

for the occupancy or use of all or any part of the Property, and any and all amendments, extensions, renewals and replacements thereof ("**Leases**"); (b) all cash or security deposits, letters of credit and letter of credit rights, advance rentals and deposits of a similar nature under the Leases; (c) any and all guarantees of tenants' or occupants' performances under any and all Leases; and (d) all rents, issues, profits and revenues ("**Rents**") now due or that may become due or to which Borrower may now or shall hereafter become entitled or may demand or claim (including Rents coming due during any redemption period), arising or issuing from or out of any and all Leases, including, without limitation, minimum, additional, percentage and deficiency rents and liquidated damages and all rights to and proceeds of rental loss or business interruption insurance. Borrower hereby further grants to Lender the rights set forth in California Civil Code Section 2938, regardless of whether declaration of default has been delivered to Beneficiary, and each of the following rights: (a) to enter upon and take possession of the Property for the purpose of collecting the Rents; (b) to dispossess by the usual summary proceedings any tenant defaulting in the payment of Rents; (c) to lease the Property or any part thereof; and (d) to apply the Rents after payment of all necessary charges and expenses, to the Secured Obligations and other sums secured hereby. The assignments in this Section are absolute assignments and irrevocable from Borrower to Lender and not merely the passing of security interests or assignments for security only.

7.2 Collection of Funds. Prior to any Event of Default hereunder, Borrower shall have a license to, and shall, collect and receive all Rents of the Property as trustee for the benefit of Lender; apply the Rents so collected first to the payment of taxes, assessments and other charges on the Property prior to delinquency; second to the cost of insurance, maintenance and repairs required by the terms of this Deed of Trust; third to the costs of discharging any obligation or liability of Borrower under the Leases; and fourth to the Secured Obligations, with the balance, if any, to the account of Borrower so long as there is no Event of Default. Upon delivery of written notice by Lender to Borrower of an Event of Default hereunder, after notice and opportunity to cure, and stating that Lender exercises its rights to the Rents, and without the necessity of Lender entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Lender shall immediately be entitled to possession of all Rents from the Property as the same become due and payable, including, without limitation, Rents then due and unpaid, and all such Rents shall immediately upon delivery of such notice be held by Borrower as trustee for the benefit of Lender only. Upon delivery of such written notice by Lender, Borrower hereby agrees to direct each tenant or occupant of the Property to pay all Rents to Lender on Lender's written demand therefor, without any liability on the part of said tenant or occupant to inquire further as to the existence of a default by Borrower. Borrower hereby authorizes Lender, as Borrower's attorney-in-fact (which agency is coupled with an interest), to make such direction to tenants and occupants upon Borrowers' failure to do so as required herein. Payments made to Lender by tenants or occupants shall, as to such tenants and occupants, be in discharge of the payors' obligations to Borrower. Lender may exercise, in Lender's or Borrower's name, all rights and remedies available to Borrower with respect to collection of Rents. Nothing herein shall be construed as obligating Lender to perform any of Borrower's obligations under any of the Leases.

7.3 Borrower's Representations and Warranties. Borrower hereby represents and warrants to Lender that Borrower has not executed and will not execute any other assignment of the Leases or Rents, that Borrower has not performed and will not perform any acts and has not executed, and will not execute, any instrument which would prevent Lender from exercising its rights under this Section 7, and that at the time of execution of this Deed of Trust there has been no anticipation or prepayment of any of the Rents of the Property for more than one (1) month prior to the due dates thereof. Borrower further represents and warrants to Lender that, except as disclosed to Lender prior to closing, all existing Leases are in good standing and there is no default thereunder, whether by Borrower or lessee, and that, to Borrower's knowledge, there is no event or condition which, with notice or the passage of time or both, would be a default thereunder.

Borrower shall execute and deliver to Lender such further assignments of rents and leases of the Property as Lender may from time to time request.

7.4 Leases of the Property. Borrower shall comply with and observe Borrower's obligations as landlord under all Leases and will do all that is necessary to preserve all Leases in force and free from any right of counterclaim, defense or set off. At Lender's request, Borrower shall furnish Lender with executed copies of all Leases now existing or hereunder made and all Leases hereafter entered into will be on a form and in substance satisfactory to Lender, as provided in Section 7.1 above. All Leases will specifically provide that the tenant attorns to any person succeeding to the interest of Borrower upon any foreclosure of this Deed of Trust or conveyance in lieu thereof; such attornment shall be in such form as Lender may approve and shall provide that tenant shall not have the right of set off or defense to payment of rents for any event or act that occurred prior to such successor obtaining title to Borrower's interest except to the extent such event or act is continuing at the time such successor obtains such title. Without Lender's written consent, Borrower shall not (i) collect or accept payment of any Rents more than one (1) month prior to the due dates thereof; (ii) modify, surrender or terminate any Lease, except as otherwise permitted by the Loan Agreement; (iii) waive, discharge, release or modify the obligations of any tenant or other occupant of the Property under any Lease; or (iv) request or consent to the subordination of any Lease to any lien subordinate to this Deed of Trust.

7.5 Lender's Rights. Upon any Event of Default hereunder, after notice and opportunity to cure, Lender may, in person, by agent or by a court-appointed receiver, regardless of the adequacy of Lender's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof in the same manner and to the same extent as Borrower, including, without limitation, the execution, enforcement, cancellation and modification of Leases, the collection of all Rents of the Property, the removal and eviction of tenants and other occupants, the making of alterations and repairs to the Property, and the execution and termination of contracts providing for management or maintenance of the Property, all on such terms as are deemed best by Lender to protect the security of this Deed of Trust. From and after the occurrence of any such Event of Default, if any owner of the Property shall occupy the Property, or part thereof, such owner shall pay to Lender in advance on the first day of each month a reasonable rental for the space so occupied, and upon failure to do so Lender shall be entitled to remove such owner from the Property by any appropriate action or proceedings.

7.6 Appointment of Receiver. Following an Event of Default hereunder, after notice and opportunity to cure, Lender shall be entitled (regardless of the adequacy of Lender's security) to the appointment of a custodial receiver or general receiver with power of sale, and Borrower hereby irrevocably consents to the appointment of a custodial or general receiver for the Property or any portion thereof. The receiver shall have the usual powers and duties of receivers in like or similar cases, all the powers and duties of Lender set forth in this Deed of Trust or any of the other Loan Documents, and, in the case of a general receiver, a right to sell the Property. Employment by Lender shall not disqualify a person from serving as receiver. To the fullest extent permitted by applicable law, the receiver may serve without bond and may be Lender or an employee of Lender. The receiver shall be entitled to receive a reasonable fee for all of its services rendered in connection with the receivership.

7.7 Letters of Credit. Borrower shall notify Lender in writing prior to becoming the beneficiary under any letter of credit supporting any of the Leases, or otherwise in connection with the Property, and will take all actions, and execute all documents, necessary or appropriate to give Lender control (as defined in the Uniform Commercial Code) of such letter of credit and all letter of credit rights thereunder

and, if so required by Lender, to deliver the letter of credit to Lender or constitute Lender the transferee beneficiary of such letter of credit.

7.8 Application of Rents. All Rents collected subsequent to delivery of written notice by Lender to Borrower of an Event of Default hereunder shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the Rents, including, without limitation, attorneys' fees, receiver's fees, premiums on receiver's bonds, costs of maintenance and repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Borrower under the Leases, and then to the Secured Obligations. Lender or the receiver shall be liable to account only for those Rents actually received. Lender shall not be liable to Borrower, anyone claiming under or through Borrower, or anyone having an interest in the Property by reason of any act or omission of Lender or the receiver.

7.9 Deficiencies. To the extent, if any, that the costs of taking control of and managing the Property, collecting the Rents, and discharging obligations and liabilities of Borrower under the Leases, exceed the Rents of the Property, the excess sums expended for such purposes shall be indebtedness secured by this Deed of Trust. Such excess sums shall be payable upon demand by Lender and shall bear interest from the date of disbursement at the greater of the default rate under the Note, or the maximum rate permitted by law.

7.10 Lender Not Mortgagee in Possession. Nothing herein shall constitute Lender a "mortgagee in possession" prior to its actual entry upon and taking possession of the Property. Entry upon and taking possession by a receiver shall not constitute possession by Lender.

7.11 Lender Not Responsible. Unless and until Lender, in person or by agent, takes actual possession of the Property, Lender is not and shall not be (i) responsible for performing any of the obligations of the lessor under any Lease; (ii) responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair or control of the Property; or (iii) liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it, except for such matters as may arise solely from the willful misconduct or gross negligence of Lender.

7.12 Enforcement. Lender may enforce this assignment without first resorting to or exhausting any security or collateral for the Secured Obligations. Notwithstanding the characterization of this assignment as an absolute assignment, the assignment of rents hereunder shall be perfected by recording of this Deed of Trust, and Lender shall have all rights of a holder of a security assignment of rents under applicable law, including, without limitation, RCW 7.28.230.

8. [RESERVED].

9. EVENTS OF DEFAULT.

9.1 Events of Default. After notice and opportunity to cure, the occurrence of any one or more of the following shall constitute an Event of Default hereunder:

9.1.1 Failure to make any payment when due under the Note, this Deed of Trust, the Loan Agreement or any other Loan Documents or the Indemnity Agreement and such failure is not

cured within ten (10) days after the due date of such payment, except that no grace period shall apply to payments due on maturity of the Note; or

9.1.2 The occurrence of any Event of Default under the Loan Documents, subject to the notice and cure periods set forth therein.

9.2 Acceleration upon Default; Additional Remedies. Upon any Event of Default, after notice and opportunity to cure, Lender may, at its option and without notice to or demand upon Borrower, exercise any one or more of the following actions: (a) declare all the Secured Obligations immediately due and payable; (b) bring a court action to enforce the provisions of this Deed of Trust or any of the other Loan Documents; (c) foreclose this Deed of Trust as a mortgage; (d) cause any or all of the Property to be sold under the power of sale granted by this Deed of Trust in any manner permitted by applicable law; (e) elect to exercise its rights with respect to the Leases and the Rents; (f) exercise any or all of the other rights and remedies under this Deed of Trust and the other Loan Documents; and/or (g) exercise any other right or remedy available under law or in equity. To the extent permitted by law, every right and remedy provided in this Deed of Trust or afforded by law or equity or any other agreement between Lender and Borrower, may be exercised concurrently, independently or successively, in any order whatsoever. Lender may exercise any of its rights and remedies at its option without regard to the adequacy of its security.

9.3 Exercise of Power of Sale. For any sale under the power of sale granted by this Deed of Trust, Lender or Trustee shall record and give all notices required by law and then, upon the expiration of such time as is required by law, Trustee may sell the Property upon any terms and conditions specified by Lender and permitted by applicable law. Trustee may postpone any sale by public announcement at the time and place notified for the sale. If the Property includes several lots or parcels, Lender in its discretion may designate their order of sale or may elect to sell all of them as an entirety. The Property, real, personal and mixed, may be sold in one parcel. To the extent any of the Property sold by the Trustee is personal property, Trustee shall be acting as the agent of Lender in selling such Property. Any person permitted by law to purchase at any sale may do so. Upon any sale, Trustee will execute and deliver to the purchaser or purchasers a deed or deeds conveying the Property sold, but without any covenant or warranty, express or implied, and the recitals in the Trustee's deed showing that the sale was conducted in compliance with all the requirements of law shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value.

9.4 Application of Sale Proceeds. The proceeds of any sale under this Deed of Trust shall be applied in the following manner: (a) first to the payment of the costs and expenses of the sale; including, without limitation, Trustee's fees, legal fees and disbursements, title charges and transfer taxes, and payment of all expenses, liabilities and advances of Trustee, together with interest on all advances made by Trustee from the date of disbursement at the applicable interest rate under the Note; (b) second to the payment of all sums expended by Lender under the terms of this Deed of Trust and not yet repaid, together with interest on such sums from date of disbursement at the applicable interest rate under the Note; and (c) third to the payment of all other Secured Obligations in any order that Lender chooses; and (d) the remainder, if any, to the person or persons legally entitled to it.

9.5 Waiver of Order of Sale and Marshalling. Lender shall have the right to determine the order in which any or all portions of the secured indebtedness are satisfied from the proceeds realized upon the exercise of any remedies provided herein. Borrower, any party who consents to this Deed of Trust, and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof, hereby waives any and all right to require marshalling of assets in connection

with the exercise of any of the remedies permitted by applicable law or provided herein, or to direct the order in which any of the Property will be sold in the event of any sale under this Deed of Trust. To the extent allowed by law, Borrower waives (i) the benefit of all laws now existing or that may hereafter be enacted providing for any appraisal before sale of any portion of the Property, (ii) all rights of valuation, appraisal, stay of execution, reinstatement and redemption laws in the event of foreclosure of the liens hereby created, (iii) all rights and remedies that Borrower may have or be able to assert by reason of the laws of the State where the Property is located pertaining to the rights and remedies of sureties, and (iv) the right to assert any statute of limitations as a bar to the enforcement of the lien of this Deed of Trust or to any action brought to enforce the Note or any other obligation secured by this Deed of Trust.

9.6 Non-Waiver of Defaults. The entering upon and taking possession of the Property, the collection of Rents or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the Property, and the application or release thereof as herein provided, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

9.7 Determination of Fair Value. To the extent applicable law requires that the "fair market value" or "fair value" of the Property be determined as of the foreclosure date in order to enforce a deficiency against Borrower or any other party liable for repayment of the Secured Obligations, the term "fair market value" or "fair value" shall include those matters required by law and the additional factors set forth below:

9.7.1 The Property shall be valued "as is" and "with all faults" and there shall be no assumption of restoration or refurbishment of Improvements, if any, after the date of the foreclosure.

9.7.2 An offset to the fair market value or fair value of the Property, as determined hereunder, shall be made by deducting from such value the reasonable estimated closing costs related to the sale of the Property, including, without limitation, brokerage commissions, title policy expenses, tax pro-rations, escrow fees, and other common charges that are incurred by the seller of real property.

Borrower shall pay the costs of any appraisals and other expenses incurred in connection with any such determination of fair market value or fair value.

9.8 Expenses during Redemption Period. If this Deed of Trust is foreclosed as a mortgage and the Property sold at a foreclosure sale, the purchaser may during any redemption period allowed, make such repairs or alterations to the Property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring thereof. Any sums so paid together with interest thereon from the time of such expenditure at the greater of the default rate under the Note, or the maximum rate permitted by law, shall be added to and become a part of the amount required to be paid for redemption from such sale.

9.9 Foreclosure Subject to Tenancies. Lender shall have the right at its option to foreclose this Deed of Trust subject to the rights of any tenant or tenants of the Property.

9.10 Early Payment Following Default. After notice and opportunity to cure, if any Event of Default has occurred prior to the Maturity Date (as defined in the Note), any tender of payment of the indebtedness secured hereby at any time prior to or at a judicial or non-judicial foreclosure sale of the Property by Borrower, or anyone on behalf of Borrower, shall include any applicable prepayment premiums due under

the Note and all amounts due and owing under any swap agreement or other financial contract as a result of such prepayment.

9.11 Lender's and Trustee's Expenses. Borrower shall pay all of Lender's and Trustee's expenses incurred in any efforts to enforce any terms of this Deed of Trust or to protect Lender's security interest hereunder, whether or not any suit is filed, including, without limitation, legal fees and disbursements, foreclosure costs and title charges. All such sums, with interest thereon, shall be additional indebtedness of Borrower secured by this Deed of Trust. Such sums shall be immediately due and payable and shall bear interest from the date of disbursement at the greater of the default rate under the Note, or the maximum rate permitted by law.

10. GENERAL.

10.1 No Offset. The obligations of Borrower to timely pay and perform all obligations under the Note, this Deed of Trust, and the other Loan Documents shall be absolute and unconditional and shall not be affected by any event or circumstance, including, without limitation, any setoff, counterclaim, abatement, suspension, recoupment, deduction, defense or any other right that Borrower or any guarantor may have or claim against Lender or any other Person.

10.2 Application of Payments. Except as applicable law or this Deed of Trust may otherwise provide, all payments received by Lender under the Note or this Deed of Trust shall be applied by Lender in the following order of priority: (a) Lender's and Trustee's expenses incurred in any efforts to enforce any terms of this Deed of Trust; (b) interest payable on advances made to protect the security of this Deed of Trust; (c) principal of such advances; (d) amounts payable to Lender by Borrower under Section 4 for any reserves required by Lender pursuant to Section 4 of this Deed of Trust; (e) interest and late charges payable on the Note; (f) principal of the Note; and (g) any other Secured Obligations in such order as Lender, at its option, may determine; *provided, however*, that Lender may, at its option, apply any such payments received to interest on or principal of the Note prior to applying such payments to interest on and principal of advances made to protect the security of this Deed of Trust.

10.3 Reconveyance. Upon payment of all sums secured by this Deed of Trust, Lender shall request Trustee to reconvey the Property and shall surrender this Deed of Trust and all notes evidencing indebtedness secured by this Deed of Trust to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled thereto. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Borrower or the grantee shall pay Trustee's reasonable costs incurred in so reconveying the Property.

