirements, where applicable.

5.11 **DAMAGE TO PROPERTY.** If any building or Improvements erected by Borrower on the Property is damaged or destroyed by an insurable cause, Borrower shall, at its cost and expense, diligently undertake to repair or restore said buildings and Improvements consistent with the original Plans and Specifications for the Project if Borrower reasonably determines that such restoration or repair is economically feasible. Such work or repair shall be commenced within 120 days after the damage or loss occurs and shall be complete within one year thereafter, subject to any extensions of time granted pursuant to the provisions of Section 4.16. Subject to Borrower's election to rebuild, all insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, Borrower shall make up the deficiency.

5.12 **EQUAL EMPLOYMENT OPPORTUNITY.** Borrower and any contractors, subcontractors, and professional service providers for the Project shall comply with all requirements concerning equal employment opportunity. Borrower and any contractors, subcontractors, and professional service providers for the Project shall have comply with all requirements concerning equal opportunities for business and lower-income persons (referred to as a Section 3 clause, of the HUD Act of 1968, 12 U.S.C.).

ARTICLE 6 INDEMNITY AND INSURANCE

6.1 **INDEMNITY AND INSURANCE.** Borrower shall comply with the insurance and indemnification provisions set forth Exhibit E and incorporated by this reference.

6.2 **NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.** No officials, employees and agents of Lender shall be personally liable to Borrower for any obligation created under the terms of these Loan Documents.

ARTICLE 7 HAZARDOUS MATERIALS

7.1 **REPRESENTATIONS AND WARRANTIES.** After reasonable investigation and inquiry, Borrower hereby represents and warrants to the best of its knowledge, as of the date of this Loan Agreement and except as previously disclosed and acknowledged in writing by Lender or as disclosed by the reports based on environmental audit(s) performed on the Property and submitted to Lender, that (a) the Property is not and has not been a site for the use, generation, manufacture, transportation, storage, or disposal of Hazardous Materials in violation of Federal or State law; (b) the Property is in compliance with all applicable environmental and health and safety laws, regulations, ordinances, administrative decisions, common law decisions (whether federal, state, or local) with respect to Hazardous Materials, including those relating to soil and groundwater conditions (“Hazardous Materials Laws”); (c) there are no claims or actions pending or threatened with respect to the Property by any governmental entity or agency or any other person relating to Hazardous Materials; and (d) there has been no release or threatened release of any Hazardous Materials on, under, or near the Property (including in the soil, surface water, or groundwater under the Property) or any other occurrences or conditions on the Property or on any other real property that could cause the Property or any part thereof to be classified as a “hazardous waste property” or as a “border zone property” under California Health and Safety Code Sections 25220, et seq., or regulations adopted therewith.

7.2 **NOTIFICATION TO LENDER.** Borrower shall promptly notify Lender in writing of: (a) the discovery of any concentration or amount of Hazardous Materials of which Borrower becomes aware on or under the Property requiring notice to be given to any governmental entity or agency under Hazardous Materials Laws; (b) any knowledge by Borrower (after verification of the veracity of such knowledge to Borrower's reasonable satisfaction) that the Property does not comply with any Hazardous Materials Laws; (c) the receipt by Borrower of written notice of any Hazardous Materials claims; and (d) the discovery by Borrower of any occurrence or condition on the Property or on any real property located within 2,000 feet of the Property that could cause the Property or any part thereof to be designated as a “hazardous waste property” or as a “border zone property” under California Health and Safety Code Sections 25220, et seq., or regulations adopted therewith.

7.3 **USE AND OPERATION OF PROPERTY.** Neither Borrower, nor any agent, employee, or contractor of Borrower, nor any authorized user of the Property shall use the Property or allow the Property to be used for the generation, manufacture, storage, disposal, or release of Hazardous Materials. Borrower shall comply and cause the Project to comply with Hazardous Materials Laws.

7.4 **REMEDIAL ACTIONS.** If Borrower has actual knowledge of the presence of any Hazardous Materials on or under the Property, Borrower shall take, at no cost or expense to Lender, all handling, treatment, removal, storage, decontamination, cleanup, transport, disposal or other remedial action, if any, required by any Hazardous Materials Laws or by any orders or requests of any governmental entity or agency or any judgment,

consent decree, settlement or compromise with respect to any Hazardous Materials claims. The foregoing, however, shall be subject to Borrower's right of contest below.

