

FORM APPROVED COUNTY COUNSEL
 BY: *Patricia Munroe* 5/21/13
 DATE
 Patricia Munroe
 Departmental Concurrence

**SUBMITTAL TO THE BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

740



FROM: Economic Development Agency / Facilities Management

SUBMITTAL DATE:
 May 22, 2013

SUBJECT: Subordination, Non-Disturbance and Attornment Agreement and Assignment of Tenant Improvement Reimbursement Payment – Department of Public Social Services.

RECOMMENDED MOTION: That the Board of Supervisors approve the attached Subordination, Non-Disturbance, and Attornment Agreement and Assignment of Tenant Improvement Reimbursement Payment and authorize the Chairman of the Board to execute the same on behalf of the County.

BACKGROUND: On April 10, 2012, the County of Riverside and Capital Partners Development Company, LLC., entered into a lease agreement for office space located at 201 Redlands Avenue, Perris, for a build to office of 50,000 square feet. To facilitate the construction financing of the property, the Lender has requested the execution of these agreements by the County and Lessor.

(Continued)

Robert Field

Robert Field
 Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2012/13

COMPANION ITEM ON BOARD AGENDA: Yes

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE
 BY: *Jennifer L. Sargent*
 County Executive Office Signature

Dept't Recomm.: Consent Policy
 Per Exec. Ofc.: Consent Policy

16-5-13 MAY 28 10:51 AM
 RECEIVED BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, CALIFORNIA

Prev. Agn. Ref.: 3.42 of 12/22/09; 3.17 of 4/10/13; 3-4 of 3/19/13 | **District:** 5/5 | **Agenda Number:** 3-17

BACKGROUND: (Continued)

By execution of these agreements, the County agrees to subordinate its leasehold estate to the liens in favor of the Lender which shall have no effect on prospective rights and obligations of the County or the Lender as set forth in the Lease. In addition, in the event the Lender or its successor becomes the Lessor, the County will recognize (attorn) the Lender or its successor as Lessor and the County's rights and obligations shall remain the same (not disturbed) as set forth in the Lease for the remainder of the Lease term.

County Counsel has reviewed and approved the attached document as to legal form.

Attachments:

Subordination, Non-Disturbance and Attornment Agreement
Assignment of Tenant Improvement Reimbursement Payment

ASSIGNMENT OF TENANT IMPROVEMENT REIMBURSEMENT PAYMENT

This Assignment of Tenant Improvement Reimbursement Payment (this "Assignment") is made and given as of April 5, 2013, by CP PERRIS DPSS, LLC, a California limited liability company ("Assignor"), to and in favor of WELLS FARGO BANK, NATIONAL ASSOCIATION ("Assignee").

RECITALS

A. Assignor, as successor-in-interest to Capital Partners Development Company, LLC, as landlord, and the County of Riverside, as tenant (the "Tenant") are parties to that certain Lease dated April 10, 2012, as amended (the "County Lease") in connection with that certain real property described on Exhibit A attached ("Property").

B. Assignor has executed, or proposes to execute, that certain Leasehold Construction Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing ("Security Instrument") securing, among other things, that: (1) Promissory Note A of even date herewith, in the original principal amount of \$7,090,000.00, and (2) that certain Promissory Note B of even date herewith, in the original principal amount of \$2,415,000.00, in favor of Lender ("Loan").

C. The proceeds of the Loan are to be used for, amongst other things, the construction of certain improvements on the Property.

D. As a condition to making the Loan, Assignee requires, amongst other things, that Assignor assigns and conveys to Assignee all of Assignor's rights, title, and interest in those certain tenant improvement reimbursement payments in the total amount of \$2,250,000.00 as described in Section 9 of the Leasehold Improvement Agreement attached as Exhibit B to the County Lease (individually and collectively, "Tenant Improvement Payment"), and that Assignor will obtain Tenant's consent with respect to such assignment and conveyance.

NOW, THEREFORE, in consideration of the covenants made herein, the making of the Loan, and for other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, Assignor agrees as follows:

1. Incorporation of Recitals. Assignor acknowledges the truth and accuracy of the above Recitals and incorporates the same herein by this reference.

2. Assignment of Tenant Improvement Reimbursement Payment.

(a) Assignor hereby assigns, transfers, and conveys to Assignee, all of Assignor's rights, title, and interest in and to the Tenant Improvement Payment, including, without limitation, the right to receive the Tenant Improvement Payment as and when the same becomes due and payable.