10.4 Successor Trustee. In accordance with applicable law, Lender may from time to time appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

10.5 Lender's Powers. Without affecting the liability of any person for payment or performance of the Secured Obligations or any of Lender's rights or remedies, Lender, at its option, may extend the time for payment of the indebtedness secured hereby or any part thereof, reduce payment thereon, release anyone liable on any of the indebtedness secured hereby, accept a renewal note or notes therefor, modify the terms and time of payment of the indebtedness, release the lien of this Deed of Trust on any part

of the Property, take or release other or additional security, release or reconvey or cause to be released or reconveyed all or any part of the Property, or consent and/or cause Trustee to consent to the making of any map or plat of the Property, consent or cause Trustee to consent to the granting of any easement or creating any restriction on the Property, or join or cause Trustee to join in any subordination or other agreement affecting this Deed of Trust or the lien or charge hereof. Borrower shall pay Lender a reasonable service charge, together with such title insurance premiums and attorneys' fees as may be incurred at Lender's option, for any such action if taken at Borrower's request.

10.6 Subrogation. Lender shall be subrogated to the liens of all encumbrances, whether released of record or not, that are discharged in whole or in part by the proceeds of the Note.

10.7 Limitation on Interest and Charges. The interest, fees and charges under the Loan Documents shall not exceed the maximum amounts permitted by any applicable law. If any such interest, fee or charge exceeds the maximum, such excess sums shall be construed as having been immediately applied by Lender to the principal balance of the Note when received.

10.8 Additional Documents; Power of Attorney. Borrower, from time to time, shall execute, acknowledge and deliver to Lender upon request, and hereby irrevocably appoints Lender its attorney-in-fact, coupled with an interest, to execute, acknowledge, deliver and if appropriate file and record, such security agreements, assignments for security purposes, absolute assignments, financing statements, affidavits, certificates and other documents, in form and substance satisfactory to Lender, as Lender may request in order to perfect, preserve, continue, extend or maintain the assignments herein contained, the lien and security interest under this Deed of Trust, and the priority thereof. Borrower shall pay to Lender upon request therefor all reasonable costs and expenses incurred in connection with the preparation, execution, recording and filing of any such document.

10.9 Waiver of Statute of Limitations. To the full extent Borrower may do so, Borrower hereby waives the right to assert any statute of limitations as a defense to the enforcement of the lien of this Deed of Trust or to any action brought to enforce the Note or any other obligation secured by this Deed of Trust.

10.10 Forbearance by Lender Not a Waiver. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy, and no waiver by Lender of any particular default shall constitute a waiver of any other default or of any similar default in the future. Without limiting the generality of the foregoing, the acceptance by Lender of payment of any sum secured by this Deed of trust after the due date thereof shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Deed of Trust, nor shall Lender's receipt of any awards, proceeds or damages under Sections 3.3 or 3.7 hereof operate to cure or waive any default in payment of sums secured by this Deed of Trust.

10.11 Modifications and Waivers. This Deed of Trust cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

10.12 Notice. Any notice to Borrower under this Deed of Trust shall be to the address noted above or such other address as may be designated by Borrower in writing so long as such notice is given in accordance with the notice provisions in the Loan Agreement.

10.13 Financial Contracts. For purposes hereof, all obligations of Borrower to Lender under any and all Financial Contracts between Borrower and Lender or its affiliates and any indebtedness or obligation contained therein or evidenced thereby shall be considered an obligation of Borrower secured hereby.

10.14 Certain Obligations Unsecured. Notwithstanding anything to the contrary set forth herein or any of the Loan Documents, this Deed of Trust shall not secure the following obligations (the "**Unsecured Obligations**"): (a) any obligations evidenced by or arising under the Indemnity or the Guaranty, and (b) any other obligations in this Deed of Trust or in any of the other Loan Documents to the extent that such other obligations that are the same or have the same effect as any of the obligations evidenced by or arising under the Indemnity. Any continuing breach or default with respect to the Unsecured Obligations, after notice and opportunity to cure, shall constitute an Event of Default hereunder, notwithstanding the fact that such Unsecured Obligations are not secured by this Deed of Trust. Nothing in this Section shall, in itself, impair or limit Lender's right to obtain a judgment in accordance with applicable law after foreclosure for any deficiency in recovery of all obligations that are secured by this Deed of Trust following foreclosure.

10.15 Governing Law; Severability; Captions. This Deed of Trust shall be governed by the laws of the State of Washington, without regard to that state's choice of law rules. If any provision or clause of this Deed of Trust conflicts with applicable law, such conflicts shall not affect other provisions or clauses hereof that can be given effect without the conflicting provision, and to this end the provisions hereof are declared to be severable. The captions and headings of the paragraphs and articles of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

10.16 WAIVER OF TRIAL BY JURY. TO THE GREATEST EXTENT NOT PROHIBITED BY APPLICABLE LAW, BORROWER AND LENDER HEREBY JOINTLY AND SEVERALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS INSTRUMENT AND TO ANY OF THE LOAN DOCUMENTS, THE OBLIGATIONS HEREUNDER OR THEREUNDER, ANY PROPERTY SECURING THE SECURED OBLIGATIONS, OR ANY TRANSACTION ARISING THEREFROM OR CONNECTED THERETO. BORROWER AND LENDER EACH REPRESENTS TO THE OTHER THAT THIS WAIVER IS KNOWINGLY, WILLINGLY, AND VOLUNTARILY GIVEN.

10.17 Definitions. As used herein: the term "**Borrower**" means the Grantor herein named, together with any subsequent owner of the Property or any part thereof or interest therein; the term "**Trustee**" means the Trustee herein named, together with any successor Trustee; and the term "**Lender**" means the Lender herein named, together with any subsequent owner or holder of the Note or any interest therein, including pledgees, assignees and participants.

10.18 Successors and Assigns; Joint and Several Liability; Agents. This Deed of Trust shall bind and inure to the benefit of the parties hereto and their respective heirs, devisees, legatees, administrators, executors, successors and assigns, subject to the provisions of Section 5 hereof. In exercising any rights hereunder or taking actions provided for herein, Lender and Trustee may act through their respective employees, agents or independent contractors as authorized by Lender and Trustee.

10.19 Time. Time is of the essence in connection with all obligations of Borrower herein.

10.20 Estoppel Certificate. Borrower shall, within ten days of a written request from Lender and at no charge to Lender, furnish Lender or any other party designated by Lender with a written statement, duly acknowledged, setting forth the sums secured hereby and any right of set-off, counterclaim or other defense that may exist with regard to the Secured Obligations.

10.21 Environmental Impairment. Borrower hereby acknowledges and agrees that the condition of the Property is a material basis upon which Lender has agreed to make the Loan. Borrower hereby further acknowledges and agrees that if all or any portion of the Property is determined to be "environmentally impaired" or to be an "affected parcel" (as those terms are defined in Section 726.5 of the California Code of Civil Procedure), such determination might (a) impair the security which Lender has agreed to take in making the Loan, and/or (b) place an independent liability upon Lender for which Lender is not otherwise protected and which Lender would not accept in the first instance in making the Loan to Borrower. Accordingly, Borrower hereby agrees that in any such event, then, without waiver of any other rights or remedies Lender may have under this Deed of Trust, (i) at Lender's option, the obligations and indebtedness of Borrower shall not be secured by this Deed of Trust, in which event, Borrower shall not have the benefit of certain protections afforded under California Code of Civil Procedure Section 580a, 580d or 726 or any other anti-deficiency laws now existing or hereinafter enacted, (ii) Lender shall have all rights and remedies pursuant to California Code of Civil Procedure Section 726.5, including, without limitation, the right of Lender to waive its lien against all or any portion of the Property encumbered hereby and pursue Borrower as an unsecured creditor, and (iii) Lender shall have the further right to pursue any other remedy available at law or in equity, including, without limitation, under the separate environmental indemnity agreement executed by Borrower in favor of Lender.

10.22 Waiver of Right of Offset. No portion of the obligations secured by this Deed of Trust shall be or be deemed to be offset or compensated by all or any part of any claim, cause of action, counterclaim, or cross-claim, whether liquidated or unliquidated, that Borrower may have or claim to have against Lender. Borrower hereby waives to the fullest extent permitted by law, the benefits of Section 431.70 of the California Code of Civil Procedure, which provides:

Where cross-demands for money have existed between persons at any point in time when neither demand was barred by the statute of limitations, and an action is thereafter commenced by one such person, the other person may assert in the answer the defense of payment in that the two demands are compensated so far as they equal each other, notwithstanding that an independent action asserting the person's claim would at the time of filing the answer be barred by the statute of limitations. If the cross-demand would otherwise be barred by the statute of limitations, the relief accorded under this section shall not exceed the value of the relief granted to the other party. The defense provided by this section is not available if the cross-demand is barred for failure to assert it in a prior action under Section 426.30. Neither person can be deprived of the benefits of this section by the assignment or death of the other. For the purposes of this section, a money judgment is a "demand for money" and, as applied to a money judgment, the demand is barred by the statute of limitations when enforcement of the judgment is barred under Chapter 3 (commencing with Section 683.010) of Division 1 of Title 9.

10.23 Borrower Waivers. Borrower hereby specifically, unconditionally, and irrevocably waives: (i) all rights of a property owner granted under Section 1265.225(a) of the California Code of Civil

Procedure that provides for allocation of condemnation proceeds between a property owner and a lienholder; (ii) all rights to require marshaling of assets or to require realization on the Property in a particular order provided by Sections 2899 and 3433 of the California Civil Code; and (iii) any similar rights that may arise under any other laws or successor statutes of similar import.

10.24 Waiver Regarding Application of Payments. If a guarantor is liable only for a portion of the Secured Obligations, Borrower hereby waives its rights under California Civil Code Section 2822(a) to designate a portion of the Secured Obligations that will be satisfied by Borrower's partial payment.

10.25 Stop Payment Notice. In the case of a stop payment notice pursuant to Section 8500, et seq., of the California Civil Code, Borrower shall, within ten (10) days following Lender's request, post such security or make other arrangements as Lender may require in its sole discretion.

10.26 Further Assurances; Clerical Errors. Borrower agrees to execute and acknowledge such additional documents as may be necessary or desirable in order to carry out the intent and purpose of this Deed of Trust and the other Loan Documents, to confirm or establish the lien hereof, or to correct any clerical errors or legal deficiencies. Without limiting the foregoing, Borrower agrees to execute a replacement Note in the event the Note is lost or destroyed and to execute an amended and restated substitute Note to correct any clerical or other errors that may be discovered in the original Note. Failure of Borrower to comply with any request by Lender pursuant to this Section within ten (10) business days after written request by Lender shall constitute an Event of Default.

[Remainder of page intentionally left blank; signatures appear on the following page]

A CONTRACT, PROMISE, UNDERTAKING OR COMMITMENT TO LOAN MONEY OR GRANT OR EXTEND CREDIT, IN AN AMOUNT GREATER THAN \$100,000, NOT PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES, MADE BY A PERSON ENGAGED IN THE BUSINESS OF LENDING MONEY OR EXTENDING CREDIT MUST BE IN WRITING AND SUBSCRIBED BY BENEFICIARY OR ITS AGENT TO BE VALID UNDER CALIFORNIA LAW.

DATED as of the day and year first written above.

GRANTOR/BORROWER:

Perris Park Housing LLC,
a California limited liability company

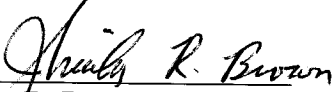
By: Riverside Community Housing Corp.,
a California nonprofit public benefit
corporation,
its sole manager/member

By: _____
Name: Carrie Harmon
Its: Chief Operating Officer

State UBI No. C1819605

APPROVED AS TO FORM:

Gregory P. Priamos
General Counsel

By: 
Jhaila R. Brown
Deputy General Counsel

[Insert California Notary]

EXHIBIT A

LEGAL DESCRIPTION OF THE REALTY

[behind this page]

EXHIBIT A

LEGAL DESCRIPTION

That portion of Lot 5 of Perou's Subdivision of the South half of the Southeast quarter of section 31, Township 4 South, Range 3 West, as shown by Map on file in Book 15 page(s) 698, of Maps Records of San Diego County, California, described as follows:

Beginning at Southeast corner of said Section 31, said point also being the centerline intersections of Perris Boulevard and Ellis Avenue as shown on Record(s) of Survey Map filed in Book 86 Page 48; Thence North $00^{\circ}14'13''$ West 660.04 feet along the centerline of Perris Avenue, said centerline also being the East line of said Lot 5; thence South $89^{\circ}45'47''$ West 30.00 feet perpendicular to said centerline to the West right(s) of way Line of Perris Boulevard 30.00 feet wide half width, said point also being the northeast corner Parcel 1 as shown on said Record(s) of survey to the true point of beginning, thence South $89^{\circ}45'44''$ West 475.35 feet along the North line of said Parcel 1; thence south $00^{\circ}14'16''$ East 629.40 feet perpendicular to said North line to a point on the North right of way of Ellis Avenue, 30.00 feet wide half width; thence North $89^{\circ}50'04''$ East 475.34 feet along said North right of way to a point on the West right (s) of way Perris Boulevard, 30.00 feet wide half width; thence North $00^{\circ}14'13''$ West 630.00 feet along said West right (s) of way line to the true point of beginning.

Said Land is shown on a Map Recorded in Book 86 Page 48, of Record(s) of survey, Records of said county.

Note: Said Land is described and delineated as Lot 1 on Lot line adjustment NO 99-0022, Recorded April 29, 1999 as Instrument No. 1999-182554 of Official Records.

Property Address: 1450 South Perris Boulevard, Perris, California
Assessor's Parcel No.: 008029/313-290-020-2

INDEMNITY AGREEMENT

(Environmental and Building Laws)



THIS INDEMNITY AGREEMENT ("**Indemnity Agreement**" or "**Agreement**"), dated for reference purposes June __, 2019, is entered into by PERRIS PARK HOUSING LLC, a California limited liability company ("**Borrower**"), and by HOUSING AUTHORITY OF THE COUNTY OF RIVERSIDE, a public entity, corporate and politic (collectively, if more than one individual and/or entity, "**Guarantor**") (Borrower and Guarantor are collectively referred to as "**Indemnitors**"), for the benefit of BANNER BANK, a Washington state chartered commercial bank ("**Lender**") and its successors, participants and assigns and the other Indemnified Parties (defined below).

RECITALS

A. Borrower has requested that Lender make a loan to Borrower in the amount of ONE MILLION EIGHT HUNDRED THOUSAND AND NO/100THS U.S. DOLLARS (\$1,800,000.00) (the "**Loan**"). The Loan shall be evidenced by a promissory note (the "**Note**") executed by Borrower in favor of Lender in the amount of the Loan. The Loan shall be secured by a Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "**Deed of Trust**") encumbering Borrower's interest in certain real property described in EXHIBIT A attached hereto.

B. Lender's agreement to make the Loan to Borrower is conditioned on Indemnitors' execution of this Indemnity Agreement. Indemnitors acknowledge that they will derive material financial benefits from Borrower's financing arrangements with Lender and that Lender would not make the Loan to Borrower absent this Agreement.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and as a material inducement for Lender's agreement to make the Loan to Borrower, Indemnitors certify, represent, warrant, covenant, and agree as follows:

1. Defined Terms.

1.1 "**Building and Access Laws**" means the Fair Housing Act of 1968, as amended, the Fair Housing Amendments Act of 1988, the Americans With Disabilities Act of 1990, as amended, all government and private covenants, conditions, and restrictions relating to the Property, building code requirements and laws affecting the improvements on the Property, and all other federal, state and local laws, ordinances, regulations and rules relating to the construction, operation, and maintenance of the improvements on the Property and the marketing and use of such improvements in a non-discriminatory manner.

1.2 "**Environmental Laws**" means all federal, state and local laws, statutes, codes, ordinances, regulations, judgments, orders, injunctions, decrees, covenants, restrictions and standards presently in effect or that may be promulgated in the future applicable to Borrower or to the Property relating to industrial hygiene or to environmental or unsafe conditions or to human health including, but not limited to, those relating to the generation, manufacture, storage, handling, transportation, disposal, release, emission or discharge of Hazardous Substances, those relating to or connected with the construction (or construction-related activities), fuel supply, power generation and transmission, waste disposal or any other operations or processes relating to the Property, and those relating to the atmosphere, soil, grading, excavation, surface and ground water, storm water, wetlands, stream sediments and vegetation on, under, in or about the Property and Nearby Property (including those relating to the construction of improvements on the Property and the resulting water quality, air quality, soils quality and other environmental quality of the Property and Nearby Property). "Environmental Law" also shall include, but not be limited to, the following laws,

as they have been or will be amended from time to time: (a) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986; (b) the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984; (c) the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977; (d) the Toxic Substances Control Act; (e) the Emergency Planning and Community Right-to-Know Act of 1986; (f) the Clean Air Act, as amended by the Clean Air Act Amendments; (g) the National Environmental Policy Act of 1969; (h) the River and Harbor Act of 1899; (i) the Endangered Species Act of 1973; (j) the Occupational Safety and Health Act of 1970; (k) the Safe Drinking Water Act; (l) the Hazardous Materials Transportation Act; (m) the Federal Resource Conservation and Recovery Act of 1976; (n) the Federal Hazardous Materials Transportation Control Act; and (o) the Federal Insecticide, Fungicide, and Rodenticide Act, Federal Pesticide Act of 1978; and all regulations from time to time adopted in respect to the foregoing laws, and all other federal, state and local laws, statutes, codes, ordinances, regulations, judgments, orders, injunctions, decrees, covenants, restrictions and standards presently in effect or that may be promulgated in the future relating to the use, release, handling, storage, transportation, clean-up, or other disposal of Hazardous Substances, or relating to the water quality, air quality, soils quality, and other environmental quality of real property and improvements located or to be constructed upon real property, or related to the protection of endangered species, as such laws and ordinances may be amended from time to time.