7.5 **RIGHT OF CONTEST.** Borrower may contest in good faith any claim, demand, levy or assessment under Hazardous Materials Laws if: (a) the contest is based on a material question of law or fact raised by Borrower in good faith, (b) Borrower promptly commences and thereafter diligently pursues the contest, (c) the contest will not materially impair the taking of any remedial action with respect to such claim, demand, levy or assessment, and (d) if requested by Lender, Borrower deposits with Lender any funds or other forms of assurance Lender in good faith from time to time determines appropriate to protect Lender from the consequences of the contest being unsuccessful and any remedial action then reasonably necessary. No Event of Default shall be deemed to exist with respect to any claim, demand, levy or attachment being contested by Borrower under the conditions of this section.

7.6 **ENVIRONMENTAL INDEMNITY.** Borrower shall defend, indemnify, and hold Lender free and harmless against any claims, demands, administrative actions, litigation, liabilities, losses, damages, response costs, and penalties, including all costs of legal proceedings and reasonable attorney's fees, that Lender may directly or indirectly sustain or suffer as a consequence of any inaccuracy or breach of any representation, warranty, agreement, or covenant contained in this Loan Agreement with respect to Hazardous Materials, or as a consequence of any use, generation, manufacture, storage, release, or disposal (whether or not Borrower knew of same) of any Hazardous Materials occurring prior to or during Borrower's use or occupancy of the Property.

ARTICLE 8 DEFAULT AND REMEDIES

8.1 **EVENTS OF DEFAULT.** The occurrence of any of the following events shall constitute an "Event of Default" under this Loan Agreement:

A. Monetary. (1) Borrower's failure to pay when due any sums payable under the Note or any advances made by Lender under the Deed of Trust or this Loan Agreement; (2) Borrower's use of Loan funds for costs other than approved costs or for uses inconsistent with other terms and restrictions in the Loan Documents; (3) Borrower's failure to obtain and maintain the insurance coverage required under this Loan Agreement; (4) Borrower's failure to make any other payment or assessment due under the Loan Documents; (5) Borrower's failure to pay taxes; (6) Borrower's default under other debt secured by the Property after the applicable notice and cure periods have expired;

B. Construction. This paragraph is left intentionally blank.

C. Operation. (1) Discrimination by Borrower on the basis of characteristics prohibited by this Loan Agreement or applicable law or (2) the imposition of any encumbrances or liens on the Property without Lender's prior written approval that are prohibited under this Loan Agreement or that have the effect of reducing the priority of or invalidating the Deed of Trust;

D. General performance of Loan obligations. Any substantial breach by Borrower beyond applicable notice and cure periods of any material obligations on Borrower imposed in the Loan Documents;

E. General performance of other obligations. Any substantial or continuous breach by Borrower beyond applicable notice and cure periods of any material obligations on Borrower imposed by any other agreements, including any grant agreements, with respect to the financing, construction, or operation of the Project or the Property, whether or not Lender is a party to such agreement which may materially impair Lender's security;

F. Representations and warranties. A determination by Lender that its security has or will be materially impaired due to the fact that any of Borrower's representations or warranties made in the Loan Documents, or any certificates, documents, or schedules supplied to Lender by Borrower were untrue in any material respect when made, or that Borrower concealed or failed to disclose a material fact from Lender;

G. Damage to Property. Material damage or destruction to the Property by fire or other casualty, if Borrower does not take steps to reconstruct the Property as required by the Loan Documents;

H. Bankruptcy, dissolution, and insolvency. Borrower's (1) filing for bankruptcy, dissolution, or reorganization, or failure to obtain a full dismissal of any such involuntary filing brought by another party before the earlier of final relief or ninety (90) days after the filing; (2) making a general assignment for the benefit of creditors; (3) applying for the appointment of a receiver, trustee, custodian, or liquidator, or failure to obtain a full dismissal of any such involuntary application brought by another party before the earlier of final relief or ninety (90) days after the filing; (4) insolvency; (5) failure, inability or admission in writing of its inability to pay its debts as they become due.

I. Program compliance. Any non-compliance with CDBG Program requirements described in this Loan Agreement and Regulatory Agreement pursuant to Title 24: Part 570 – Community Development Block Grants.

8.2 NOTICE OF DEFAULT AND OPPORTUNITY TO CURE. For all Events of Default, Lender shall give written notice to Borrower of any Event of Default by specifying: (a) the nature of the event or deficiency giving rise to the Default, (b) the action required to cure the deficiency, if an action to cure is possible, and (c) a date, which shall not be less than thirty (30) calendar days from the date of receipt of the notice or the date the notice was refused, by which such action to cure must be taken or if a cure is not possible within thirty (30) days, to begin such cure and diligently prosecute such cure to completion which shall, in any event, not exceed ninety (90) days from the date of receipt of the notice to cure. The Lender has the sole discretion to determine whatever additional reasonable time is needed to cure.