(b). No Duty of Assignee to Perform Obligations With Respect to the Tenant Improvement Payment. This Assignment shall not operate to place responsibility with respect to any of Assignor's obligations with respect to the Tenant Improvement Payment upon Assignee, nor for the performance of any of the terms, conditions, duties or obligations whatsoever of Assignor under the County Lease and the exhibits thereto, including, but not limited to, the Leasehold Improvement Agreement ("Leasehold Improvement Agreement"); provided, however, Assignee may, in its sole discretion, but without any obligation to do so, undertake to perform some or all of such terms, conditions, duties or obligations of Assignor under the Leasehold Improvement Agreement, either in the name of Assignee and for its own account, or in the name of Assignor, including without limitation completing construction of improvements and satisfying other conditions required to receive the Tenant Improvement Payment. Assignee shall

not be liable for any loss sustained by Assignor resulting from Assignee's failure to perform any term, condition, duty or obligation of Assignor under the Leasehold Improvement Agreement, or from any other act or omission of Assignee in such performance. Assignor shall and does hereby agree to indemnify, defend, and hold harmless Assignee and its agents from and against any and all liability, loss, claim, demand or damage which may be incurred by reason of this Assignment and the rights granted herein, including without limitation any claims or demands whatsoever which may be asserted against Assignee or its agents by reason of any alleged obligations or undertakings on their part to perform or discharge any of the terms, conditions, duties or obligations contained in the Leasehold Improvement Agreement, or any act or omission of Assignee or its agents in the performance thereof. Should Assignee incur any liability by reason of this Assignment or in defense of any claim or demand for loss or damage as provided above, the amount thereof, including without limitation costs, expenses and reasonable attorneys' fees, together with interest thereof at the default interest rate set forth in the promissory notes evidencing the Loan from the date paid or incurred by Assignee until repaid by Assignor, shall be payable to Assignee by Assignor upon demand and shall be secured by the Security Instrument.

4. Assignor's Covenants. Until such time as the Loan has been fully repaid and satisfied, Assignor covenants and agrees with Assignee as follows:

(a) Assignor shall, at its sole cost and expense, appear in and defend any action or proceeding arising under, growing out of, or in any manner connected with the Tenant Improvement Payment or the rights, duties, obligations, or liabilities of Assignor under the Leasehold Improvement Agreement. Assignor agrees to pay on demand all costs and expenses, including without limitation reasonable attorneys' fees, which Assignee may incur in connection with Assignee's appearance, voluntary or otherwise, in any such action or proceeding, together with interest thereon at the default rate set forth in the promissory notes evidencing the Loan from the date incurred by Assignee until repaid by Assignor.

(b) Without Assignee's prior written consent, Assignor shall not make, enter into, consent to, or acquiesce in any amendment or modification to the County Lease or Leasehold Improvement Agreement or any termination or revocation thereof, whether in whole or part. Any amendment or modification to the County Lease or Leasehold Improvement Agreement shall not become effective unless and until Assignee gives its written consent thereto.

(c) Assignor shall fully and timely perform all obligations and duties to be performed by it under the Leasehold Improvement Agreement, and shall take such other actions as may be necessary to ensure its entitlement to the construction of the improvements described therein within the deadlines required to receive one hundred (100%) of the Tenant Improvement Payment.

(d) Assignor shall not assign, transfer, convey, encumber, pledge, or grant any lien or security interest in the Tenant Improvement Payment or any of its rights with respect thereto, nor shall Assignor suffer or permit any lien, claim, or encumbrance thereon to exist, except the assignment made herein to Assignor.

(e) Assignor agrees that Assignee may take or release any security for the Loan obligations, may release any party primarily or secondarily liable with respect thereto, may grant extensions, renewals or indulgences with respect to the Loan, and may apply any other security therefor held by it to the satisfaction of any of the Loan obligations without prejudice to any of its rights under this Assignment.

5. Assignor's Representations and Warranties. Assignor represents and warrants to Assignee as follows:

(a) Assignor is the holder of all of the rights to the Tenant Improvement Payment.

(b) Assignor has not made any other assignment, pledge, or hypothecation of all or any part of the Tenant Improvement Payment or its right to receive all or any part of such payment. Assignee's rights and interests in the Tenant Improvement Payment are senior in interest and right to all other liens, claims, and encumbrances.