1.3 **"Environmental Proceeding"** means any lawsuit or proceeding, whether civil (including actions by private parties), criminal, or administrative, relating to the environmental condition of the Property or the presence of Hazardous Substances thereon.

1.4 **"Environmental Reports"** means soils, geologic, and engineering reports prepared to assess any environmental risks associated with any portion of the Property that have been provided to Lender by Borrower or otherwise obtained by Lender prior to Lender's making the Loan.

1.5 **"Hazardous Substances"** means any waste, pollutants, contaminants, petroleum or petroleum product, asbestos, tremolite, anthophyllite or actinolite, polychlorinated biphenyls, or other chemical, substance, or material that: (a) after release into the environment and upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer and/or genetic abnormalities, or (b) is now or at any time in the future becomes regulated under, or is defined, classified or designated as hazardous, toxic, radioactive or dangerous, or other similar term or category under any Environmental Laws; but shall not include: (1) pre-packaged supplies, cleaning materials, petroleum products, household products, paints, solvents, lubricants and other materials customarily used in the construction, operation, maintenance or use of comparable multifamily properties, (2) cleaning materials, household products, personal grooming items and other items sold in pre-packaged containers for consumer use and used by tenants and occupants of residential dwelling units in the Property; and (3) petroleum products used in the operation and maintenance of motor vehicles from time to time located on the Property's parking areas, so long as all of the foregoing are used, stored, handled, transported and disposed of in compliance with Environmental Laws.

1.6 **"Indemnified Parties"** means Lender, any person or entity who is or will have been involved in the origination or servicing of the Loan, any person or entity in whose name the encumbrance created by the Deed of Trust has been recorded, persons and entities who may hold or acquire an interest in the Loan, as well as custodians, trustees and other fiduciaries who hold a full or partial interest in the Loan for the benefit of third parties (each, individually, an **"Indemnified Party"**).

1.7 **"Loan Documents"** means any and all documents evidencing, securing or otherwise governing the Loan, specifically excluding, however, this Indemnity Agreement.

1.8 **"Nearby Property"** means real property that is adjacent to or in the immediate vicinity of the Property that could reasonably cause contamination of the Property or could become contaminated with Hazardous Substances as a result of construction, operations, or other activities involving Hazardous Substances on, over, or under the Property or on, over, or under such adjacent or nearby property.

1.9 **"Property"** means the real property legally described on EXHIBIT A hereto and all other property that now or hereafter secures the Loan, all buildings, improvements, and personal property now or hereafter located thereon, the soil, groundwater, streams crossing or abutting the real property, and the aquifers underlying such real property.

1.10 **"Transition Date"** means the earlier of the following dates: (a) the date on which the lien of the Deed of Trust is fully and finally foreclosed or a conveyance by deed in lieu of such foreclosure is fully and finally effective and possession of the Property has been given to and accepted by Lender or any other purchaser or grantee, or (b) prior to completion of any foreclosure or deed in lieu of foreclosure, if Lender, its agents, employees, affiliates, or any receiver appointed to take possession of the Property on behalf of or at the request of Lender and causes any release of Hazardous Substances or other contamination, alteration, or change in physical condition, the date prior to the date when such release, contamination, or change in physical condition by actions of Lender or its agent, employee, affiliate or receiver has occurred. However, as to clause (b), the Transition Date applies only to any release of Hazardous Substances or other contamination, alteration, or change in physical characteristics caused by Lender, its agents, employees, affiliates, or any receiver appointed at Lender's request, but not to Hazardous Substances that existed on the Property prior to such change in custody and possession or receivership, nor to Hazardous Substances that enter onto the Property after the Transition Date from natural forces that cannot be reasonably controlled by Lender (e.g., contaminated groundwater intrusion).

2. **Scope of Indemnitors' Investigation.** Indemnitors' investigation of the environmental condition of the Property has included all of the following undertaken by Borrower and confirmed to the other Indemnitors: physical examination of the Property; the acquisition and review of the applicable Environmental Reports; review of or consultation with consultants about applicable Environmental Laws; and any other actions deemed necessary by Indemnitors to confirm the accuracy of all representations and warranties contained in the Loan Documents regarding such matters.

3. **Lender's Right to Enter.** Lender shall have the right to enter and inspect the Property at any time after reasonable notice to Indemnitors, and, in the event of a default under any of the Loan Documents, and consistent with remedies provided in the Loan Documents, shall also have the right to appoint a receiver to enforce Lender's right to inspect the Property.

4. **Obligation to Cure Non-Compliance.**

4.1 **Notice.** If Indemnitors at any time become aware of: (a) any Hazardous Substances on or other environmental problem or liability with respect to the Property or any Nearby Property in any manner or quantity that would violate any Environmental Laws, (b) any failure of the Property or the improvements thereon to comply with any of the Environmental Laws, (c) any failure of the Property or the improvements thereon or the marketing and other operations undertaken with respect thereto to comply with any of the Building and Access Laws, (d) any lien, action or notice resulting from violation of any Environmental Laws, or Building and Access Laws or (e) any Environmental Proceeding affecting the Property, Indemnitors shall immediately notify Lender thereof in writing, and shall thereafter exercise due diligence to ascertain the scope and nature of such condition. If the condition is such that state or federal law requires the giving of notice to the governmental agencies having appropriate jurisdiction or the implementation of other preventive measures, Indemnitors shall promptly furnish such notice or implement such preventive measures.

4.2 **Cure.** If, upon giving such notice or for any other reason, one or more governmental agencies having appropriate jurisdiction requires removal or treatment of Hazardous Substances from or on the

Property or the making of alterations to the Property to conform to Building and Access Laws or Environmental Laws, or such removal, treatment, or alteration is required by Environmental Laws or Building and Access Laws, Indemnitors will: (a) to the extent required by Environmental Laws, take all actions that are necessary or desirable to clean up any Hazardous Substances affecting the Property, including removal, treatment, containment or any other remedial action required to restore the Property to a safe condition in compliance with applicable laws and regulations, including Environmental Laws, (b) take all actions that are necessary or desirable to modify the Property and all improvements and marketing materials so as to achieve compliance with applicable laws and regulations, including Building and Access Laws and/or Environmental Laws, and/or (c) attempt to contest, appeal, or obtain a stay of enforcement proceedings if Indemnitors believe in good faith that Indemnitors are not required by law to cure such Hazardous Substances condition or to make alterations to comply with Environmental Laws or Building and Access Laws.

4.3 Indemnitors' Expense. Except for the correction of any violations of Building and Access Laws and/or Environmental Laws to the extent caused by Indemnified Parties, their agents, successors and assigns, Indemnitors agree that the amelioration, treatment, containment, or removal of all Hazardous Substances that may be discovered on the Property or Nearby Property (occurring from Hazardous Substances originating on the Property) arising prior to the Transition Date and the modification of any Improvements on the Property in order to comply with Environmental Laws or Building and Access Laws for violations occurring prior to the Transition Date shall be at Indemnitors' sole expense, reserving unto Indemnitors any claims for contribution or indemnity that Indemnitors may have against other parties who may be held liable therefor.

5. Indemnification of Indemnified Parties. Indemnitors shall indemnify, defend, and hold harmless Indemnified Parties from and against any and all claims, demands, damages, losses, liens, liabilities, penalties, fines, lawsuits and other proceedings and costs and expenses (including actual attorneys' fees and costs), that (a) accrue to or are made against or incurred by Indemnified Parties relating to any Transferred Property that result in actual cost and expense to an Indemnified Party arising after one or more Indemnified Parties is in title to the Transferred Property; and (b) directly or indirectly arise from or out of, or are in any way connected with:

5.1 the inaccuracy of any Indemnitor's representations regarding (a) the environmental condition of the Property or (b) compliance of the Property or the improvements with Environmental Laws or Building and Access Laws;

5.2 any spills, releases, discharges or disposal of Hazardous Substances at or from the Transferred Property occurring prior to the Transition Date;

5.3 the imposition, recording or filing of any lien with regard to Hazardous Substances prior to the Transition Date or relating to Hazardous Substances that existed on the Property prior to the Transition Date;

5.4 any non-compliance with or violation of any Environmental Laws occurring prior to the Transition Date;

5.5 any activities on the Transferred Property prior to the Transition Date that directly or indirectly result in the Property or any Nearby Property becoming contaminated with Hazardous Substances, provided, such activities have not been conducted by any Indemnified Party, their agents, successors or assigns;

5.6 the discovery and/or cleanup of Hazardous Substances that were deposited on or were existing on the Transferred Property prior to the Transition Date except to the extent that an Indemnified Party, its agents, successors or assigns deposited such Hazardous Substances on the Transferred Property;

5.7 the discovery and/or cleanup of Hazardous Substances that were deposited on any Nearby Property as a result of an Indemnitor's actions or omissions; or

5.8 any alleged or actual failure of any improvements now or hereafter constructed by Borrower on the Transferred Property to continuously substantially comply with all Building and Access Laws now or hereafter enacted for any reason whatsoever, so long as such failure or violation did not first occur after the Transition Date.

Indemnitors acknowledge that, as between Indemnitors and Indemnified Parties, for those obligations of Indemnitors described in this Section 5, Indemnitors will be solely responsible for all costs and expenses relating to the cleanup of Hazardous Substances from the Transferred Property or from any related Nearby Property or to the modification and correction of any of the improvements constructed on the Transferred Property to make them comply substantially with all Building and Access Laws. If Lender becomes the owner of, or acquires an interest in or rights to the Property by foreclosure or by a conveyance in lieu of foreclosure of the Deed of Trust, or any other instruments securing the Loan, or by any other means, the foregoing indemnification and defense obligations of Indemnitor shall survive such transfer of the Transferred Property. Notwithstanding the preceding sentence, Indemnitor shall have no obligation to defend, indemnify or hold Lender harmless from any claim, demand, damage, loss, lien, liability, etc. to the extent arising from the negligence or willful misconduct of any Indemnified Party or arising on or after the Transition Date.

6. **Defense of Indemnified Parties.** If any party asserts a claim against an Indemnified Party for which Indemnitors have agreed to defend and indemnify such Indemnified Party, Indemnified Party shall have the right to choose its own legal counsel in the event the Indemnified Party reasonably determines that such counsel is necessary due to a conflict of interest (at Indemnitors' expense) and make all decisions relating to the dispute, including, without limitation, the litigation strategy and the terms of any settlement. The obligations and liabilities of Indemnitors under this Indemnity Agreement shall fully survive indefinitely notwithstanding any termination, satisfaction, assignment, entry of a judgment of foreclosure, exercise of any power of sale, or delivery of a deed in lieu of foreclosure relating to any of the Loan Documents, including, without limitation, any assignment and assumption of Indemnitors' obligations hereunder.

7. **Promises of Indemnity Are Unconditional and Separate from the Loan.** Indemnitors' obligations under this Indemnity Agreement are unconditional and shall not be limited by any limitations of liability provided for in any of the Loan Documents. Furthermore, the representations, warranties, and covenants of Indemnitors set forth in this Indemnity Agreement: (a) are separate and distinct obligations from Borrower's and each Guarantor's obligations under the Loan Documents, (b) are not secured by the Deed of Trust or any other security instruments securing the Loan and shall not be discharged or satisfied by foreclosure of the liens created by the Deed of Trust or other security instruments, and (c) shall continue in effect after the Transition Date, to the extent provided in Section 5 above.

8. **Payments to Indemnified Parties.** All amounts payable under this Indemnity Agreement shall be paid when due or, for reimbursement of amounts paid by an Indemnified Party, within ten (10) days after an Indemnified Party's delivery of demand to Indemnitors. Any amount not paid when due shall thereafter bear interest at the default rate of interest under the promissory note evidencing the Loan (whether or not such promissory note itself remains enforceable).

9. **Attorney and Professional Fees.** Each Indemnitor agrees to reimburse, within ten (10) days of demand, the applicable Indemnified Parties for all costs, expenses, and reasonable attorneys' fees that such Indemnified Parties incur in connection with the realization or enforcement of any obligation or remedy contained in this Indemnity Agreement, with or without litigation. Payment by an Indemnified Party shall not be a condition precedent to the obligations of any Indemnitor under this Indemnity Agreement.

10. **Indemnitors' Waivers.** Each Indemnitor agrees that its obligations hereunder shall not be affected by any circumstances, whether or not referred to herein, that might otherwise constitute a legal or equitable discharge of a guarantor or a surety. Without limiting the generality of the foregoing, each Indemnitor waives any rights, claims, defenses, abatements, or rights of setoff or recoupment based on or arising out of: (a) all statutes of limitations that may offer a defense to any action brought against such Indemnitor by Indemnified Parties; (b) any legal disability, discharge, or limitation of the liability of Borrower to Lender, whether consensual or arising by operation of law or any

proceeding; (c) any laws in effect from time to time limiting the liability of a surety; (d) the death or disability of Borrower or any Indemnitor; or (e) any right to require Lender to exhaust any security for the performance of obligations under any of the Loan Documents or to proceed against Borrower, Guarantor, or any other person in any particular order, whether such right exists by statute or otherwise.

11. Miscellaneous.

11.1 Notices. Any notice, demand, request or other communication that any party hereto may be required or may desire to give hereunder shall be made in writing to the addresses below and shall be deemed to have been properly given (a) if hand delivered, when delivered; (b) if mailed by United States Certified Mail (postage prepaid, return receipt requested), three (3) business days after mailing; (c) if by Federal Express or other reliable overnight courier service, on the next business day after delivery to such courier service; or (d) if by confirmed e-mail transmission on the day of transmission so long as a copy is sent on the same day by overnight courier to the applicable address set forth below:

If to Indemnitor: Perris Park Housing LLC
c/o Riverside Community Housing Corp.
5555 Arlington Avenue
Riverside, CA 92504
Attention: Michael Walsh

with a copy to: County of Riverside County Office of County Counsel
3960 Orange Street, Suite 500
Riverside, CA 92501
Attention: Jhaila Brown, Deputy County Counsel

If to Lender: BANNER BANK
Commercial Real Estate Lending
3005 112th Avenue NE, Suite 100
Bellevue, WA 98004

Any party may change its address by notifying the other party in writing as set forth above.

11.2 Benefit of Lender's Affiliates, Successors, and Purchasers. Each representation, warranty, covenant, promise of indemnity, and other obligation of Indemnitors herein in favor of Lender shall also inure to the benefit of any successors and assigns of Lender's interest in the Loan or any portion of the Property, as well as any purchasers of all or any portion of the Property at a foreclosure sale and the purchaser under the first conveyance of any portion of Property following the consummation of any foreclosure or deed in lieu of foreclosure, but not any other purchasers of the Property.

11.3 Rights Cumulative. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies that Lender has under the Loan Documents or that Lender would otherwise have at law or in equity.

11.4 No Waiver. The failure of an Indemnified Party to promptly enforce any right or remedy under this Indemnity Agreement shall not constitute a waiver thereof and shall not affect or impair the liability of Indemnitors.

11.5 Release of Liability. Any one or more parties liable upon or in respect of this Indemnity Agreement may be released without affecting the liability of any party not so released.

11.6 Successors. This Indemnity Agreement shall be binding upon Indemnitors and their heirs, representatives, successors and assigns.

11.7 Severability. If any provision of this Indemnity Agreement is invalid, illegal or unenforceable, such provision shall be considered severed from the rest of this Indemnity Agreement and the remaining provisions shall continue in full force and effect as if the invalid provision had not been included.

11.8 Joint and Several Liability. The liability hereunder of each Indemnitor shall be joint and several.

11.9 Mutual Negotiation. Each Indemnitor and Indemnified Party confirm that they have mutually negotiated this Indemnity Agreement and that none of the terms or provisions of this Indemnity Agreement shall be construed by presumption against either party.

11.10 Governing Law. This Indemnity Agreement shall be governed by the laws of the State of in which the Property is located, without regard to that state's choice of law rules.

11.11 Execution of Counterparts. This Indemnity Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

11.12 Jury Trial Waiver. TO THE GREATEST EXTENT PERMITTED BY LAW, EACH INDEMNITOR, BY ITS EXECUTION AND DELIVERY HEREOF, AND INDEMNIFIED PARTIES, BY LENDER'S ACCEPTANCE HEREOF, EACH HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS INDEMNITY AGREEMENT OR UNDER THE LOAN DOCUMENTS OR ARISING FROM THE LENDING RELATIONSHIP WHICH IS THE SUBJECT MATTER OF THIS INDEMNITY AGREEMENT, AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY, SUBJECT TO SECTION 10.1 BELOW. INDEMNITORS FURTHER ACKNOWLEDGE THAT (I) THEY HAVE READ AND UNDERSTAND THE MEANING AND RAMIFICATIONS OF THIS WAIVER, AND (II) THIS WAIVER IS A MATERIAL INDUCEMENT FOR LENDER TO MAKE THE LOAN. INDEMNITORS HEREBY AGREE THAT THIS INDEMNITY AGREEMENT CONSTITUTES A WRITTEN CONSENT TO WAIVER OF TRIAL BY JURY PURSUANT TO THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 631.

12. CALIFORNIA PROVISIONS

12.1 Judicial Reference. In the event the waiver of jury trial set forth above is not enforceable, the parties agree to proceed under this judicial reference provision as follows:

12.1.1 With the exception of the items specified in Section 10.1.2 below, any controversy, dispute or claim (each a "**Claim**") between the parties arising out of or relating to this Agreement will be resolved by a reference proceeding in California in accordance with the provisions of Sections 638 et seq. of the California Code of Civil Procedure, or their successor sections, which shall constitute the exclusive remedy for the resolution of any Claim, including whether the Claim is subject to the reference proceeding. Venue for the reference proceeding will be in the state or federal court in the county or district where venue is otherwise appropriate under applicable law (the "**Court**").