8.3 LENDER'S REMEDIES. Upon the happening of an Event of Default by Borrower and a failure to cure said Event of Default within the time specified in Section 8.2 above, Lender's obligation to disburse Loan proceeds shall terminate, and Lender may also, in addition to other rights and remedies permitted by the Loan Documents or applicable law, proceed with any or all of the following remedies in any order or combination Lender may choose in its sole discretion:

A. Terminate this Loan Agreement, in which event the entire principal amount outstanding and all accrued interest under the Note, as well as any other monies advanced to Borrower by Lender under the Loan Documents including administrative costs, shall immediately become due and payable at the option of Lender;

B. Bring an action in equitable relief (1) seeking the specific performance by Borrower of the terms and conditions of the Loan Documents, and/or (2) enjoining, abating, or preventing any violation of said terms and conditions, and/or (3) seeking declaratory relief;

C. Accelerate the Loan, and demand immediate full payment of the principal amount outstanding and all accrued interest under the Note, as well as any other monies advanced to Borrower by Lender under the Loan Documents;

D. Enter the Property and take any actions necessary in its judgment to complete construction of the Project, including without limitation (1) making changes in the Scope of Construction Work or other work or materials with respect to the Project, (2) entering into, modifying, or terminating any contractual arrangements (subject to Lender's right at any time to discontinue work without liability), and (3) taking any remedial actions with respect to Hazardous Materials that Lender deems necessary to comply with Hazardous Materials Laws or to render the Property suitable for occupancy;

E. Seek appointment from a court of competent jurisdiction of a receiver with the authority to complete construction as needed to preserve Lender's interest in seeing the Project developed in a timely manner (including the authority to take any remedial actions with respect to Hazardous Materials that Lender or the receiver deems necessary to comply with Hazardous Materials Laws or to render the Property suitable for occupancy);

F. This paragraph is left intentionally blank.

G. Disburse from Loan proceeds any amount necessary to cure any monetary default;

H. Enter upon, take possession of, and manage the Property, either in person, by agent, or by a receiver appointed by a court, and collect rents and other amounts specified in the assignment of rents in the Deed of Trust and apply them to operate the Property or to pay off the Loan or any advances made under the Loan Documents, as provided for by the Deed of Trust;

I. Initiate and pursue any private and/or judicial foreclosure action allowed under applicable law and the power of sale provision in the Deed of Trust;

J. With respect to defaults under Hazardous Materials provisions herein, pursue the rights and remedies permitted under California Civil Code Section 2929.5, and California Code of Civil Procedure Sections 564, 726.5, and 736; or

K. Pursue any other remedy allowed at law or in equity. Nothing in this section is intended or shall be construed as precluding Lender from proceeding with a nonjudicial foreclosure under the power of sale contained in the Deed of Trust in the Event of Default by Borrower and failure to cure as provided in Section 8.2.

ARTICLE 9 GENERAL PROVISIONS

9.1 **BORROWER'S WARRANTIES.** Borrower represents and warrants (1) that it has access to professional advice and support to the extent necessary to enable Borrower to fully comply with the terms of these Loan Documents and the Regulatory Agreement, and to otherwise carry out the Project, (2) that it is duly organized, validly existing and in good standing under the laws of the State of California, (3) that it has the full power and authority to undertake the Project and to execute the Loan Documents, (4) that the persons executing and delivering the Loan Documents are authorized to execute and deliver such documents on behalf of Borrower, (5) that there has been no substantial adverse change in Borrower's financial condition since the date of application for this loan such as judgment liens, tax liens, mechanic's liens, bankruptcy, etc.; and (6) that all representations in the Borrower's loan application (including all supplementary submissions) are true, correct and complete in all material respects and are offered to induce Lender to make this loan.

9.2 **MONITORING AND EVALUATION.** Except as otherwise provided for in this Loan Agreement, Borrower shall maintain and submit records to Lender within ten (10) business days of Lender's request which clearly document Borrower's performance under each requirement of the Loan Documents.

9.3 **CONFLICTS OF INTEREST.** Borrower covenants that:

A. Except for approved eligible administrative or personnel costs, no person described in subsection (B) below who exercises or has exercised any functions or responsibilities with respect to the activities funded pursuant to this contract or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during, or at any time after, such person's tenure. The Borrower shall exercise due diligence to ensure that the prohibition in this Section is followed.