(c) Assignor has not amended or modified the Leasehold Improvement Agreement and the same is in full force and effect. No default has occurred under the County Lease or Leasehold Improvement Agreement, and no condition exists or event has occurred which, with the giving of notice or the lapse of time or both, would constitute a default or event of default thereunder.

(d) Assignor has all requisite authority to enter into this Assignment and undertake the covenants and obligations contained herein.

6. Direct Payment. By and through this assignment, Assignor hereby unconditionally and irrevocably authorizes, directs and instructs Tenant, effective immediately, to pay the Tenant Improvement Payment directly to Lender in accordance with the schedule and installments set forth in the Leasehold Improvement Agreement via wire transfer at:

Name:	Wells Fargo Bank
ABA#:	121000248
Account Name:	Wires in Process – MNLC
Loan No:	1008216
Borrower Account:	4963500590
Account:	0001154-4050720
Address:	Wells Fargo Bank 608 2 nd Avenue, South, 11 th Floor Minneapolis, MN 55402

Assignor hereby covenants and agrees to take all necessary actions to ensure the Tenant Improvement Payment is paid to Assignee. In the event the Tenant Improvement Payment is paid directly to Assignor, Assignor shall immediately deposit such payment in Borrower Account No. 4963500590 with Lender. Further, Assignee hereby unconditionally and irrevocably authorizes Assignee to utilize the Tenant Improvement Payment in accordance with that certain Loan Agreement between Assignee, as lender, and Assignor, as borrower, with respect to the Loan ("Loan Agreement").

7. Assignee's Successors and Assigns. All rights of Assignee hereunder shall inure to the benefit of its successors and assigns, and all obligations of Assignor hereunder shall bind its successors and assigns and any subsequent owner of the Property or the rights of Assignor under the Leasehold Improvement Agreement or County Lease; provided, however, the foregoing shall not be construed as authorizing any assignment of Assignor's interest except as permitted herein and in the documents described as "Loan Documents" in the Loan Agreement ("Loan Documents") All rights of Assignee in, to and under this Assignment shall pass to and may be exercised by any assignee of such rights of Assignee. Assignor hereby agrees that if Assignee gives notice to Assignor of an assignment of said rights, upon such receipt by Assignor of such notice the liability of Assignor to the assignee of Assignee shall be immediate and absolute. Assignor will not set up any claim against Assignee or any intervening assignee as a defense, counterclaim or setoff to any action brought by Assignee or any intervening assignee for any amounts due hereunder or for possession of or the exercise of rights with respect to the matters described herein.

8. Costs of Enforcement. Assignor agrees to pay all costs and expenses, including reasonable attorneys' fees and expenses, incurred by Assignee in enforcing any right or remedy under this Assignment or in connection with any default by Assignor in its obligations hereunder,

whether the same are incurred prior to, during, or subsequent to any liquidation, bankruptcy, receivership, reorganization, judicial, or appellate proceeding.

9. Partial Invalidity. If any provision under this Assignment or the application thereof to any entity, person or circumstance shall be determined by a court of competent jurisdiction to be invalid, illegal or unenforceable to any extent, then the remainder of this Assignment and the application of the provisions hereof to other entities, persons or circumstances shall not be affected thereby and shall be enforced to the fullest extent permitted by law.

10. Amendments. This Assignment may not be amended, modified or otherwise changed except by a written instrument duly executed by Assignor and Assignee.

11. Release of Assignment. This Assignment shall be in full force and effect continuously from the date hereof to and until the payment in full, discharge, and performance of the obligations under the Loan Documents. Upon the release or reconveyance of the Security Instrument, this Assignment shall automatically terminate and become null and void without further act or deed and shall thereafter be of no further effect whatsoever.

12. Conflicts with Loan Documents. In case of a conflict between any provision of this Assignment and any provision of the Loan Documents, the provision selected by Assignee in its sole discretion shall prevail and be controlling.

13. Notices. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be given and become effective as provided in the Loan Documents.

14. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of California.

15. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, for the same effect as if all parties hereto had signed the same signature page. Any signature page of this Assignment may be detached from any counterpart of this Assignment without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Assignment identical in form hereto but having attached to it one or more additional signature pages.