12.1.2 The matters that shall not be subject to a reference are the following: (i) non-judicial foreclosure of any security interests in real or personal property, (ii) exercise of self-help remedies (including, without limitation, set-off), (iii) appointment of a receiver, and (iv) temporary, provisional, or ancillary remedies (including, without limitation, writs of attachment, writs of possession, temporary restraining orders or preliminary injunctions). This reference provision does not limit the right of any party to exercise or oppose any of the rights and

remedies described in clauses (i) and (ii) or to seek or oppose from a court of competent jurisdiction any of the items described in clauses (iii) and (iv). The exercise of, or opposition to, any of those items does not waive the right of any party to a reference pursuant to this Section 10.1 as provided herein.

12.1.3 The single referee shall be a retired judge or justice selected by mutual written agreement of the parties. If the parties do not agree within ten (10) days of a written request to do so by any party, then, upon request of any party, the referee shall be selected by the presiding judge of the Court (or his or her representative). A request for appointment of a referee may be heard on an ex parte or expedited basis, and the parties agree that irreparable harm would result if ex parte relief is not granted. Pursuant to Section 170.6 of the California Code of Civil Procedure, each party shall have one preemptory challenge to the referee selected by the presiding judge of the Court (or his or her representative).

12.1.4 The parties agree that time is of the essence in conducting the reference proceedings. Accordingly, the referee shall be requested, subject to change in the time periods specified herein for good cause shown, to (i) set the matter for a status and trial-setting conference within fifteen (15) days after the date of selection of the referee, (ii) if practicable, try all issues within one hundred twenty (120) days after the date of the conference, and (iii) report a statement of decision within twenty (20) days after the matter has been submitted for decision,

12.1.5 The referee will have power to expand or limit the amount and duration of discovery. The referee may set or extend discovery deadlines or cutoffs for good cause, including a party's failure to provide requested discovery for any reason whatsoever. Unless otherwise ordered based upon good cause shown, no party shall be entitled to "priority" in conducting discovery, depositions may be taken by either party upon seven (7) days written notice, and all other discovery shall be responded to within fifteen (15) days after service. All disputes relating to discovery that cannot be resolved by the parties shall be submitted to the referee whose decision shall be final and binding.

12.1.6 Except as expressly set forth herein, the referee shall determine the manner in which the reference proceeding is conducted, including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the reference proceeding. All proceedings and hearings conducted before the referee, except for trial, shall be conducted without a court reporter, except that when any party so requests, a court reporter will be used at any hearing conducted before the referee, and the referee will be provided a courtesy copy of the transcript. The party making such a request shall have the obligation to arrange for and pay the court reporter. Subject to the referee's power to award fees and costs (including, without limitation, attorneys' fees) to the prevailing party, the parties will share equally the cost of the referee and the cost of the court reporter at trial.

12.1.7 The referee shall be required to determine all issues in accordance with existing case law and the statutory laws of the State of California. The rules of evidence applicable to proceedings at law in the State of California will be applicable to the reference proceeding. The referee shall be empowered to enter equitable as well as legal relief, to enter equitable orders that will be binding on the parties, and to rule on any motion that would be authorized in a court proceeding, including without limitation motions for summary judgment or summary adjudication. The referee shall issue a decision at the close of the reference proceeding that disposes of all claims of the parties that are the subject of the reference. Pursuant to Section 644 of the California Code of Civil Procedure, such decision shall be entered by the Court as a judgment or an order in the same manner as if the action had been tried by the Court, and any such decision will be final, binding, and conclusive. The parties reserve the right to appeal from the final judgment or order or from any appealable decision or order entered by the referee. The parties reserve the right to findings of fact, conclusions of law, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial, if granted, is also to be a reference proceeding under this provision.

12.1.8 If the enabling legislation that provides for appointment of a referee is repealed (and no successor statute is enacted), any dispute between the parties that would otherwise be determined by reference procedure will be resolved and determined by arbitration. The arbitration will be conducted by a retired judge or justice, in accordance with the California Arbitration Act §1280 through §1294.2 of the California Code of Civil Procedure, as amended from time to time. The limitations with respect to discovery set forth in this Section shall apply to any such arbitration proceeding.

12.1.9 THE PARTIES RECOGNIZE AND AGREE THAT ALL CONTROVERSIES, DISPUTES, AND CLAIMS RESOLVED UNDER THIS REFERENCE PROVISION WILL BE DECIDED BY A REFEREE AND NOT BY A JURY. AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS, HIS, OR HER OWN CHOICE, EACH PARTY KNOWINGLY AND VOLUNTARILY, AND FOR THE MUTUAL BENEFIT OF ALL PARTIES, AGREES THAT THIS REFERENCE PROVISION WILL APPLY TO ANY CLAIM BETWEEN OR AMONG THEM ARISING OUT OF OR IN ANY WAY RELATED TO THIS INDEMNITY AGREEMENT.

12.2 Waiver. Each Indemnitor hereby unconditionally and irrevocably waives:

12.2.1 an election of remedies by any Indemnified Party, even though that election of remedies, such as a non-judicial foreclosure with respect to any security for the Loan (whether such security is real property or personal property), has destroyed such Indemnitor's rights of subrogation and reimbursement against Borrower by the operation of Section 580d of the California Code of Civil Procedure or otherwise.

12.2.2 any and all benefits which might otherwise be available to such Indemnitor under California Civil Code Sections 2787 through 2855, 2899, 2953, or 3433, and California Code of Civil Procedure Sections 580a, 580b, 580d and 726.

12.3 Loan Amount; No Limitation. The amount of Indemnitors' liability under this Indemnity Agreement is unrelated to, and independent of, the amount of any loss that Lender may suffer by reason of the failure of the Loan to be repaid in full, and shall not be determined by reference to the amount of any Loan loss. No amount paid to any Indemnified Party pursuant to this Indemnity Agreement shall be considered to be paid on account of the Loan or any deficiency or loss suffered by Lender by reason of the failure of the Loan to be repaid in full. The enforcement of this Indemnity Agreement by any Indemnified Party shall not be construed as an indirect attempt to recover any such loan loss. Indemnitors acknowledge that Indemnitors may have liability under this Indemnity Agreement even if the Loan is repaid in full by reason of a full credit bid at any foreclosure sale, and that the amount of Indemnitors' liability hereunder could exceed the entire amount paid by an Indemnified Party for the Property.

12.4 Legal Effect of this Agreement. Indemnitors and Indemnified Parties agree that: (a) this Indemnity Agreement is intended as Lender's written request for information (and Indemnitors' response) concerning the environmental condition of the real property security as required by California Code of Civil Procedure Section 726.5; and (b) each provision in this Indemnity Agreement (together with any indemnity applicable to a breach of any such provision) with respect to the environmental condition of the real property security is intended by Lender and Indemnitors to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736, and as such it is expressly understood that Indemnitors' duty to indemnify Indemnified Parties hereunder shall survive: (i) any judicial or non-judicial foreclosure under any security instrument, or transfer of the Property in lieu thereof; (ii) the release and reconveyance or cancellation of any security instrument; and (iii) the satisfaction of all of Indemnitors' obligations under the Loan Documents.

12.5 Inspection Rights. Lender shall have the right to enter and inspect the Property for Hazardous Substances pursuant to California Civil Code Section 2929.5, to obtain a court order to enforce that right, and to have a receiver appointed pursuant to California Code of Civil Procedure Section 564 to enforce Lender's right to enter and inspect the Property.

12.6 Remedies.

12.6.1 Upon any breach of this Indemnity Agreement, each Indemnified Party shall have the right to commence and maintain an action or actions in any court of competent jurisdiction for breach of contract pursuant to California Code of Civil Procedure Section 736, whether commenced prior to foreclosure of the Property or after foreclosure of the Property, and to seek the recovery of any and all costs, damages, expenses, fees, penalties, fines, judgments, indemnification payments to third parties, and other out-of-pocket costs or expenses actually incurred or advanced by Lender (collectively, the "**Environmental Costs**") relating to the cleanup, remediation or other response action required by Environmental Laws or which Lender believes necessary to protect the Property. Each Indemnitor acknowledges and agrees that notwithstanding any term of provision contained herein or in the Loan Documents, the Environmental Costs shall be exceptions to any non-recourse or exculpatory provision, and each Indemnitor shall be fully and personally liable for the Environmental Costs hereunder and such liability shall not be limited to the original principal amount of the obligations secured by the Deed of Trust or any other security instrument.

12.6.2 Upon any Event of Default under the Loan Documents, in addition to any other remedies provided therein and applicable law, Lender shall have the right to waive the lien of the Deed of Trust against the Property or any portion thereof, whether fixtures or personal property, to the extent such property is found to be environmentally impaired in accordance with California Code of Civil Procedure Section 726.5 and to exercise any and all rights and remedies of an unsecured creditor against Indemnitors and all of Indemnitors' assets and property for the recovery of any deficiency, including, without limitation, seeking an attachment order pursuant to California Code of Civil Procedure Section 483.010. As between Indemnified Parties and Indemnitors, for purposes of California Code of Civil Procedure Section 726.5, Indemnitors shall have the burden of proving that they or any related party (or any affiliate or agent of any Indemnitor or any related party) were not in any way negligent in permitting the release or threatened release of the Hazardous Substances. Each Indemnitor acknowledges and agrees that, notwithstanding any term or provision contained herein or in the Loan Documents, all judgments and awards entered against an Indemnitor under this Section and California Code of Civil Procedure Section 726.5 shall be exceptions to any non-recourse or exculpatory provisions of the Loan Documents.

12.7 California Code Sections. This Indemnity Agreement is intended to be cumulative of any rights of Lender under California Code of Civil Procedure Sections 564, 726.5 and 736 and under California Civil Code Section 2929.5. Each Indemnitor hereby agrees that its liability hereunder shall not be affected by any restrictions or limitations such statutes may contain.

13. Limitation of Funds for Guaranty of Payment. Notwithstanding anything to the contrary contained herein, Lender acknowledges and agrees that Guarantor has no authority to provide the Lender with guarantees or indemnifications involving restricted assets of Guarantor arising under any program, including, but not limited to programs administered by the U.S. Department of Housing and Urban Development (HUD) and HUD restricted funds, including, but not limited to, public housing or Section 8 voucher assets, assets covered by a RAD use Agreement, HOME Program assets, NSP assets, CDBG assets and any operating subsidies of any Guarantor project. Guarantor's performance under this Indemnity Agreement is subject to applicable HUD requirements, as now in effect or hereafter enacted. Notwithstanding anything to the contrary contained herein, Lender further acknowledges and agrees that Lender has no legal right of recourse under this Indemnity Agreement against any real property assets of Guarantor, any operating receipts of Guarantor, any housing operating reserve of Guarantor reflected in Guarantor's annual operating budget, or deposit required by HUD, any rents or other income from Guarantor owned real property, or real property in which Guarantor holds a security interest, other than a claim against:

- i. Available surplus cash;
- ii. Any excess fees contained in Guarantor's Section 8 administrative fee reserve under 24 CFR Section 982.155

For purposes of this Section 13, the following capitalized terms are defined as follows:

"CDBG" means The Community Development Block Grant (CDBG) is a Federally funded block grant program created by Congress in 1974.

"HOME program" means HOME Investment Partnerships Act and HOME Investment Partnerships("HOME") Program, which was enacted under Title II of the Cranston-Gonzalez National Affordable Housing Act (the "Act"), as amended (commencing at 42 U.S.C. 12701 et seq.), and the implementing regulations thereto (24 CFR Part 92).

"NSP" means the Neighborhood Stabilization Program which is authorized under Title III of the Housing and Economic Recovery Act of 2008. There have been three rounds of funding for NSP through the Housing and Economic Recovery Act of 2008 (NSP1), The American Recovery and Reinvestment Act in 2009 (NSP2), and, the Dodd-Frank Wall Street Reform Act in 2010 (NSP3).

"operating subsidies" means the amount of annual contributions for operations Guarantor receives each funding period from HUD for various HUD funded programs.

"operating reserve" means the account established by the Guarantor from excess administrative fee income. The operating reserve must be used for housing purposes.

"RAD" means the Rental Assistance Demonstration authorized by Congress under the FY12 HUD appropriations act, RAD allows public housing agencies (PHAs) and owners of other HUD-assisted properties to convert units from their original sources of HUD financing to project-based Section 8 contracts.

"surplus cash" means the cash that exceeds the cash required for day-to-day operations.

14. NONLIABILITY OF COUNTY OF RIVERSIDE. LENDER HEREBY ACKNOWLEDGES AND AGREES THAT THE INDEMNIFICATION OBLIGATIONS OF BORROWER UNDER THIS INDEMNIFICATION AGREEMENT SHALL NOT BE A DEBT OF THE COUNTY OF RIVERSIDE (COUNTY), OR ANY OF ITS AGENCIES, DISTRICTS, SPECIAL DISTRICTS, AND DEPARTMENTS, THEIR RESPECTIVE DIRECTORS, OFFICERS, BOARD OF SUPERVISORS, EMPLOYEES, ELECTED OR APPOINTED OFFICIALS, AGENTS, OR REPRESENTATIVES AND NEITHER THE COUNTY, NOR ANY OF ITS AGENCIES, DISTRICTS, SPECIAL DISTRICTS, AND DEPARTMENTS, THEIR RESPECTIVE DIRECTORS, OFFICERS, BOARD OF SUPERVISORS, EMPLOYEES, ELECTED OR APPOINTED OFFICIALS, AGENTS, OR REPRESENTATIVES SHALL BE LIABLE THEREON, NOR IN ANY EVENT SHALL SUCH INDEMNIFICATION OBLIGATIONS BE PAYABLE OUT OF THE COUNTY'S GENERAL FUND, OR OTHER FUNDS OR PROPERTIES OTHER THAN THOSE OF THE BORROWER PLEDGED THERETO.

[Remainder of Page Intentionally Left Blank; Signature(s) Appear on the Following Page.]

A CONTRACT, PROMISE, UNDERTAKING OR COMMITMENT TO LOAN MONEY OR GRANT OR EXTEND CREDIT, IN AN AMOUNT GREATER THAN \$100,000, NOT PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES, MADE BY A PERSON ENGAGED IN THE BUSINESS OF LENDING MONEY OR EXTENDING CREDIT MUST BE IN WRITING AND SUBSCRIBED BY LENDER OR ITS AGENT TO BE VALID UNDER CALIFORNIA LAW.

Dated as of the date first set forth above.

Indemnitors:

Borrower:

Perris Park Housing LLC,
a California limited liability company
By: Riverside Community Housing Corp.,
a California nonprofit public benefit
corporation, its sole manager/member
By: _____
Name: Carrie Harmon
Its: Chief Operating Officer

APPROVED AS TO FORM:

Gregory P. Priamos
General Counsel

By: 
Deputy General Counsel

Guarantor:

HOUSING AUTHORITY OF THE COUNTY OF
RIVERSIDE, a public entity, corporate and politic

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

Gregory P. Priamos
County Counsel

By: _____
Jhaila R. Brown,
Deputy County Counsel

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

[behind this page]

EXHIBIT A

LEGAL DESCRIPTION

That portion of Lot 5 of Perou's Subdivision of the South half of the Southeast quarter of section 31, Township 4 South, Range 3 West, as shown by Map on file in Book 15 page(s) 698, of Maps Records of San Diego County, California, described as follows:

Beginning at Southeast corner of said Section 31, said point also being the centerline intersections of Perris Boulevard and Ellis Avenue as shown on Record(s) of Survey Map filed in Book 86 Page 48; Thence North $00^{\circ}14'13''$ West 660.04 feet along the centerline of Perris Avenue, said centerline also being the East line of said Lot 5; thence South $89^{\circ}45'47''$ West 30.00 feet perpendicular to said centerline to the West right(s) of way Line of Perris Boulevard 30.00 feet wide half width, said point also being the northeast corner Parcel 1 as shown on said Record(s) of survey to the true point of beginning, thence South $89^{\circ}45'44''$ West 475.35 feet along the North line of said Parcel 1; thence south $00^{\circ}14'16''$ East 629.40 feet perpendicular to said North line to a point on the North right of way of Ellis Avenue, 30.00 feet wide half width; thence North $89^{\circ}50'04''$ East 475.34 feet along said North right of way to a point on the West right (s) of way Perris Boulevard, 30.00 feet wide half width; thence North $00^{\circ}14'13''$ West 630.00 feet along said West right (s) of way line to the true point of beginning.

Said Land is shown on a Map Recorded in Book 86 Page 48, of Record(s) of survey, Records of said county.

Note: Said Land is described and delineated as Lot 1 on Lot line adjustment NO 99-0022, Recorded April 29, 1999 as Instrument No. 1999-182554 of Official Records.

Property Address: 1450 South Perris Boulevard, Perris, California
Assessor's Parcel No.: 008029/313-290-020-2

IMMEDIATE NEEDS RESERVE AND SECURITY AGREEMENT



PROJECT NAME: Perris Park Apartments
LOAN NO: 1403958

This IMMEDIATE NEEDS RESERVE AND SECURITY AGREEMENT (this "**Agreement**") is made this June __, 2019, by PERRIS PARK HOUSING LLC, a California limited liability company ("**Borrower**"), and BANNER BANK, a Washington state-chartered commercial bank, its successors, participants, and assigns ("**Lender**").