B. The conflict of interest provisions of Section 9.3(A) above apply to any person who is an employee, agent, consultant, officer, or any immediate family member of such person, or any elected or appointed official of the County, or any person related within the third (3rd) degree of such person.

9.4 **POLITICAL ACTIVITY.** None of the funds, materials, property or services contributed by Lender or Borrower under this Loan Agreement shall be used for any partisan political activity or the election or defeat of any candidate for public office.

9.5 **PUBLICITY.** Any publicity produced by Borrower for the Project during the term of this Loan and for one year thereafter shall make reference to the contribution of Lender in making the Project possible. The words "The County of Santa Barbara" will be prominently displayed in any and all pieces of publicity, including but not limited to flyers, press releases, posters, signs, brochures, public service announcements, interviews, and newspaper articles. Borrower further agrees to cooperate with authorized staff and officials of Lender in any Lender-generated publicity or promotional activities undertaken with respect to the Project.

9.6 **TERM OF THIS AGREEMENT.** This Loan Agreement shall commence on the date set forth above and remain in full force and effect throughout the term of this Loan.

9.7 **GOVERNING LAW.** The Loan Documents shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law or those provisions preempted by federal law.

9.8 **STATUTORY REFERENCES.** All references in the Loan Documents or Regulatory Agreement to particular statutes, regulations, ordinances, or resolutions of the United States, the State of California, or the County of Santa Barbara shall be deemed to include the same statute, regulation, ordinance, or resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject as the provision to which specific reference was made.

9.9 **TIME.** Time is of the essence in these Loan Documents.

9.10 **CONSENTS AND APPROVALS.** Any consent or approval of Lender or Borrower required under the Loan Documents shall not be unreasonably withheld. Any approval required under the Loan Documents shall be in writing and executed by an authorized representative of the party granting the approval.

9.11 **NOTICES, DEMANDS AND COMMUNICATIONS.** Formal notices, demands and communications between Borrower and Lender shall be sufficiently given and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the principal offices of Borrower and Lender as follows:

LENDER: County of Santa Barbara
105 E Anapamu Street, Room 105
Santa Barbara, CA 93101
Attn: Grants Administration Division Chief

With copy to Office of the County Counsel
County of Santa Barbara
105 E Anapamu Street, Room 201
Santa Barbara, CA 93101

BORROWER: Isla Vista Youth Projects, Inc.
6842 Phelps Road
Goleta, CA 93117
Attn: Executive Director

9.12 **BINDING UPON SUCCESSORS.** All provisions of these Loan Documents shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of each of the parties; provided, however, that this section does not waive the prohibition on assignment of this Loan Agreement by Borrower without Lender's consent.

9.13 **RELATIONSHIP OF PARTIES.** The relationship of Borrower and Lender for this Project under this Loan Agreement is and at all times shall remain solely that of a debtor and a creditor, and shall not be

construed as a joint venture, equity venture, partnership, or any other relationship. Lender neither undertakes nor assumes any responsibility or duty to Borrower (except as provided for herein) or any third party with respect to the Project, the Property, or the Loan.

9.14 **ASSIGNMENT AND ASSUMPTION.** Borrower shall not assign any of its interests under this Loan Agreement or the Loan Documents to any other party, except as specifically permitted under the terms of the Loan Documents, without the prior written consent of Lender. Any unauthorized assignment shall be void.

9.15 **WAIVER.** Any waiver by Lender of any obligation in these Loan Documents must be in writing. No waiver will be implied from any delay or failure by Lender to take action on any breach or default of Borrower or to pursue any remedy allowed under the Loan Documents or applicable law. Any extension of time granted to Borrower to perform any obligation under the Loan Documents shall not operate as a waiver or release from any of its obligations under the Loan Documents. Consent by Lender to any act or omission by Borrower shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for Lender's written consent to future waivers.

9.16 **INTEGRATION.** This Loan Agreement and the other Loan Documents, including exhibits, executed by Borrower for the Property, if any, contain the entire agreement of the parties and supersede any and all prior negotiations.

9.17 **OTHER AGREEMENTS.** Borrower represents that it has not entered into any agreements that are inconsistent with the terms of the Loan Documents. Borrower shall not enter into any agreements that are inconsistent with the terms of the Loan Documents without an express waiver by Lender in writing.