16. Specific Performance; Injunctions. In addition to, but not in lieu of, any other rights hereunder, Assignee shall have the right to institute suit seeking specific performance and/or to obtain a protective or mandatory injunction against Assignor to prevent a breach or default, or to reinforce the observance, of the agreements, covenants, terms and conditions contained herein, as well as the right to damages occasioned by any breach or default by Assignor. Assignor hereby covenants and agrees that Assignee shall be entitled to all of the rights, remedies and benefits available by statute, at law, in equity or as a matter of practice for the enforcement and perfection of the intents and purposes hereof. Assignee shall, as a matter of absolute right, be entitled, upon application to a court of applicable jurisdiction, and without notice to Assignor, to the appointment of a receiver to obtain and secure the rights of Assignee hereunder and the benefits intended to be provided to Assignee hereunder.

[Remainder of page intentionally left blank]
[Signature page follows immediately]

"ASSIGNEE"

**WELLS FARGO BANK,
NATIONAL ASSOCIATION**

By: _____
Christeen Mazza
Its: Vice President

"ASSIGNOR"

**CP PERRIS DPSS, LLC,
a California limited liability company**

**BY: CAPITAL PARTNERS DEVELOPMENT COMPANY, LLC,
a California limited liability company
its Managing Member**

By: **BUCKEL INVESTMENTS, LLC,
a Delaware limited liability company
its Managing Member**

By: _____
John A. Buckel
Its: Managing Member

By: **R. B. JOHNSON INVESTMENTS, LLC,
a California limited liability company
its Managing Member**

By: _____
Rodney B. Johnson
Its: Manager

CONSENT

The undersigned ("**Tenant**"), as tenant under the certain Lease dated April 10, 2012 ("**County Lease**") between Tenant and CP Perris DPSS, LLC, a California limited liability company ("**Assignor**"), as successor-in-interest to Capital Partners Development Company, LLC, as landlord, hereby consents to the foregoing Assignment of Tenant Improvement Reimbursement Payment (the "**Assignment**") and the assignment of all of Assignor's rights, title, and interest in and to that certain tenant improvement reimbursement in the total amount of \$2,250,000.00 as described in Section 9 of the Leasehold Improvement Agreement attached as Exhibit B to the County Lease ("**Tenant Improvement Payment**").

Pursuant to the foregoing Assignment, Tenant further acknowledges and agrees to pay the Tenant Improvement Payment directly to Lender via wire transfer in accordance with the schedule and installments set forth in the Leasehold Improvement Agreement attached as Exhibit B to the County Lease at:

Name:	Wells Fargo Bank
ABA#:	121000248
Account Name:	Wires in Process – MNLC
Loan No:	1008216
Borrower Account:	4963500590
Account:	0001154-4050720
Address:	Wells Fargo Bank 608 2 nd Avenue, South, 11 th Floor Minneapolis, MN 55402

Dated: _____, 2013

COUNTY OF RIVERSIDE

By: _____
John J. Benoit, Chairman
Board of Supervisors

Attest:
Cecia Harper-Ihem
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM:
Pamela J. Walls
County Counsel

By: 
Patricia Munroe
Deputy County Counsel

RECORDED AT REQUEST OF AND WHEN
RECORDED RETURN TO:

Wells Fargo Bank, National Association
1512 Eureka Road
3rd Floor, Suite 350
Roseville, CA 95661-3070
Loan No. 1008216 and 1009384

Attention: Jackie DeSimone

SUBORDINATION, NON-DISTURBANCE, AND ATTORNMENT AGREEMENT

This Subordination, Non-disturbance, and Attornment Agreement ("**Agreement**") is made as of _____ between Wells Fargo Bank, National Association ("**Lender**"), having its address for notification at 1512 Eureka Road, 3rd Floor, Suite 350, Roseville, California 95661, and the County of Riverside ("**County**"), by its authorized representative the Assistant County Executive Officer/EDA having its address for notification at 3403 Tenth Street, Suite 500, Riverside, California 92501.

Recitals:

A. Lender has agreed to make a loan to CP Perris DPSS, LLC, a California limited liability company ("**Lessor**"), to be secured by that certain: (i) Leasehold Construction Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated April 5, 2013, executed by Ground Lessor in favor of Lender, and recorded on April 11, 2013, as Instrument No. 2013-0170854, in the Official Records of Riverside County, California, and (ii) Construction Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated April 5, 2013, executed by R. B. Johnson Investments, LLC, a California limited liability company ("**Fee Owner**") and recorded on April 11, 2103, as Instrument No. 2013-0170853, in the Official Records of Riverside County, California (collectively, together with all amendments, increases, renewals, modifications, consolidations, replacements, substitutions, and extensions thereto, either current or future, referred to hereafter as the "**Mortgage**") encumbering the interest of Lessor and Fee Owner in real property located in Riverside County, State of California. The legal description of the encumbered real property (the "**Mortgage Premises**") is set forth in Exhibit A, attached to this Agreement. The Mortgage, together with the promissory note or notes, the loan agreement(s), and other documents executed in connection with it are hereafter collectively referred to as the "Loan Documents".