RECITALS:

A. Borrower has requested a loan from Lender (the "**Loan**") to finance the acquisition of an 80-unit multifamily residential project located in the Riverside County, California, known as Perris Park Apartments (the "**Project**").

B. The Loan is evidenced by that certain Promissory Note of even date herewith, in the maximum principal amount of \$2,100,000.00 made by Borrower and payable to the order of Lender (the "**Note**"), and that certain Term Loan Agreement of even date herewith, by and between Borrower and Lender (the "**Loan Agreement**").

C. Concurrently herewith, Borrower will grant to Lender a Deed of Trust, Security Agreement, Assignment of Leases and Rents, and Fixture Filing to be recorded against the Project to secure Borrower's obligations under the Loan (the "**Deed of Trust**").

D. The Note, the Deed of Trust, the Loan Agreement, and all other documents executed in connection with the Loan, including this Agreement, shall be referred to herein as the "**Loan Documents**".

E. Lender requires that Borrower enter into this Agreement and make certain deposits with Lender as provided in this Agreement as additional security for all of Borrower's obligations under the Loan Documents.

AGREEMENTS

NOW, THEREFORE, in consideration of the above and the mutual promises contained in this Agreement, the receipt and sufficiency of which are acknowledged, Borrower and Lender agree as follows:

1. Immediate Needs Immediate Needs Replacement Reserve.

1.1 At closing of the Loan, Lender will disburse \$300,000.00 of Loan proceeds, for the benefit of Borrower, in an interest-bearing account (the "**Immediate Needs Reserve Account**") that meets the standards for custodial accounts as required by Lender from time to time. Loan proceeds deposited into the Immediate Needs Reserve Account shall accrue interest from the date disbursed into the Immediate Needs Reserve Account, regardless of when any such funds are released to Borrower pursuant to the terms of this Agreement.

1.2 All funds in the Immediate Needs Reserve Account are referred to collectively as the "**Immediate Needs Immediate Needs Replacement Reserve**". Lender or a designated representative of Lender shall have the sole right to make withdrawals from the Immediate Needs Reserve Account. All interest earned on funds in the Immediate Needs Reserve Account shall be added to and become part of the Immediate Needs Immediate Needs Replacement Reserve. Lender shall not be responsible for any losses resulting from the investment of the Immediate Needs Immediate Needs Replacement Reserve or for obtaining any specific level or percentage of earnings on such investment.

2. Immediate Needs Immediate Needs Replacement Reserve is Additional Security.

2.1 Borrower assigns to Lender the Immediate Needs Reserve Account and all funds comprising the Immediate Needs Immediate Needs Replacement Reserve as additional security for all of Borrower's obligations under the Loan Documents; *provided, however*, upon satisfactory review of all Lender required information, including property cash flow report satisfactory to Lender, Lender shall make disbursements from the Immediate Needs Immediate Needs Replacement Reserve in accordance with the terms of this Agreement.

2.2 Except as otherwise provided in Section 5.1 and 5.2 of this Agreement, Lender shall make disbursements from the Immediate Needs Immediate Needs Replacement Reserve to reimburse Borrower for the costs of those items listed on EXHIBIT A (the "**Immediate Needs Repairs**") in accordance with the provisions of Section 3 below. Lender shall not be obligated to make disbursements from the Immediate Needs Replacement Reserve to reimburse Borrower for the costs of routine maintenance to the Property.

3. Disbursements from Immediate Needs Replacement Reserve.

3.1 Request for Disbursement.

3.1.1 Upon written request from Borrower and satisfaction of the requirements set forth in Sections 3 and 4 of this Agreement, Lender shall disburse to Borrower amounts from the Immediate Needs Replacement Reserve necessary to reimburse Borrower or, if Borrower has not yet paid for the approved repairs, to pay for the actual approved costs of the Immediate Needs Repairs. In no event shall Lender be obligated to disburse funds from the Immediate Needs Replacement Reserve if a default exists under this Agreement (including but not limited to Borrower's failure to pay in full any fees, costs and expenses then due and payable under this Agreement), or a Potential Default or Event of Default exists under any of the other Loan Documents.

3.1.2 Each request for disbursement from the Immediate Needs Reserve Account shall be on a form specified or approved by Lender and shall include invoices or estimates specifying (i) the specific Immediate Needs Repairs for which the disbursement is requested, (ii) the quantity and price of each item purchased, if the Immediate Needs Repair includes the purchase or replacement of specific items (such as appliances), (iii) the price of all materials (grouped by type or category) used in any Immediate Needs Repair other than the purchase or replacement of specific items, and (iv) the cost of all contracted labor or other services applicable to each Immediate Needs Repair for which such request for disbursement is made. With each request for disbursement, Borrower shall certify that all Immediate Needs Repairs have been made in accordance with all applicable laws, ordinances, and regulations of any governmental office or authority having jurisdiction over the Property. Each request for disbursement shall include copies of invoices for all items or materials purchased and all contracted labor or services provided and, unless Lender has agreed to issue joint checks as described below in connection with a particular Immediate Needs Repair, each request for disbursement shall include evidence satisfactory to Lender of payment of all such amounts.

3.1.3 Lender, at its option, may issue joint checks, payable to Borrower and the supplier, materialman, mechanic, subcontractor or other party to whom payment is due in connection with any Immediate Needs Repair. In the case of all payments made by joint check, Lender may require a waiver of liens from each contractor receiving payment prior to Lender's disbursement of any further disbursement from the Immediate Needs Replacement Reserve.

3.1.4 If (i) the cost of a Immediate Needs Repair exceeds \$10,000.00, (ii) the contractor performing a Immediate Needs Repair requires periodic payments pursuant to terms of a written contract, and (iii) Lender has approved in writing in advance such periodic payments, a request for reimbursement from the Immediate Needs Replacement Reserve may be made after completion of a portion of the work under such contract, provided (a) such contract requires payment upon completion of such portion of the work, (b) the materials for which the request is made are on site at the Property and are properly secured or have been installed in the Property, (c) all other conditions in this Agreement for disbursement have been satisfied, (d) funds remaining in the Immediate Needs Reserve Account are, in Lender's judgment, sufficient to complete such Immediate Needs Repair and the other Immediate Needs Repairs when required, and (e) if required by Lender, each contractor or subcontractor receiving payments under such contract shall provide a waiver of lien with respect to amounts which have been paid to that contractor or subcontractor.

3.1.5 Borrower may request disbursements from the Immediate Needs Reserve Account once per month. Except in connection with the final disbursement, the total cost of all Immediate Needs Repairs in any request shall not be less than \$1,000.00. Requests for disbursements for expenses incurred during any fiscal year must be made no later than the last day of the first quarter of the following fiscal year.

4. Performance of Immediate Needs Repairs.

4.1 Completion. Borrower shall commence the Immediate Needs Repairs within _____ days after closing of the Loan and complete the Immediate Needs Repairs no later than _____.

4.2 Workmanlike Completion.

4.2.1 Borrower shall complete all Immediate Needs Repairs in a good and workmanlike manner.

4.2.2 Lender shall have the right to approve all contracts or work orders with materialmen, mechanics, suppliers, subcontractors, contractors or other parties providing labor or materials in connection with the Immediate Needs Repairs. Upon Lender's request, Borrower shall assign any contract or subcontract to Lender.

4.2.3 If Lender determines in its sole discretion that any Immediate Needs Repair is not being performed in a workmanlike or timely manner or that any Immediate Needs Repair has not been completed in a workmanlike manner and timely manner, Lender shall have the option to withhold disbursement for such unsatisfactory work and to proceed under existing contracts or to contract with third parties to complete such Immediate Needs Repair and to apply the Immediate Needs Replacement Reserve toward the labor and materials necessary to complete such Immediate Needs Repair, upon providing notice to Borrower and to exercise any and all other remedies available to Lender upon a default pursuant to Section 5.2 hereof.

4.2.4 In order to facilitate Lender's completion or making of the Replacements pursuant to Sections 4.2.1, 4.2.2, and 4.2.3 above, and without limiting Lender's rights under any other Loan

Document, Lender is granted the right to enter onto the Property and perform any and all work and labor necessary to complete or make the Immediate Needs Repairs and employ watchmen to protect the Property from damage. All sums so expended by Lender shall be deemed to have been advanced to Borrower and secured by the Security instrument. For this purpose, Borrower constitutes and appoints Lender its true and lawful attorney-in-fact with full power of substitution to complete or undertake the Immediate Needs Repairs in the name of Borrower. Borrower empowers said attorney-in-fact as follows:

4.2.4.1 to use any funds in the Immediate Needs Replacement Reserve for the purpose of making or completing the Immediate Needs Repairs;

4.2.4.2 to make such additions, changes and corrections to the Immediate Needs Repairs as shall be necessary or desirable to complete the Immediate Needs Repairs;

4.2.4.3 to employ such contractors, subcontractors, agents, architects and inspectors as shall be required for such purposes;

4.2.4.4 to pay, settle or compromise all existing bills and claims which are or may become liens against the Property, or as may be necessary or desirable for the completion of the Immediate Needs Repairs, or for clearance of title;

4.2.4.5 to execute all applications and certificates in the name of Borrower which may be required by any of the contract documents;

4.2.4.6 to prosecute and defend all actions or proceedings in connection with the Property or the rehabilitation and repair of the Property; and

4.2.4.7 to do any and every act which Borrower might do in its own behalf to fulfill the terms of this Agreement.

It is further understood and agreed that this power of attorney, which shall be deemed to be a power coupled with an interest, cannot be revoked. Borrower specifically agrees that all power granted to Lender under this Agreement may be assigned by it to its successors or assigns as holder of the Note.

4.2.5 Nothing in this Section 4.1 shall:

4.2.5.1 make Lender responsible for making or completing the Replacements;

4.2.5.2 require Lender to expend funds in addition to the Immediate Needs Replacement Reserve to make or complete any Replacement; or

4.2.5.3 obligate Lender to proceed with the Replacements.

4.3 Entry on the Property; Inspections.

4.3.1 Without limiting Lender's rights under any other Loan Document, Borrower shall permit Lender or Lender's representatives (including an independent person such as an engineer, architect, or inspector) or third parties making Immediate Needs Repairs pursuant to Sections 4.2.3 and **Error! Reference source not found.** of this Agreement to enter onto the Property during normal business hours (subject to the rights of tenants under their leases) to inspect the progress of any Immediate Needs Repairs and all materials being used in connection therewith, to examine all plans and shop drawings relating to such Immediate Needs Repairs which are or may be kept at the Property, and to complete any

replacements made pursuant to Sections 4.2.3 and **Error! Reference source not found.** Borrower agrees to cause all contractors and subcontractors reasonably to cooperate with Lender or Lender's representatives or such other persons described above in connection with inspections described in this Section 4.3 or the completion of Immediate Needs Repairs pursuant to Sections 4.2.3 and **Error! Reference source not found.**

4.3.2 Lender may inspect the Property in connection with any Immediate Needs Repair prior to disbursing funds from the Immediate Needs Replacement Reserve for such Immediate Needs Repair. Lender, at Borrower's expense, also may require an inspection by an appropriate independent qualified professional ("**Inspector**") selected by Lender and a copy of a certificate of completion by an independent qualified professional acceptable to Lender prior to the disbursement of any amounts from the Immediate Needs Replacement Reserve. Borrower shall pay the Inspector's fee for each such inspection.

4.4 Lien-Free Completion.

4.4.1 Borrower covenants and agrees to complete the Immediate Needs Repairs free and clear of all mechanic's, materialman's or other liens.

4.4.2 Prior to each disbursement from the Immediate Needs Replacement Reserve, Lender may require Borrower to provide Lender with a search of title to the Property effective to the date of the release, which search shows that no mechanic's or materialmen's liens or other liens of any nature have been placed against the Property since the date of recordation of the Deed of Trust and that title to the Property is free and clear of all liens.

4.4.3 In addition, as a condition to any disbursement, Lender may require Borrower to obtain from each contractor, subcontractor, or materialman an acknowledgment of payment and release of lien for work performed and materials supplied. Any such acknowledgment and release shall conform to the requirements of applicable law and shall cover all work performed and materials supplied (including equipment and fixtures for the Property by that contractor, subcontractor or materialman through the date covered by the current reimbursement request (or, in the event that payment to such contractor's, subcontractor or materialmen is to be made by a joint check, the release of lien shall be effective through the date covered by the previous release of funds request).

4.5 Compliance with Laws and Insurance Requirements.

4.5.1 All Immediate Needs Repairs shall comply with all applicable laws, ordinances, rules and regulations of all governmental authorities having jurisdiction over the Property and applicable insurance requirements including, without limitation, applicable building codes, special use permits, environmental regulations, and requirements of insurance underwriters.

4.5.2 In addition to any insurance required under the Loan Documents, Borrower shall provide or cause to be provided worker's compensation insurance, builder's risk, and public, liability insurance and other insurance to the extent required under applicable law in connection with a particular Immediate Needs Repair. All such policies shall be in form and amount satisfactory to Lender. All such policies which can be endorsed with standard mortgagee clauses making loss payable to Lender or its assigns shall be so endorsed. The originals of such policies shall be delivered to Lender.

5. Default.

5.1 Default Under This Agreement. Borrower shall be in default under this Agreement if it fails to comply with any provision of this Agreement and such failure is not cured in ten (10) days after notice from Lender. Borrower understands that a default under this Agreement shall be deemed

to be a default under the Loan Documents, and that in addition to the remedies specified in this Agreement, Lender shall be able to exercise all of its rights and remedies under the Loan Documents upon a default.

5.2 Application of Immediate Needs Replacement Reserve Upon Default.

5.2.1 If Borrower defaults on any payment due under any term or provision of any Loan Document (including any default under this Agreement), then, upon any such defaults Borrower shall immediately lose all of its rights to receive disbursements from the Immediate Needs Replacement Reserve unless and until all amounts secured by the Deed of Trust have been paid in full and the lien of the Deed of Trust has been released by Lender. Upon any such default, Lender may in its sole and absolute discretion, use the Immediate Needs Replacement Reserve (or any portion thereof) for any purpose, including but not limited to: (i) repayment of any indebtedness secured by the Deed of Trust, including but not limited to principal prepayments and the prepayment premium applicable to such full or partial prepayment (as applicable); *provided, however*, that such application of funds shall not cure or be deemed to cure any default; (ii) reimbursement of Lender for all losses and expenses (including, without limitation, reasonable legal fees) suffered or incurred by Lender as a result of such default; (iii) completion of the Immediate Needs Repairs as provided in Section 4.1, or for any other repair or replacement to the Property; or (iv) payment of any amount expended in exercising (and exercise) all rights and remedies available to Lender at law or in equity or under this Agreement or under any of the other Loan Documents.

5.2.2 If Lender forecloses the Deed of Trust or acquires the Property by deed in lieu of foreclosure, then Lender may in its sole and absolute discretion, use the Immediate Needs Replacement Reserve (or any portion thereof) for any purpose, including but not limited to: (i) repayment of any indebtedness secured by the Deed of Trust, including but not limited to principal prepayments and the prepayment premium applicable to such full or partial prepayment (as applicable); *provided, however*, that such application of funds shall not cure or be deemed to cure any default; (ii) reimbursement of Lender for all losses and expenses (including, without limitation, reasonable legal fees) suffered or incurred by Lender as a result of such default; (iii) completion of the Immediate Needs Repairs as provided in Section 4.1 or for any other repair or replacement to the Property; or (iv) payment of any amount expended in exercising (and exercise) all rights and remedies available to Lender at law or in equity or under this Agreement or under any of the other Loan Documents.

5.2.3 Nothing in this Agreement shall obligate Lender to apply all or any portion of the Immediate Needs Replacement Reserve on account of any default by Borrower or to repayment of the indebtedness secured by the Deed of Trust or in any specific order of priority.

6. Borrower's Other Obligations. Nothing contained in this Agreement shall in any manner whatsoever alter, impair or affect obligations of Borrower, or relieve Borrower of any of its obligations, to make payments and perform all of its other obligations required under the Loan Documents.

7. Remedies Cumulative. None of the rights and remedies conferred upon or reserved to Lender under this Agreement is intended to be exclusive of any other right, and each and every right shall be cumulative and concurrent, and may be enforced separately, successively or together, and may be exercised from time to time as often as may be deemed necessary by Lender.

8. Insufficient Immediate Needs Replacement Reserve. The insufficiency of any balance in the Immediate Needs Replacement Reserve shall not abrogate Borrower's agreement to complete the Immediate Needs Repairs pursuant to the terms of this Agreement or Borrower's obligation to fulfill all preservation and maintenance covenants in the Loan Documents.

9. **Indemnification.** Borrower agrees to indemnify and defend Lender and to hold Lender harmless from and against any and all actions, suits, claims, demands, liabilities, losses, damages, obligations and costs and expenses (including litigation costs and reasonable attorneys' fees and expenses) arising from or in any way connected with the performance of the Replacements or the holding or investment of the Immediate Needs Replacement Reserve. Borrower assigns to Lender all rights and claims Borrower may have against all persons or entities supplying labor or materials in connection with the Immediate Needs Repairs; *provided, however*, that Lender may not pursue any such right or claim unless Borrower is in default under this Agreement or the Loan Documents.

10. **Determinations by Lender.** Except as otherwise provided in this Agreement, in any instance in this Agreement where the consent or approval of Lender may be given or is required, or where any determination, judgment or decision is to be rendered by Lender under this Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by Lender (or its designated representative) at its discretion.

11. **Borrower's Records.** Borrower shall furnish such financial statements, invoices, records, papers and documents relating to the Property as Lender may reasonably require from time to time to make the determinations permitted or required to be made by Lender under this Agreement.