9.18 **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to the Loan Documents must be in writing, and shall be made only if executed by both Borrower and Lender.

9.19 **SEVERABILITY.** Every provision of this Loan Agreement is intended to be severable. If any provision of this Loan Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

IN WITNESS WHEREOF, Lender and Borrower have caused this Loan Agreement to be executed by their duly authorized representatives.

COUNTY:

APPROVED AS TO FORM:

County of Santa Barbara, a
political subdivision of the State of California

MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: _____
Joan Hartmann, Chair
Board of Supervisors

By: _____
Deputy County Counsel

OWNER:

Isla Vista Youth Projects, Inc.
a California nonprofit public benefit
corporation

By: _____
Its: President of the Board of Directors

APPROVED AS TO FORM:

THEO FALLATI, CPA
AUDITOR CONTROLLER

By: _____

APPROVED AS TO FORM:

RISK MANAGEMENT

By: _____
Ray Aromatorio
Risk Program Administrator

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

PARCEL ONE:

LOT 106 OF TRACT NO. 14393, PHASE 1, IN THE CITY OF GOLETA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON MAP FILED IN BOOK 183, PAGES 1 THROUGH 11, INCLUSIVE, OF MAPS, AND AS AMENDED IN BOOK 186, PAGES 79 THROUGH 90, INCLUSIVE BOTH IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL TWO:

A NON-EXCLUSIVE EASEMENT FOR PRIVATE ROAD, DRAINAGE AND PUBLIC UTILITY PURPOSES, AND FOR INGRESS, EGRESS, ACCESS, CONSTRUCTION, MAINTENANCE, REPAIR AND INCIDENTAL PURPOSES THERETO, OVER, UNDER, ACROSS AND THROUGH THAT PORTION OF LOT 94 AND LOT 107 OF TRACT NO. 14393, PHASE 1, AS SHOWN ON MAP FILED IN BOOK 183, PAGES 1 THROUGH 11, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DEFINED AND DELINEATED THEREON AS "PRIVATE EASEMENT FOR ROAD, DRAINAGE AND PUBLIC UTILITIES PURPOSES FOR THE BENEFIT OF LOT 106 AS SHOWN THEREON" PER SAID MAP.

PARCEL THREE:

A NON-EXCLUSIVE EASEMENT FOR STORM DRAIN FACILITIES AND FOR INGRESS, EGRESS, ACCESS, CONSTRUCTION, OPERATION, MAINTENANCE, REPAIR AND INCIDENTAL PURPOSES THERETO, OVER, UNDER, ACROSS AND THROUGH THAT PORTION OF LOT 94 AND LOT 95 OF TRACT NO. 14393, PHASE 1, AS SHOWN ON MAP FILED IN BOOK 183, PAGES 1 THROUGH 11, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DEFINED AND DELINEATED THEREON AS "CENTER LINE OF 10.00 FOOT WIDE PRIVATE EASEMENT FOR CONSTRUCTION, OPERATION, AND MAINTENANCE OF STORM DRAIN FACILITIES FOR THE BENEFIT OF LOT 106 AS SHOWN HEREON" PER SAID MAP

EXHIBIT B

PROJECT BUDGET

Sources of Funds

SB County CDBG	300,000
Private Foundations	318,500
Pre-campaign donations	200,000
Community gifts, parents, events	159,430
IVYP Board of Directors	100,500
Individual Donors	64,750
Small capital grants	28,978
Anonymous	15,000
IVYP staff	<u>13,400</u>
Total Acquisition Cost	\$1,200,558

Note: All of the additional sources of funds have been received by IVYP and the principle balance of the loan has been paid down to \$300,000 as evidenced by a loan verification letter from American Riviera Bank.

EXHIBIT C
DEED OF TRUST

Removed for Signature

EXHIBIT D

PROMISSORY NOTE

Removed for Signature

EXHIBIT E

INSURANCE REQUIREMENTS

Indemnification and Insurance Requirements
(For Service Contracts Not Requiring Professional Liability Insurance)

INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR's indemnification obligation applies to COUNTY's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation: as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insured – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. Primary Coverage – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. Notice of Cancellation – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. Waiver of Subrogation Rights – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. Deductibles and Self-Insured Retention – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. Acceptability of Insurers – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. Verification of Coverage – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. Failure to Procure Coverage – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not

replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage

or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.

9. Subcontractors – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.

10. Special Risks or Circumstances – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

EXHIBIT F
REGULATORY AGREEMENT

Removed for Signature