B. On December 10, 2012, County and Lessor entered into a lease for the Mortgage Premises (as amended, the "**Lease**"). The Lease creates a leasehold estate in favor of County for space (the "**Premises**") located on the Mortgage Premises.

To confirm their understanding concerning the legal effect of the Mortgage and the Lease, in consideration of the mutual covenants and agreements contained in this Agreement and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged,

Lender and County, intending to be legally bound, agree and covenant as follows:

1. **Representations and Warranties.** County warrants and represents that the Lease is in full force and effect and that, as of the date of this Agreement and to the best of County's knowledge, there is no default under the Lease by Lessor or County.

2. **County Subordination.**

2.1. Subject to the provisions of Section 3, the Loan Documents shall constitute a lien or charge on the Mortgage Premises that is prior and superior to the Lease, to the leasehold estate created by it, and to all rights and privileges of County under it; by this Agreement, the Lease, the leasehold estate created by it, together with all rights and privileges of County under it, is subordinated, at all times, to the lien or charge of the Loan Documents in favor of Lender.

2.2. By executing this Agreement, County subordinates the Lease and County's interest under it to the lien right and security title, and terms of the Loan Documents, and to all advances or payments made, or to be made, under any Loan Document.

3. **Non-disturbance.**

3.1. Lender consents to the Lease.

3.2. Despite County's subordination under Section 2, County's peaceful and quiet possession of the Premises shall not be disturbed and County's rights and privileges under the Lease, including, its right to extend the term of the Lease, its right of first refusal to lease the property after expiration of the original term and any extensions thereof, shall not be diminished by Lender's exercise of its rights or remedies under the Loan Documents.

3.3. If (a) Lender shall acquire title to, and possession of, the Premises on foreclosure in an action in which Lender shall have been required to name County as a party defendant, and (b) County is not in default under the Lease beyond any applicable cure or grace periods, has not canceled or terminated the Lease, nor surrendered, vacated or abandoned the Premises and remains in actual possession of the Premises at the time Lender shall so acquire title to, and possession of, the Premises, Lender and County shall enter into a new lease on the same terms and conditions as were contained in the Lease, except that:

(a) The obligations and liabilities of Lender under a new lease shall be subject to the terms and conditions of this Agreement (including the provisions of Sections 5-7);

(b) Lender shall have no obligations or liabilities to County under any such new lease beyond those of Lessor as were contained in the Lease; and

(c) The expiration date of any new lease shall coincide with the original expiration date of the Lease.

3.4. County shall not be named or joined in any foreclosure, trustee's sale, or other proceeding to enforce the Loan Documents unless such joinder shall be legally required to perfect the foreclosure, trustee's sale, or other proceeding.

4. **Attornment.**

4.1. If Lender shall succeed to Lessor's interest in the Mortgage Premises by foreclosure of the Mortgage, by deed in lieu of foreclosure, or in any other manner, County shall be bound to Lender under all the terms, covenants and conditions of the Lease for the balance of its term thereof with the same force and effect as if Lender were the Lessor under the Lease. County shall be deemed to have full and complete attornment to and to have established direct privity between County and:

- (a) Lender when in possession of the Mortgage Premises;
- (b) A receiver appointed in any action or proceeding to foreclose the Mortgage;
- (c) Any party acquiring title to the Mortgage Premises; or
- (d) Any successor to Lessor.

4.2. County's attornment is self-operating, and it shall continue to be effective without execution of any further instrument by any of the parties to this Agreement or the Lease immediately upon Lender succeeding to Lessor's interest in the Lease and giving written notice thereof to Lessee, which Lender agrees to give County. The terms of the Lease are incorporated into this Agreement by reference.

4.3. If the interests of Lessor under the Lease are transferred by foreclosure of the Mortgage, deed in lieu of foreclosure, or otherwise, to a party other than Lender (Transferee), in consideration of, and as condition precedent to, County's agreement to attorn to any such Transferee, Transferee shall be deemed to have assumed all terms, covenants, and conditions of the Lease to be observed or performed by Lessor from the date on which the Transferee succeeds to Lessor's interests under the Lease.