12. **Fees and Expenses.** Borrower shall pay within 10 days of request from Lender (i) all reasonable costs and expenses incurred by Lender in connection with collecting, holding and disbursing the Immediate Needs Replacement Reserve pursuant to this Agreement, and (ii) all reasonable fees, charges, costs and expenses incurred by Lender in connection with inspections made by Lender or Lender's representatives in carrying out Lender's responsibility to make certain determinations under this Agreement.

13. **Successors and Assigns Bound.** This Agreement shall be binding upon Borrower and Lender and their respective successors and assigns, and shall inure to the benefit of and may be enforced by the Lender and its successors, transferees and assigns. Borrower shall not assign any of its rights and obligations under this Agreement without the prior written consent of Lender.

14. **No Third Party Beneficiary.** This Agreement is intended solely for the benefit of Borrower and Lender and their respective successors and assigns, and no third party shall have any rights or interest in the Immediate Needs Replacement Reserve or this Agreement. Nothing contained in this Agreement shall be deemed or construed to create an obligation on the part of Lender to any third party, nor shall any third party have a right to enforce against Lender any right that Borrower may have under this Agreement.

15. **Completion of Immediate Needs Repairs.** Lender's approval of any plans for any Immediate Needs Repair, release of funds from the Immediate Needs Replacement Reserve, inspection of the Property by Lender or Lender's agents, or other acknowledgment of completion of any Immediate Needs Repair in a manner satisfactory to Lender shall not be deemed an acknowledgment or warranty to any person that the Immediate Needs Repair has been completed in accordance with applicable building, zoning or other codes, ordinances, statutes, laws, regulations or requirements of any governmental agency.

16. **No Agency or Partnership.** Nothing contained in this Agreement shall constitute Lender as a joint venturer, partner or agent of Borrower, or render Lender liable for any debts, obligations, acts, omissions, representations, or contracts of Borrower.

17. **Termination of Immediate Needs Replacement Reserve.** After payment in full of all sums secured by the Deed of Trust and release by Lender of the lien of the Deed of Trust, Lender shall disburse to Borrower all amounts remaining in the Immediate Needs Replacement Reserve.

18. Entire Agreement; Amendment and Waiver. This Agreement contains the complete and entire understanding of the parties with respect to the matters covered and no change or amendment shall be valid unless it is made in writing and executed by the parties to this Agreement. No specific waiver or forbearance for any breach of any of the terms of this Agreement shall be considered as a general waiver of that or any other term of this Agreement. If any provision of this Agreement is in conflict with any provision of the Deed of Trust regarding the Immediate Needs Replacement Reserve, the provision contained in this Agreement shall control.

19. Notices. All notices under this Agreement shall be given in writing to the other party at the address, and in the manner, provided in the Loan Agreement.

20. Counterparts. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of such counterparts taken together shall constitute but one and the same instrument.

21. Waiver of Jury Trial. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING FROM OR IN ANY WAY RELATING TO THIS AGREEMENT, AND THE PARTIES HERETO AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

22. Judicial Reference. IF FOR ANY REASON THE JURY TRIAL WAIVER IS DEEMED TO BE UNENFORCEABLE, ALL SUCH DISPUTES SHALL BE RESOLVED BY JUDICIAL REFERENCE PURSUANT TO THE PROVISIONS OF THE LOAN AGREEMENT.

23. Severability. The invalidity, illegality, or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall remain in full force and effect.

24. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the jurisdiction in which the Property is located.

[Remainder of page intentionally left blank; signatures appear on the following page]

Borrower and Lender have executed this Agreement on the date and year first written above.

BORROWER:

PERRIS PARK HOUSING, LLC,
a California limited liability company

By _____,
a _____,
its _____

By: _____
Name: _____
Title: _____

LENDER:

BANNER BANK,
a Washington state-chartered commercial bank

By: _____
Waheed Karim
Vice President

FORM APPROVED COUNTY COUNSEL

BY: Jhaila R. Brown 6/9/19
JHAILA R. BROWN DATE

EXHIBIT A

IMMEDIATE NEEDS REPAIRS

The "***Immediate Needs Repairs***" include all "critical repairs" identified in the Property Condition Report prepared by Integrated Property Analysis Inc., dated 9/12/2018, including, without the limitation:

[INSERT LIST]

REPLACEMENT RESERVE AND SECURITY AGREEMENT



PROJECT NAME: Perris Park Apartments
LOAN NO: 1403958

This REPLACEMENT RESERVE AND SECURITY AGREEMENT (this "**Agreement**") is made this June __, 2019, by PERRIS PARK HOUSING LLC, a California limited liability company ("**Borrower**"), and BANNER BANK, a Washington state-chartered commercial bank, its successors, participants, and assigns ("**Lender**").

RECITALS:

A. Borrower has requested a loan from Lender (the "**Loan**") to finance the acquisition of an 80-unit multifamily residential project located in the Riverside County, California, known as Perris Park Apartments (the "**Project**").

B. The Loan is evidenced by that certain Promissory Note of even date herewith, in the maximum principal amount of \$2,100,000.00 made by Borrower and payable to the order of Lender (the "**Note**"), and that certain Term Loan Agreement of even date herewith, by and between Borrower and Lender (the "**Loan Agreement**").

C. Concurrently herewith, Borrower will grant to Lender a Deed of Trust, Security Agreement, Assignment of Leases and Rents, and Fixture Filing to be recorded against the Project to secure Borrower's obligations under the Loan (the "**Deed of Trust**").

D. The Note, the Deed of Trust, the Loan Agreement, and all other documents executed in connection with the Loan, including this Agreement, shall be referred to herein as the "**Loan Documents**".

E. Lender requires that Borrower enter into this Agreement and make certain deposits with Lender as provided in this Agreement as additional security for all of Borrower's obligations under the Loan Documents.

AGREEMENTS

NOW, THEREFORE, in consideration of the above and the mutual promises contained in this Agreement, the receipt and sufficiency of which are acknowledged, Borrower and Lender agree as follows:

1. Deposits to the Replacement Reserve.

1.1 Subject to the provisions of Sections 2, 8 and 17 of this Agreement, on each date that a regularly scheduled payment of principal and interest is due under the Note, commencing with the first month after closing of the Loan, Borrower shall deposit with Lender the applicable Monthly Deposit (as defined in Section 1.2 of this Agreement).

1.2 The "**Monthly Deposit**" required to be made with each payment of principal and interest on the Note is \$2,000.00 per month during the term of the Loan.

1.3 Lender shall deposit each Monthly Deposit, as received, in an interest-bearing account (the "**Replacement Reserve Account**") which meets the standards for custodial accounts as required by Lender from time to time. The Monthly Deposits and all other funds in the Replacement Reserve Account are referred to collectively as the "**Replacement Reserve**". Lender or a designated representative of Lender shall have the sole right to make withdrawals from the Replacement Reserve Account. All interest earned on funds in the Replacement Reserve Account shall be added to and become part of the Replacement Reserve. Lender shall not be responsible for any losses resulting from the investment of the Replacement Reserve or for obtaining any specific level or percentage of earnings on such investment.

2. Replacement Reserve is Additional Security.

2.1 Borrower assigns to Lender the Replacement Reserve Account and all funds comprising the Replacement Reserve as additional security for all of Borrower's obligations under the Loan Documents; *provided, however*, upon satisfactory review of all Lender required information, including property cash flow report satisfactory to Lender, Lender shall make disbursements from the Replacement Reserve in accordance with the terms of this Agreement.

2.2 Except as otherwise provided in Section 5.1 and 5.2 of this Agreement, Lender shall make disbursements from the Replacement Reserve to reimburse Borrower for the costs of those items listed on EXHIBIT A (the "**Replacements**") in accordance with the provisions of Section 3 below. Lender shall not be obligated to make disbursements from the Replacement Reserve to reimburse Borrower for the costs of routine maintenance to the Property.

3. Disbursements from Replacement Reserve.

3.1 Request for Disbursement.

3.1.1 Upon written request from Borrower and satisfaction of the requirements set forth in Sections 3 and 4 of this Agreement, Lender shall disburse to Borrower amounts from the Replacement Reserve necessary to reimburse Borrower or, if Borrower has not yet paid for the approved repairs, to pay for the actual approved costs of Replacements, upon completion of such Replacements (or upon partial completion in the case of Replacements made pursuant to Section 3.1.4 as determined by Lender). In no event shall Lender be obligated to disburse funds from the Replacement Reserve if a default exists under this Agreement (including but not limited to Borrower's failure to pay in full any fees, costs and expenses then due and payable under this Agreement), or a Potential Default or Event of Default exists under any of the other Loan Documents.

3.1.2 Each request for disbursement from the Replacement Reserve Account shall be on a form specified or approved by Lender and shall include invoices or estimates specifying (i) the specific Replacements for which the disbursement is requested, (ii) the quantity and price of each item purchased, if the Replacement includes the purchase or replacement of specific items (such as appliances), (iii) the price of all materials (grouped by type or category) used in any Replacement other than the purchase or replacement of specific items, and (iv) the cost of all contracted labor or other services applicable to each Replacement for which such request for disbursement is made. With each request for disbursement, Borrower shall certify that all Replacements have been made in accordance with all applicable laws, ordinances, and regulations of any governmental office or authority having jurisdiction over the Property. Each request for disbursement shall include copies of invoices for all items or materials purchased and all contracted labor or services provided and, unless Lender has agreed to issue joint checks as described below in connection with a particular Replacement, each request for disbursement shall include evidence satisfactory to Lender of payment of all such amounts.

3.1.3 Lender, at its option, may issue joint checks, payable to Borrower and the supplier, materialman, mechanic, subcontractor or other party to whom payment is due in connection with an approved Replacement. In the case of all payments made by joint check, Lender may require a waiver of liens from each contractor receiving payment prior to Lender's disbursement of any further disbursement from the Replacement Reserve.

3.1.4 If (i) the cost of a Replacement exceeds \$10,000.00, (ii) the contractor performing a Replacement requires periodic payments pursuant to terms of a written contract, and (iii) Lender has approved in writing in advance such periodic payments, a request for reimbursement from the Replacement Reserve may be made after completion of a portion of the work under such contract, provided (a) such contract requires payment upon completion of such portion of the work, (b) the materials for which the request is made are on site at the Property and are properly secured or have been installed in the Property, (c) all other conditions in this Agreement for disbursement have been satisfied, (d) funds remaining in the Replacement Reserve Account are, in Lender's judgment, sufficient to complete such Replacement and the other Replacements when required, and (e) if required by Lender, each contractor or subcontractor receiving payments under such contract shall provide a waiver of lien with respect to amounts which have been paid to that contractor or subcontractor.

3.1.5 Borrower may request disbursements from the Replacement Reserve Account once per month. Except in connection with the final disbursement, the total cost of all Replacements in any request shall not be less than \$1,000.00. Requests for disbursements for expenses incurred during any fiscal year must be made no later than the last day of the first quarter of the following fiscal year.

4. Performance of Replacements.

4.1 Workmanlike Completion.

4.1.1 Borrower shall make each Replacement when required in order to keep the Property in good order and repair and in a good marketable condition and to keep the Property or any portion thereof from deteriorating. Borrower shall complete all Replacements in a good and workmanlike manner as soon as practicable following the commencement of making each such Replacement.

4.1.2 Lender shall have the right to approve all contracts or work orders with materialmen, mechanics, suppliers, subcontractors, contractors or other parties providing labor or materials in connection with the Replacements. Upon Lender's request, Borrower shall assign any contract or subcontract to Lender.

4.1.3 If Lender determines in its sole discretion that any Replacement is not being performed in a workmanlike or timely manner or that any Replacement has not been completed in a workmanlike manner and timely manner, Lender shall have the option to withhold disbursement for such unsatisfactory Replacement and to proceed under existing contracts or to contract with third parties to complete such Replacement and to apply the Replacement Reserve toward the labor and materials necessary to complete such Replacement, upon providing notice to Borrower and to exercise any and all other remedies available to Lender upon a default pursuant to Section 5.2 hereof.

4.1.4 If at any time Lender determines that replacements not listed on EXHIBIT A are advisable to keep the Property in good order and repair and in a good marketable condition, or to prevent deterioration of the Property (the "**Additional Replacements**"), Lender may send Borrower written notice of the need for making such Additional Replacements. Borrower shall promptly commence making such Additional Replacements in accordance with all the requirements of this Agreement, except that Borrower understands that reimbursement from the Replacement Reserve shall not be made. If Borrower

fails to commence such Additional Replacements within 30 days after such notice and diligently pursues completion of such Additional Replacements, such failure shall be a default under this Agreement, and, in addition to all other rights Lender may have under the Loan Documents upon a default, Lender may contract with third parties to make such Additional Replacements and may at its sole discretion (i) apply the funds in the Replacement Reserve toward the labor and materials necessary to complete such Additional Replacements, or (ii) demand payment of such Additional Replacements from Borrower. Except for Section 3.1, all references in this Agreement to "Replacements" shall include the "Additional Replacements".

4.1.5 In order to facilitate Lender's completion or making of the Replacements pursuant to Sections 4.1.3 and 4.1.4 above, and without limiting Lender's rights under any other Loan Document, Lender is granted the right to enter onto the Property and perform any and all work and labor necessary to complete or make the Replacements and employ watchmen to protect the Property from damage. All sums so expended by Lender shall be deemed to have been advanced to Borrower and secured by the Security instrument. For this purpose, Borrower constitutes and appoints Lender its true and lawful attorney-in-fact with full power of substitution to complete or undertake the Replacements in the name of Borrower. Borrower empowers said attorney-in-fact as follows:

4.1.5.1 to use any funds in the Replacement Reserve for the purpose of making or completing the Replacements;

4.1.5.2 to make such additions, changes and corrections to the Replacements as shall be necessary or desirable to complete the Replacements;

4.1.5.3 to employ such contractors, subcontractors, agents, architects and inspectors as shall be required for such purposes;

4.1.5.4 to pay, settle or compromise all existing bills and claims which are or may become liens against the Property, or as may be necessary or desirable for the completion of the Replacements, or for clearance of title;

4.1.5.5 to execute all applications and certificates in the name of Borrower which may be required by any of the contract documents;

4.1.5.6 to prosecute and defend all actions or proceedings in connection with the Property or the rehabilitation and repair of the Property; and

4.1.5.7 to do any and every act which Borrower might do in its own behalf to fulfill the terms of this Agreement.

It is further understood and agreed that this power of attorney, which shall be deemed to be a power coupled with an interest, cannot be revoked. Borrower specifically agrees that all power granted to Lender under this Agreement may be assigned by it to its successors or assigns as holder of the Note.

4.1.6 Nothing in this Section 4.1 shall:

4.1.6.1 make Lender responsible for making or completing the Replacements;

4.1.6.2 require Lender to expend funds in addition to the Replacement Reserve to make or complete any Replacement; or

4.1.6.3 obligate Lender to proceed with the Replacements.

4.2 Entry on the Property; Inspections.

4.2.1 Without limiting Lender's rights under any other Loan Document, Borrower shall permit Lender or Lender's representatives (including an independent person such as an engineer, architect, or inspector) or third parties making Replacements pursuant to Sections 4.1.3 and 4.1.4 of this Agreement to enter onto the Property during normal business hours (subject to the rights of tenants under their leases) to inspect the progress of any Replacements and all materials being used in connection therewith, to examine all plans and shop drawings relating to such Replacements which are or may be kept at the Property, and to complete any replacements made pursuant to Sections 4.1.3 and 4.1.4. Borrower agrees to cause all contractors and subcontractors reasonably to cooperate with Lender or Lender's representatives or such other persons described above in connection with inspections described in this Section 4.2 or the completion of Replacements pursuant to Sections 4.1.3 and 4.1.4

4.2.2 Lender may inspect the Property in connection with any Replacement prior to disbursing funds from the Replacement Reserve for such Replacement. Lender, at Borrower's expense, also may require an inspection by an appropriate independent qualified professional ("*Inspector*") selected by Lender and a copy of a certificate of completion by an independent qualified professional acceptable to Lender prior to the disbursement of any amounts from the Replacement Reserve. Borrower shall pay the Inspector's fee for each such inspection.

4.3 Lien-Free Completion.

4.3.1 Borrower covenants and agrees that each of the Replacements and all materials, equipment, fixtures, or any other item comprising a part of any Replacement shall be constructed, installed or completed, as applicable, free and clear of all mechanic's, materialman's or other liens.

4.3.2 Prior to each disbursement from the Replacement Reserve, Lender may require Borrower to provide Lender with a search of title to the Property effective to the date of the release, which search shows that no mechanic's or materialmen's liens or other liens of any nature have been placed against the Property since the date of recordation of the Deed of Trust and that title to the Property is free and clear of all liens.

4.3.3 In addition, as a condition to any disbursement, Lender may require Borrower to obtain from each contractor, subcontractor, or materialman an acknowledgment of payment and release of lien for work performed and materials supplied. Any such acknowledgment and release shall conform to the requirements of applicable law and shall cover all work performed and materials supplied (including equipment and fixtures for the Property by that contractor, subcontractor or materialman through the date covered by the current reimbursement request (or, in the event that payment to such contractor's, subcontractor or materialmen is to be made by a joint check, the release of lien shall be effective through the date covered by the previous release of funds request).

4.4 Compliance with Laws and Insurance Requirements.

4.4.1 All Replacements shall comply with all applicable laws, ordinances, rules and regulations of all governmental authorities having jurisdiction over the Property and applicable insurance

requirements including, without limitation, applicable building codes, special use permits, environmental regulations, and requirements of insurance underwriters.