5. **Lender as Lessor.** If Lender shall succeed to the interest of Lessor under the Lease, Lender shall be bound to County under all the terms, covenants and conditions of the Lease, and County shall, from the date of Lender's succession to the Lessor's interest under the Lease, have the same remedies against Lender for breach of the Lease that County would have had under the Lease against Lessor; provided, however, that despite anything to the contrary in this Agreement or the Lease, Lender, as successor to the Lessor's interest, shall:

- (a) Be liable for any act or omission of the Lessor; provided that the Lender may elect either to perform the pre-existing obligation or to permit the County to perform it and to recover the cost out of Rent;
- (b) Not be subject to any offsets or defenses expressly permitted under the Lease, including abatement rights which County might have had against Lessor;
- (c) Not be bound by any rent or additional rent that County might have paid for more than one month in advance to Lessor; or
- (d) Be bound by an amendment or modification of the Lease even though made without Lender's written consent and whether or not the amendment or modification materially adversely affect any right of Lessor under the Lease.

(e) Be subject to the County 's right to assert continuing claims, such as material interference with the County's use and enjoyment of the premises, against the Lender.

(f) Upon any further transfer of Lessor's interest by Lender, be relieved of all obligations under the lease as Lessor and such obligations shall terminate as to Lender.

6. Right to Cure. County agrees that, before County exercises any of its rights or remedies under the Lease, Lender shall have the right, but not the obligation, to cure the default within the same time given Lessor in the lease to cure the default, plus an additional thirty (30) days or ten (10) days in the case of defaults in the payment of money from Lessor to County. County agrees that the cure period shall be extended by the time necessary for Lender to commence foreclosure proceedings and to obtain possession of the Mortgage Premises, provided that:

(a) Lender shall notify County of Lender's intent to effect its remedy;

(b) Lender initiates immediate steps to foreclose on or to recover possession of the Mortgage Premises;

(c) Lender initiates immediate legal proceedings to appoint a receiver for the Mortgage Premises or to foreclose on or recover possession of the Mortgage Premises within the thirty (30) day period; and

(d) Lender prosecutes such proceedings and remedies with due diligence and continuity to completion.

7. Assignment of Rents. If Lessor defaults in its performance of the terms of the Loan Documents, County agrees to recognize the assignment of rents under the Mortgage made by Lessor to Lender and shall pay to Lender, as assignee, from the time Lender gives County notice that Lessor is in default under the terms of the Loan Documents, the rents under the Lease, but only those rents that are due or that become due under the terms of the Lease after notice by Lender. Payments of rents to Lender by County under the assignment of rents and Lessor's default shall continue until the first of the following occurs:

(a) No further rent is due or payable under the Lease;

(b) Lender gives County notice that the Lessor's default under the Loan Documents has been cured and instructs County that the rents shall thereafter be payable to Lessor;

(c) The lien of the Mortgage has been foreclosed and the purchaser at the foreclosure sale (whether Lender or a Transferee) gives County notice of the foreclosure sale. On giving notice, the purchaser shall succeed to Lessor's interests under the Lease, after which time the rents and other benefits due Lessor under the Lease shall be payable to the purchaser as the owner of the Mortgage Premises.

8. County's Reliance. When complying with the provisions of Section 7, County shall be entitled to rely on the notices given by Lender under Section 7, and Lessor agrees to release, relieve, and protect County from and against any and all loss, claim, damage, or liability

(including reasonable attorney's fees) arising out of County's compliance with such notice.

County shall be entitled to full credit under the Lease for any rents paid to Lender in accordance with Section 7 to the same extent as if such rents were paid directly to Lessor. Any dispute between Lender (or Lender's Transferee) and Lessor as to the existence of a default by Lessor under the terms of the Mortgage, the extent or nature of such default, or Lender's right to foreclosure of the Mortgage, shall be dealt with and adjusted solely between Lender (or Transferee) and Lessor, and County shall not be made a party to any such dispute (unless required by law).

9. Lender's Status. Nothing in this Agreement shall be construed to be an agreement by Lender to perform any covenant of the Lessor under the Lease unless and until it obtains title to the Mortgage Premises by power of sale, judicial foreclosure, or deed in lieu of foreclosure, or obtains possession of the Mortgage Premises under the terms of the Loan Documents.