4.4.2 In addition to any insurance required under the Loan Documents, Borrower shall provide or cause to be provided worker's compensation insurance, builder's risk, and public, liability insurance and other insurance to the extent required under applicable law in connection with a particular Replacement. All such policies shall be in form and amount satisfactory to Lender. All such policies which can be endorsed with standard mortgagee clauses making loss payable to Lender or its assigns shall be so endorsed. The originals of such policies shall be delivered to Lender.

5. Default.

5.1 Default Under This Agreement. Borrower shall be in default under this Agreement if it fails to comply with any provision of this Agreement and such failure is not cured in ten (10) days after notice from Lender. Borrower understands that a default under this Agreement shall be deemed to be a default under the Loan Documents, and that in addition to the remedies specified in this Agreement, Lender shall be able to exercise all of its rights and remedies under the Loan Documents upon a default.

5.2 Application of Replacement Reserve Upon Default.

5.2.1 If Borrower defaults on any payment due under any term or provision of any Loan Document (including any default under this Agreement), then, upon any such defaults Borrower shall immediately lose all of its rights to receive disbursements from the Replacement Reserve unless and until all amounts secured by the Deed of Trust have been paid in full and the lien of the Deed of Trust has been released by Lender. Upon any such default, Lender may in its sole and absolute discretion, use the Replacement Reserve (or any portion thereof) for any purpose, including but not limited to: (i) repayment of any indebtedness secured by the Deed of Trust, including but not limited to principal prepayments and the prepayment premium applicable to such full or partial prepayment (as applicable); *provided, however*, that such application of funds shall not cure or be deemed to cure any default; (ii) reimbursement of Lender for all losses and expenses (including, without limitation, reasonable legal fees) suffered or incurred by Lender as a result of such default; (iii) completion of the Replacements as provided in Section 4.1, or for any other repair or replacement to the Property; or (iv) payment of any amount expended in exercising (and exercise) all rights and remedies available to Lender at law or in equity or under this Agreement or under any of the other Loan Documents.

5.2.2 If Lender forecloses the Deed of Trust or acquires the Property by deed in lieu of foreclosure, then Lender may in its sole and absolute discretion, use the Replacement Reserve (or any portion thereof) for any purpose, including but not limited to: (i) repayment of any indebtedness secured by the Deed of Trust, including but not limited to principal prepayments and the prepayment premium applicable to such full or partial prepayment (as applicable); *provided, however*, that such application of funds shall not cure or be deemed to cure any default; (ii) reimbursement of Lender for all losses and expenses (including, without limitation, reasonable legal fees) suffered or incurred by Lender as a result of such default; (iii) completion of the Replacements as provided in Section 4.1 or for any other repair or replacement to the Property; or (iv) payment of any amount expended in exercising (and exercise) all rights and remedies available to Lender at law or in equity or under this Agreement or under any of the other Loan Documents.

5.2.3 Nothing in this Agreement shall obligate Lender to apply all or any portion of the Replacement Reserve on account of any default by Borrower or to repayment of the indebtedness secured by the Deed of Trust or in any specific order of priority.

6. **Borrower's Other Obligations.** Nothing contained in this Agreement shall in any manner whatsoever alter, impair or affect obligations of Borrower, or relieve Borrower of any of its obligations, to make payments and perform all of its other obligations required under the Loan Documents.

7. **Remedies Cumulative.** None of the rights and remedies conferred upon or reserved to Lender under this Agreement is intended to be exclusive of any other right, and each and every right shall be cumulative and concurrent, and may be enforced separately, successively or together, and may be exercised from time to time as often as may be deemed necessary by Lender.

8. **Balance in the Replacement Reserve.** The insufficiency of any balance in the Replacement Reserve shall not abrogate Borrower's agreement to fulfill all preservation and maintenance covenants in the Loan Documents. In the event Lender determines from time to time based on Lender's inspections that the amount of the Monthly Deposit is insufficient to fund the cost of likely Replacements and related contingencies that may arise during the remaining term of the Loan, Lender may require an increase in the amount of the Monthly Deposits upon 30 days prior written notice to Borrower.

9. **Indemnification.** Borrower agrees to indemnify and defend Lender and to hold Lender harmless from and against any and all actions, suits, claims, demands, liabilities, losses, damages, obligations and costs and expenses (including litigation costs and reasonable attorneys' fees and expenses) arising from or in any way connected with the performance of the Replacements or the holding or investment of the Replacement Reserve. Borrower assigns to Lender all rights and claims Borrower may have against all persons or entities supplying labor or materials in connection with the Replacements; *provided, however*, that Lender may not pursue any such right or claim unless Borrower is in default under this Agreement or the Loan Documents.

10. **Determinations by Lender.** Except as otherwise provided in this Agreement, in any instance in this Agreement where the consent or approval of Lender may be given or is required, or where any determination, judgment or decision is to be rendered by Lender under this Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by Lender (or its designated representative) at its discretion.

11. **Borrower's Records.** Borrower shall furnish such financial statements, invoices, records, papers and documents relating to the Property as Lender may reasonably require from time to time to make the determinations permitted or required to be made by Lender under this Agreement.

12. **Fees and Expenses.** Borrower shall pay within 10 days of request from Lender (i) all reasonable costs and expenses incurred by Lender in connection with collecting, holding and disbursing the Replacement Reserve pursuant to this Agreement, and (ii) all reasonable fees, charges, costs and expenses incurred by Lender in connection with inspections made by Lender or Lender's representatives in carrying out Lender's responsibility to make certain determinations under this Agreement.

13. **Successors and Assigns Bound.** This Agreement shall be binding upon Borrower and Lender and their respective successors and assigns, and shall inure to the benefit of and may be enforced by the Lender and its successors, transferees and assigns. Borrower shall not assign any of its rights and obligations under this Agreement without the prior written consent of Lender.

14. **No Third Party Beneficiary.** This Agreement is intended solely for the benefit of Borrower and Lender and their respective successors and assigns, and no third party shall have any rights or interest in the Replacement Reserve or this Agreement. Nothing contained in this Agreement shall be deemed or construed to create an obligation on the part of Lender to any third party, nor shall any third party have a right to enforce against Lender any right that Borrower may have under this Agreement.

15. **Completion of Replacements.** Lender's approval of any plans for any Replacement, release of funds from the Replacement Reserve, inspection of the Property by Lender or Lender's agents, or other acknowledgment of completion of any Replacement in a manner satisfactory to Lender shall not be deemed an acknowledgment or warranty to any person that the Replacement has been completed in accordance with applicable building, zoning or other codes, ordinances, statutes, laws, regulations or requirements of any governmental agency.

16. **No Agency or Partnership.** Nothing contained in this Agreement shall constitute Lender as a joint venturer, partner or agent of Borrower, or render Lender liable for any debts, obligations, acts, omissions, representations, or contracts of Borrower.

17. **Termination of Replacement Reserve.** After payment in full of all sums secured by the Deed of Trust and release by Lender of the lien of the Deed of Trust, Lender shall disburse to Borrower all amounts remaining in the Replacement Reserve.

18. **Entire Agreement; Amendment and Waiver.** This Agreement contains the complete and entire understanding of the parties with respect to the matters covered and no change or amendment shall be valid unless it is made in writing and executed by the parties to this Agreement. No specific waiver or forbearance for any breach of any of the terms of this Agreement shall be considered as a general waiver of that or any other term of this Agreement. If any provision of this Agreement is in conflict with any provision of the Deed of Trust regarding the Replacement Reserve, the provision contained in this Agreement shall control.

19. **Notices.** All notices under this Agreement shall be given in writing to the other party at the address, and in the manner, provided in the Loan Agreement.

20. **Counterparts.** This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of such counterparts taken together shall constitute but one and the same instrument.

21. **Waiver of Jury Trial.** THE PARTIES HERETO HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING FROM OR IN ANY WAY RELATING TO THIS AGREEMENT, AND THE PARTIES HERETO AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

22. **Judicial Reference.** IF FOR ANY REASON THE JURY TRIAL WAIVER IS DEEMED TO BE UNENFORCEABLE, ALL SUCH DISPUTES SHALL BE RESOLVED BY JUDICIAL REFERENCE PURSUANT TO THE PROVISIONS OF THE LOAN AGREEMENT.

23. **Severability.** The invalidity, illegality, or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall remain in full force and effect.

24. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the jurisdiction in which the Property is located.

[Remainder of page intentionally left blank; signatures appear on the following page]

Borrower and Lender have executed this Agreement on the date and year first written above.

BORROWER:

PERRIS PARK HOUSING LLC,
a California limited liability company

By _____,
a _____,
its _____

By: _____
Name: _____
Title: _____

LENDER:

BANNER BANK,
a Washington state-chartered commercial bank

By: _____
Waheed Karim
Vice President

FORM APPROVED COUNTY COUNSEL

BY: Jhaila R. Brown 6/9/14
JHAILA R. BROWN DATE

EXHIBIT A

TO REPLACEMENT RESERVE AND SECURITY AGREEMENT

Project specific expenses payable to third parties including but not limited to the items listed:

[INSERT LIST]

The items listed are presented as possible expenses payable from the Replacement Reserve Account and in no way are to be considered approved. All expenses submitted for payment are subject to Lender's approval.

ASSIGNMENT AND SUBORDINATION OF PROPERTY MANAGEMENT AGREEMENT



PROJECT NAME: Perris Park Apartments
BANNER LOAN NO. 1403958

This ASSIGNMENT AND SUBORDINATION OF PROPERTY MANAGEMENT AGREEMENT (this "**Agreement**"), dated as of June _____, 2019, by PERRIS PARK HOUSING LLC, a California limited liability company ("**Borrower**"); and _____, a _____ ("**Manager**"), for the benefit of BANNER BANK, a Washington state-chartered commercial bank, its successors, participants, and assigns ("**Lender**").

RECITALS

A. Borrower has requested a loan from Lender (the "**Loan**") to finance the acquisition of an 80-unit multifamily residential project located in the Riverside County, California, known as Perris Park Apartments (the "**Project**").

B. The Loan is evidenced by that certain Promissory Note of even date herewith, in the maximum principal amount of \$2,100,000.00 made by Borrower and payable to the order of Lender (the "**Note**"), and that certain Term Loan Agreement of even date herewith, by and between Borrower and Lender (the "**Loan Agreement**").

C. Concurrently herewith, Borrower will grant to Lender a Deed of Trust, Security Agreement, Assignment of Leases and Rents, and Fixture Filing to be recorded against the Project to secure Borrower's obligations under the Loan (the "**Deed of Trust**").

D. The Note, the Deed of Trust, the Loan Agreement, and all other documents executed in connection with the Loan, including this Assignment, shall be referred to herein as the "**Loan Documents**".

E. Among the conditions to closing of the Loan is a requirement that Borrower assign to Lender its interest in that certain Property Management Agreement between Borrower and Manager dated _____, 20__ (the "**Management Agreement**").

F. It is a condition precedent to closing of the Loan that Borrower and Manager execute this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and Lender's agreement to make the Loan, the parties hereby agree as follows:

1. **Certain Defined Terms.** All capitalized terms used, but not otherwise defined, herein shall have the respective meanings set forth in the Loan Documents. In addition, as used herein, the following terms shall be defined as follows:

1.1 "**Bankruptcy Event**" means shall mean the occurrence of any one or more of the following: (i) Borrower or General Partner files a voluntary petition or commences a proceeding under bankruptcy or insolvency laws; (ii) an involuntary petition or proceeding under bankruptcy or insolvency laws is filed or commenced against Borrower or General Partner; (iii) Borrower or General Partner makes an assignment for the benefit of creditors, admits in writing its inability to pay its debts generally as they become due, or consents to the appointment of a receiver,

trustee or liquidator of all or any part of its property; (iv) all or any part of the assets of Borrower or General Partner, or the proceeds thereof, are attached, seized, subjected to a writ or distress warrant, or are levied upon, or come into the possession of any receiver, trustee, custodian or assignee for the benefit of creditors; or (v) all or any part of the assets of Borrower or General Partner, or the proceeds thereof, are distributed to creditors of Borrower or General Partner or applied to any indebtedness of Borrower or General Partner by reason of the liquidation, dissolution or other winding up of Borrower or General Partner.

1.2 "**General Partner**" means _____.

1.3 "**Senior Obligations**" means the obligations of Borrower, whether now existing or hereafter from time to time accruing or arising, to repay the principal of, and to pay interest (including, without limitation, post-petition interest) on, the Loan and all other amounts whatsoever now or hereafter arising under the Loan Documents, including, without limitation, all interest accrued subsequent to the commencement of any bankruptcy or similar proceeding, whether or not a claim for post-petition interest is allowable as a claim in any such proceeding.

1.4 "**Subordinated Obligations**" means the obligations of Borrower, whether now existing or hereafter from time to time accruing or arising, to pay any and all fees, sums, charges, costs, expenses, penalties, and other amounts now or hereafter payable to Manager (other than reimbursable expenses) under the Management Agreement, including, without limitation, all interest accrued subsequent to the commencement of any bankruptcy or similar proceeding, whether or not a claim for post-petition interest is allowable as a claim in any such proceeding.

2. **Assignment and Consent.** Borrower hereby transfers, assigns and sets over to Lender, its successors and assigns, all right, title and interest of Borrower in and to the Management Agreement. Manager hereby consents to the foregoing assignment. Manager further consents to assignment of the Management Agreement by Lender following foreclosure, deed-in-lieu of foreclosure, or other realization of Lender's interest in the Management Agreement, to a party with experience and financial wherewithal comparable to that of Borrower, as determined by Lender in the reasonable exercise of its discretion, and notwithstanding the terms of the Management Agreement. The foregoing assignment is being made by Borrower to Lender as collateral security for the full payment and performance by Borrower of all of its obligations under the Loan Documents. Although it is the intention of the parties that the assignment hereunder is a present assignment, until the occurrence of an Event of Default under any of the Loan Documents, Borrower may exercise all rights as owner of the Property under the Management Agreement, except as otherwise provided in this Agreement. The foregoing assignment shall remain in effect as long as the Loan, or any part thereof, remains unpaid, but shall terminate automatically upon the release of the Deed of Trust as a lien on the Property.

3. **Representations and Warranties.** Manager hereby represents and warrants to Lender that:

3.1 the Management Agreement is in full force and effect;

3.2 the copy of the Management Agreement attached hereto as EXHIBIT A, including all amendments thereto are true and complete, and the Management Agreement is the only agreement in effect covering the subject matter thereof;

3.3 as of the date hereof, all fees, sums, charges, costs, expenses and other amounts due and payable under the Management Agreement have been paid except such amounts as are scheduled for payment in the next thirty (30) days;

3.4 No breach or default by Borrower or Manager has occurred and is continuing under the Management Agreement;

3.5 as of the date hereof, no notice of termination and/or cancellation has been given or received under the Management Agreement, no event or condition has occurred or exists under the Management Agreement which entitles either party thereto to give a notice of termination or cancellation under such Management Agreement (such an event, a "**Termination Event**"), and to the best of Manager's knowledge, no event or condition has occurred or exists under the Management Agreement which with the passage of time or the giving of notice or both would constitute a Termination Event;

3.6 to the best of Manager's knowledge, there are no set-offs, counterclaims or defenses to the performance or observance of the covenants or agreements of the parties to the Management Agreement;

3.7 the Subordinated Obligations are unsecured; and

3.8 the individual executing this Agreement on Manager's behalf has full power and authority to do so.

4. **Covenants of Manager.** Until such time as all of the Senior Obligations shall have been fully paid, discharged and satisfied:

4.1 Notwithstanding anything to the contrary in the Management Agreement, Manager's aggregate compensation under the Management Agreement shall not exceed _____ percent (___%) of the gross monthly revenue of the Property;

4.2 Manager will (i) promptly perform and observe all of the covenants and agreements to be performed and observed by Manager under the Management Agreement in accordance with the terms thereof, and (ii) promptly notify Lender of any default under the Management Agreement of which Manager becomes aware;

4.3 Manager will not (i) reduce or permit the reduction of the term of the Management Agreement, (ii) increase or permit the increase of the amount of any fees payable under the Management Agreement (which fees, in the aggregate, shall not exceed _____ percent (___%) of the gross monthly revenue of the Property), or (iii) otherwise modify any portion of the Management Agreement, orally or by a writing, in such a manner as to materially reduce or limit Manager's obligations thereunder; and

4.4 Manager shall not assign or transfer responsibility for the management services of the Property from Manager to any other person or entity without Lender's prior written consent;

4.5 Manager shall not contest or impede Lender's exercise of any of Lender's rights under this Agreement or the other Loan Documents;

4.6 Manager shall not commingle the funds of the Project with the funds of any other person or project; and

4.7 Manager shall, within fifteen (15) days after Lender's request, deliver to Lender a written statement certifying any condition or state of facts in connection with the Management Agreement or Subordinated Obligations.

5. **Lender's Rights.** Upon the occurrence of an Event of Default under the Loan Documents (a) Lender shall be entitled to exercise any and all rights of Borrower under the Management Agreement in accordance with the terms thereof, and (b) Manager shall permit and comply in all respects with Lender's exercise of such rights and remedies. Lender may cure any default by Borrower under the Management Agreement, and may perform any act, duty or obligation required to be performed by Borrower under the Management Agreement; *provided, however*, that nothing herein shall require Lender to cure any such default or to perform any such act, duty, or obligation.