10. Cancellation of Lease. County agrees that it will not cancel, terminate, or surrender the Lease, except at the normal expiration of the Lease term or as provided in the Lease.

11. Special Covenants. Despite anything in this Agreement or the Lease to the contrary, if Lender acquires title to the Mortgage Premises, County agrees that: Lender shall have the right at any time in connection with the sale or other transfer of the Mortgage Premises to assign the Lease or Lender's rights under it to any person or entity, and that Lender, its officers, directors, shareholders, agents, and employees shall be released from any further liability under the Lease arising after the date of such transfer, provided that the assignee of Lender's interest assumes Lender's obligations under the Lease, in writing, from the date of such transfer.

12. Transferee's Liability (Non-Recourse). If a Transferee acquires title to the Mortgage Premises:

(a) County's recourse against Transferee for default under the Lease shall be limited to the Mortgage Premises or any sale, insurance, or condemnation proceeds from the Mortgage Premises;

(b) County shall look exclusively to Transferee's interests described in (a) above for the payment and discharge of any obligations imposed on Transferee under this Agreement or the Lease ; and

(i) Transferee, its officers, directors, shareholders, agents, and employees are released and relieved of any personal liability under the Lease;

(ii) County shall look solely to the interests of Transferee set forth in (a) above, and

(iii) County shall not collect or attempt to collect any judgment out of any other assets or from any general or limited partners or shareholders of Transferee.

13. Transferee's Performance Obligations. Subject to the limitations provided in Sections 11 and 12, if a Transferee acquires title to the Mortgage Premises, the Transferee shall perform and recognize all County improvement allowance provisions, all rent-free and rent rebate provisions, and all options and rights of offer, in addition to Lessor's other obligations under the Lease.

14. **Notice.** All notices required by this Agreement shall be given in writing and shall be deemed to have been duly given for all purposes when:

(a) Deposited in the United States mail (by registered or certified mail, return receipt requested, postage prepaid); or

(b) Deposited with a nationally recognized overnight delivery service such as Federal Express or Airborne.

Each notice must be directed to the party to receive it at its address stated below or at such other address as may be substituted by notice given as provided in this section.

The addresses are:

Lender: Wells Fargo Bank, National Association
1512 Eureka Road
3rd Floor, Suite 350
Roseville, CA 95661-3070
Loan No. 1008216 and 1009384
Attention: Christeen Mazza

County:

Economic Development Agency
3403 Tenth Street, Suite 500
Riverside, CA 92501
Attention: Deputy Director of Real Estate

Copies of notices sent to the parties' attorneys or other parties are courtesy copies, and failure to provide such copies shall not affect the effectiveness of a notice given hereunder.

15. **Miscellaneous Provisions.**

15.1. This Agreement may not be modified orally; it may be modified only by an agreement in writing signed by the parties or their successors-in-interest. This Agreement shall inure to the benefit of and bind the parties and their successors and assignees.

15.2. The captions contained in this Agreement are for convenience only and in no way limit or alter the terms and conditions of the Agreement.

15.3. This Agreement has been executed under and shall be construed, governed, and enforced, in accordance with the laws of the State of California except to the extent that California law is preempted by the U.S. federal law. The invalidity or unenforceability of one or more provisions of this Agreement does not affect the validity or enforceability of any other provisions.

15.4. This Agreement has been executed in duplicate. Lender and County agree that one (1) copy of the Agreement will be recorded.

15.5. This Agreement shall be the entire and only agreement concerning subordination of the Lease and the leasehold estate created by it, together with all rights and

privileges of County under it, to the lien or charge of the Loan Documents and shall supersede and cancel, to the extent that it would affect priority between the Lease and the Loan Documents, any previous subordination agreements, including provisions, if any, contained in the Lease that provide for the subordination of the Lease and the leasehold estate created by it to a deed of trust or mortgage. This Agreement supersedes any inconsistent provision of the Lease.

15.6. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which copies, taken together, shall constitute but one and the same instrument. Signature and acknowledgment pages may be detached from the copies and attached to a single copy of this Agreement to physically form one original document, which may be recorded without an attached copy of the Lease.

15.7 If any legal action or proceeding is commenced to interpret or enforce the terms of this Agreement or obligations arising out of it, or to recover damages for the breach of the Agreement, the party prevailing in such action or proceeding shall be entitled to recover from the non-prevailing party or parties all reasonable attorneys' fees, costs, and expenses it has incurred.

15.8. Word Usage. Unless the context clearly requires otherwise, (a) the plural and singular numbers will each be deemed to include the other; (b) the masculine, feminine, and neuter genders will each be deemed to include the others; (c) "shall," "will," "must," "agrees," and "covenants" are each mandatory; (d) "may" is permissive; (e) "or" is not exclusive; and (f) "includes" and "including" are not limiting.

Executed on the date first above written.

[SIGNATURE PAGE FOLLOWS]

Lessee:
COUNTY OF RIVERSIDE

Lender:
WELLS FARGO BANK,
NATIONAL ASSOCIATION

By: _____
John J. Benoit, Chairman
Board of Supervisors

By: _____
Christeen Mazza
Its: Vice President

ATTEST:
Kecia Harper-Ihem
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM:
Pamela J. Walls
County Counsel

By:  _____
Patricia Munroe
Deputy County Counsel

Accepted and Agreed To:

Lessor:

CP PERRIS DPSS, LLC,
a California limited liability company

BY: CAPITAL PARTNERS DEVELOPMENT
COMPANY, LLC,
a California limited liability company
its Managing Member

By:BUCKEL INVESTMENTS, LLC,
a Delaware limited liability company
its Managing Member

By: _____
John A. Buckel
Its: Managing Member

By:R. B. JOHNSON INVESTMENTS, LLC,
a California limited liability company
its Managing Member

By: _____
Rodney B. Johnson
Its: Manager

Accepted and Agreed To:

Fee Owner:

R. B. JOHNSON INVESTMENTS, LLC,
a California limited liability company

By: _____
Rodney B. Johnson
Its: Manager

STATE OF CALIFORNIA
COUNTY OF _____

ss.

On _____, 2013 before me, _____, a notary public, personally appeared Christeen Mazza, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature _____

My commission expires _____.

STATE OF CALIFORNIA
COUNTY OF _____

ss.

On _____, 2013 before me, _____, a notary public, personally appeared John A. Buckel, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature _____

My commission expires _____.

STATE OF CALIFORNIA
COUNTY OF _____

ss.

On _____, 2013 before me, _____, a notary public, personally appeared Rodney B. Johnson, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature _____

My commission expires _____.

STATE OF CALIFORNIA
COUNTY OF _____

ss.

On _____, 2013 before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature _____

My commission expires _____.

STATE OF CALIFORNIA
COUNTY OF _____

ss.

On _____, 2013 before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature _____

My commission expires _____.

STATE OF CALIFORNIA
COUNTY OF _____

ss.

On _____, 2013 before me, _____, a notary public, personally appeared Christeen Mazza, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature _____

My commission expires _____.

Exhibit A: Legal description of Mortgage Premises

All that certain real property located in the City of Perris, County of Riverside, State of California, described as follows:

PARCEL A:

THAT PORTION OF PARCEL 3 OF PARCEL MAP NO. 9233, IN THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN ON THE MAP ON FILE IN BOOK 36, PAGE 82 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL 3;

THENCE SOUTH 89° 33' 00" WEST, ALONG THE SOUTHERLY BOUNDARY LINE OF SAID PARCEL 3

(BEING THE BASIS OF BEARINGS FOR THIS DESCRIPTION), A DISTANCE OF 92.00 FEET;

THENCE NORTH 00° 29' 49" WEST, PARALLEL WITH THE EASTERLY BOUNDARY LINE OF SAID

PARCEL 3, A DISTANCE OF 104.00 FEET;

THENCE NORTH 89° 33' 00" EAST, PARALLEL WITH THE SOUTHERLY BOUNDARY LINE OF SAID

PARCEL 3, A DISTANCE OF 92.00 FEET, TO A POINT IN THE EASTERLY BOUNDARY LINE OF SAID

PARCEL 3;

THENCE SOUTH 00° 29' 49" EAST, ALONG SAID EASTERLY BOUNDARY LINE OF PARCEL 3, A DISTANCE

OF 104.00 FEET, TO THE SOUTHEAST CORNER OF SAID PARCEL 3.

APN: 311-210-019-0

PARCEL B:

PARCEL 1 OF PARCEL MAP NO. 22470 ON FILE IN BOOK 151 PAGES 67 AND 68 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN: 311-210-020-0