6. Subordination.

6.1 The Management Agreement is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Deed of Trust and the other Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the Loan Documents (including all sums advanced for the purposes of (i) protecting or further securing the lien of the Deed of Trust, curing Events of Default by Borrower under the Loan Documents or for any other purposes expressly permitted by the Loan Documents, or (ii) constructing, renovating, repairing, furnishing, fixturing or equipping the Property).

6.2 If, by reason of its exercise of any other right or remedy under the Management Agreement, Manager acquires by right of subrogation or otherwise a lien on the Property which (but for this Section 6) would be senior to the lien of the Deed of Trust, then, in that event, such lien shall be subject and subordinate to the lien of the Deed of Trust.

6.3 During the term of this Agreement, Manager will not commence or join with any other creditor in commencing any Bankruptcy Event with respect to Borrower, without Lender's prior written consent.

7. Termination of Management Agreement.

7.1 Upon the occurrence of an Event of Default, Lender may terminate the Management Agreement, at any time and without cause, by written notice to Manager. Upon such termination, unless expressly assumed by Lender, Lender shall not have any liability to Manager for any unpaid fees or expenses of any kind including, without limitation, any termination fees or penalties under the Management Agreement.

7.2 If not sooner terminated in accordance with the provisions hereof, at any time after acquiring title to the Property, through foreclosure, deed-in-lieu of foreclosure or the exercise of any other remedy, Lender may terminate the Management Agreement without cause by delivery of thirty (30) days' prior written notice to Manager (or such lesser time period as may be permitted under the terms of the Management Agreement for a notice of termination). Upon such termination, unless expressly assumed by Lender, Lender shall not have any liability to Manager for any unpaid fees or expenses of any kind including, without limitation, any termination fees or penalties under the Management Agreement; provided that for the period from Lender's acquisition of the Property through the date of such termination, and provided Manager is not in default under the Management Agreement, Lender shall be obligated to pay a monthly management fee in an amount not to exceed the *lesser of* (a) the amount provided in the Management Agreement or (b) _____ percent (___%) of the aggregate gross monthly revenue of the Property, which fee shall be prorated for any period less than a full calendar month.

8. Attornment. So long as Lender has not terminated the Management Agreement pursuant to the terms of Section 7 above, at any time after Lender has acquired title to the Property, through foreclosure, deed-in-lieu of foreclosure or the exercise of any other remedy, Manager shall attorn to Lender and be bound by all of the terms, covenants and conditions of the Management Agreement for so long as the Management Agreement shall be in effect, including through the term of any extensions or renewals thereof, with the same force and effect as if Lender were a party to the Management Agreement. Such attornment shall be effective and self-operative as an agreement between Manager and Lender without the execution of any further instruments on the part of any party; *provided, however*, that at Lender's request, Manager shall execute an instrument confirming such attornment.

9. Defaults; Right to Cure.

9.1 Notwithstanding anything contained in the Management Agreement to the contrary, Manager shall have no right to take any action under the Management Agreement with respect to any default by Borrower, including, without limitation, any action to terminate the Management Agreement, and/or to withhold any

payments thereunder, without the express prior written consent of Lender and any such purported action or termination, absent such consent, shall be null, void and of no effect.

9.2 If the Management Agreement is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding involving Borrower, and if within ninety (90) days after such rejection (or such shorter period within which Manager may be required to cease its activities pursuant to such a proceeding, but in no event later than ten (10) days prior to any such required cessation of activities) Lender may elect to certify in writing to Manager that Lender intends to perform the obligations of Borrower as and to the extent required under the applicable Management Agreement, and subject to Section 10 below, upon Lender's request Manager will execute and deliver to Lender a new Management Agreement, as applicable. Manager and Lender shall agree under such new Management Agreement to perform the obligations contemplated to be performed by Manager and Borrower, respectively, under the original Management Agreement, and such new Management Agreement shall be for a term equal to the remaining term under the original Management Agreement before giving effect to such rejection. Such new Management Agreement shall contain the same conditions, agreements, terms, provisions and limitations as the original Management Agreement (subject to Section 10 below).

10. Liability of Lender. Except as expressly assumed by Lender in writing, Lender shall have no liability to Manager under the Management Agreement accruing before or after Lender's acquisition of Borrower's interest in the Project through judicial or non-judicial foreclosure, conveyance in lieu of foreclosure, or the exercise of any other remedy provided under the Loan Documents, or at law, or in equity, except for (i) a management fee not to exceed the maximum fee set forth in Section 7.2 above accruing after Lender's acquisition of Borrower's interest in the Project and prior to termination of the Management Agreement, and prorated for any partial month, and (ii) reimbursable expenses actually incurred by Manager after Lender's acquisition of Borrower's interest in the Project and prior to termination of the Management Agreement. Without limiting the generality of the foregoing, under no circumstances shall Lender be:

- 10.1** liable for any omission, breach, or default by Borrower under the Management Agreement;
- 10.2** subject to any offsets, defenses, or counterclaims Manager may have against Borrower;
- 10.3** liable for any amounts due Manager under the Management Agreement, except for those expressly set forth above;
- 10.4** bound by any obligation of Borrower to indemnify or defend Manager;
- 10.5** liable for any representations or warranties of Borrower; or
- 10.6** bound by any amendment, modification, restatement, or supplement of the Management Agreement made without Lender's prior written consent.

11. No Waiver. No failure to exercise, and no delay in exercising, and no course of dealing with respect to, any power, remedy or right under this Agreement by Lender shall operate as a waiver thereof, nor shall any single or partial exercise thereof by Lender preclude any other or further exercise thereof or the exercise of any other power, remedy or right. The remedies provided herein are cumulative and not exclusive of any remedies available at law or under the Loan Documents.

12. Notice. Any notice, demand, statement, request or consent made hereunder shall be given in the manner specified in the Loan Agreement, addressed to the parties as provided therein and if addressed to Manager, addressed as follows:

Attn: _____
Telephone No _____
E-Mail: _____

13. **Amendments, Waivers in Writing.** This Agreement cannot be amended except by an agreement in writing, signed by Lender, Borrower and Manager, and no provision hereof may be waived except by an instrument in writing signed by Lender.

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

15. **Severability.** If any provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be illegal, invalid and/or unenforceable, the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is illegal, invalid and/or unenforceable, as the case may be, shall not be affected, and each provision of this Agreement shall be legal, valid and enforceable to the extent permitted by law. The illegality, invalidity and/or unenforceability of any provision of this Agreement in any jurisdiction shall not affect the legality, validity and/or enforceability thereof in any other jurisdiction.

16. **Expenses.** If any suit or other proceeding is instituted by Lender to enforce this Agreement (or any portion hereof), Borrower shall pay, upon demand, all costs and expenses (including, without limitation, attorneys' fees and disbursements including, without limitation, expert witness fees, exhibit preparation expenses, document copying expenses, courier charges, postage and communication expenses) incurred by Lender in connection therewith. The obligations of Borrower under this Section shall survive the expiration or termination of this Agreement.

17. **Successors and Assigns.** This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns. Notwithstanding the foregoing, neither Borrower nor Manager may assign its rights or obligations hereunder. Lender may freely assign its rights and obligations hereunder. Each reference herein to "Lender" shall be deemed a reference to "Lender, its successors and/or assigns, as the case may be". If Lender sells or assigns its interest in and to the Loan, all of Lender's rights hereunder shall be and become the rights of such successor or assignee, exercisable by it as if such successor or assignee was itself a party hereto.

18. **Counterparts.** This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of such counterparts taken together shall constitute but one and the same instrument.

19. **Acknowledgement by Borrower.** Borrower acknowledges notice of the foregoing subordination and agrees to make no payments to Manager except in accordance with the terms of this Agreement so long as this Agreement remains in effect.

20. **WAIVER OF JURY TRIAL.** TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, MANAGER, BORROWER AND LENDER EACH WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, BETWEEN MANAGER, LENDER AND/OR BORROWER ARISING OUT OF, IN CONNECTION WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED BETWEEN THEM IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT.

21. **Judicial Reference.** In the event the waiver of jury trial set forth above is not enforceable, the parties agree to proceed under this judicial reference provision as follows:

21.1 With the exception of the items specified in Section 21.2 below, any controversy, dispute or claim (each a "**Claim**") between the parties arising out of or relating to this Agreement will be resolved by a reference

proceeding in California in accordance with the provisions of Sections 638 et seq. of the California Code of Civil Procedure, or their successor sections, which shall constitute the exclusive remedy for the resolution of any Claim, including whether the Claim is subject to the reference proceeding. Venue for the reference proceeding will be in the state or federal court in the county or district where venue is otherwise appropriate under applicable law (the "**Court**").

21.2 The matters that shall not be subject to a reference are the following: (i) non-judicial foreclosure of any security interests in real or personal property, (ii) exercise of self-help remedies (including, without limitation, set-off), (iii) appointment of a receiver, and (iv) temporary, provisional, or ancillary remedies (including, without limitation, writs of attachment, writs of possession, temporary restraining orders or preliminary injunctions). This reference provision does not limit the right of any party to exercise or oppose any of the rights and remedies described in clauses (i) and (ii) or to seek or oppose from a court of competent jurisdiction any of the items described in clauses (iii) and (iv). The exercise of, or opposition to, any of those items does not waive the right of any party to a reference pursuant to this Section 21 as provided herein.

21.3 The single referee shall be a retired judge or justice selected by mutual written agreement of the parties. If the parties do not agree within ten (10) days of a written request to do so by any party, then, upon request of any party, the referee shall be selected by the presiding judge of the Court (or his or her representative). A request for appointment of a referee may be heard on an ex parte or expedited basis, and the parties agree that irreparable harm would result if ex parte relief is not granted. Pursuant to Section 170.6 of the California Code of Civil Procedure, each party shall have one peremptory challenge to the referee selected by the presiding judge of the Court (or his or her representative).

21.4 The parties agree that time is of the essence in conducting the reference proceedings. Accordingly, the referee shall be requested, subject to change in the time periods specified herein for good cause shown, to (i) set the matter for a status and trial-setting conference within fifteen (15) days after the date of selection of the referee, (ii) if practicable, try all issues within one hundred twenty (120) days after the date of the conference, and (iii) report a statement of decision within twenty (20) days after the matter has been submitted for decision,

21.5 The referee will have power to expand or limit the amount and duration of discovery. The referee may set or extend discovery deadlines or cutoffs for good cause, including a party's failure to provide requested discovery for any reason whatsoever. Unless otherwise ordered based upon good cause shown, no party shall be entitled to "priority" in conducting discovery, depositions may be taken by either party upon seven (7) days written notice, and all other discovery shall be responded to within fifteen (15) days after service. All disputes relating to discovery that cannot be resolved by the parties shall be submitted to the referee whose decision shall be final and binding.

21.6 Except as expressly set forth herein, the referee shall determine the manner in which the reference proceeding is conducted, including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the reference proceeding. All proceedings and hearings conducted before the referee, except for trial, shall be conducted without a court reporter, except that when any party so requests, a court reporter will be used at any hearing conducted before the referee, and the referee will be provided a courtesy copy of the transcript. The party making such a request shall have the obligation to arrange for and pay the court reporter. Subject to the referee's power to award fees and costs (including, without limitation, attorneys' fees) to the prevailing party, the parties will share equally the cost of the referee and the cost of the court reporter at trial.

21.7 The referee shall be required to determine all issues in accordance with existing case law and the statutory laws of the State of California. The rules of evidence applicable to proceedings at law in the State of California will be applicable to the reference proceeding. The referee shall be empowered to enter equitable as well as legal relief, to enter equitable orders that will be binding on the parties, and to rule on any motion that would be authorized in a court proceeding, including without limitation motions for summary judgment or summary adjudication. The referee shall issue a decision at the close of the reference proceeding that disposes of all claims of the parties that

are the subject of the reference. Pursuant to Section 644 of the California Code of Civil Procedure, such decision shall be entered by the Court as a judgment or an order in the same manner as if the action had been tried by the Court, and any such decision will be final, binding, and conclusive. The parties reserve the right to appeal from the final judgment or order or from any appealable decision or order entered by the referee. The parties reserve the right to findings of fact, conclusions of law, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial, if granted, is also to be a reference proceeding under this provision.

21.8 If the enabling legislation that provides for appointment of a referee is repealed (and no successor statute is enacted), any dispute between the parties that would otherwise be determined by reference procedure will be resolved and determined by arbitration. The arbitration will be conducted by a retired judge or justice, in accordance with the California Arbitration Act §1280 through §1294.2 of the California Code of Civil Procedure, as amended from time to time. The limitations with respect to discovery set forth in this Section shall apply to any such arbitration proceeding.

21.9 THE PARTIES RECOGNIZE AND AGREE THAT ALL CONTROVERSIES, DISPUTES, AND CLAIMS RESOLVED UNDER THIS REFERENCE PROVISION WILL BE DECIDED BY A REFEREE AND NOT BY A JURY. AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS, HIS, OR HER OWN CHOICE, EACH PARTY KNOWINGLY AND VOLUNTARILY, AND FOR THE MUTUAL BENEFIT OF ALL PARTIES, AGREES THAT THIS REFERENCE PROVISION WILL APPLY TO ANY CLAIM BETWEEN OR AMONG THEM ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT.

[Remainder of Page Intentionally Left Blank; Signatures Appear on Following Page]

IN WITNESS WHEREOF, Lender, Borrower and Manager have duly executed and delivered this Agreement as of the day and year first above written.

BORROWER:

PERRIS PARK HOUSING LLC,
a California limited liability company,

By _____,
a _____,
its _____

By: _____
Name: _____
Title: _____

LENDER:

BANNER BANK,
a Washington state-chartered commercial bank

By: _____
Waheed Karim
Vice President

MANAGER:

a _____

By: _____
Name: _____
Its: _____

FORM APPROVED COUNTY COUNSEL

BY: Jhaila R. Brown 6/5/19
JHAILA R. BROWN / DATE

EXHIBIT A
MANAGEMENT AGREEMENT

[See attached]

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LEGAL SERVICES AGREEMENT
BETWEEN RIVERSIDE COMMUNITY HOUSING CORP.
AND THE OFFICE OF COUNTY COUNSEL

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This LEGAL SERVICES AGREEMENT ("Agreement") is entered into this ____ day of _____, 2019 by and between Riverside Community Housing Corp., a California non-profit public benefit corporation ("RCHC"), and the County of Riverside, a political subdivision of the State of California, on behalf of the Office of County Counsel ("Counsel").

RECITALS

WHEREAS, it is the desire of RCHC and Counsel to clarify how legal services are provided to RCHC by Counsel and to clarify the basis and procedures for RCHC's payment of said services;

WHEREAS, said legal services are generally described as the provision of as-needed general legal services for the RCHC in conformity with the terms of this Agreement; and

WHEREAS, RCHC has requested said services to be provided and will be billed directly and pay for said legal services.

NOW, THEREFORE, it is agreed by RCHC and Counsel as follows:

I. TERM OF AGREEMENT. This Agreement has an effective date through June 30, 2022 and shall renew for successive one year periods, unless terminated or otherwise modified as provided herein.

II. ESTIMATED MAXIMUM REIMBURSABLE AMOUNT. The maximum reimbursable amount for Counsel Services (defined below) rendered under this Agreement is estimated not to exceed \$100,000 annually. In the event legal services provided approach this estimated amount, Counsel shall notify the RCHC Chief Operating Officer or designee to consider an amendment to this Agreement.

III. SCOPE OF LEGAL SERVICES. Counsel services to be rendered shall include, but are not limited to the following issues (collectively referred to herein as "Counsel Services"):

1. Serve as general legal counsel to RCHC, on an as-needed basis, except where special counsel is required.

- 1 2. Attend in-person meetings with the RCHC Board of Directors and its employees when
2 requested.
- 3 3. Provide general advice to the Board members, officers and employees as requested by
4 RCHC.
- 5 4. Prepare legal opinions as necessary and requested by RCHC.
- 6 5. Assist RCHC in responding to Public Records Act requests as needed.
- 7 6. Prepare and/or review contracts, agreements, resolutions, ordinances, or any legal
8 matter.
- 9 7. Prepare occasional reports and present information at public hearings as requested.
- 10 8. Negotiate, represent, and render advice on transactional matters.
- 11 9. Prepare and give training sessions or other presentations when requested.
- 12 10. Any other legal services requested by the Board of Directors or RCHC Chief Operating
13 Officer or designee.
- 14 11. Litigation matters will require a separate agreement.

15 IV. REQUESTS FOR SERVICES. RCHC and Counsel shall designate appropriate personnel
16 who shall serve as the contact persons for their respective agency and office, for the purpose of
17 coordinating, and also addressing issues or problems, regarding the delivery of legal services. All
18 requests for legal services should be made in writing by email or by hard copy by the Chief Operating
19 Officer or designee. It is understood by the parties that RCHC shall not be relieved from the obligation to
20 pay Counsel for legal services provided when such requests are not in writing.

21 V. CIVIL LITIGATION AND OTHER SIGNIFICANT MATTERS. In the event civil
22 litigation is filed against the RCHC or its employees, Counsel shall coordinate with RCHC to determine if
23 Counsel will provide coverage for the litigation filed or if RCHC will engage special counsel. If it is
24 determined that Counsel will provide services, RCHC shall be charged for the legal services provided in
25 connection with the litigation filed.

26 VI. INVOICES, RATES AND PROCEDURES FOR REIMBURSEMENT. Counsel shall bill
27 RCHC for all attorney and paralegal services rendered at an hourly rate established by the Board of
28 Supervisors and such other costs as may be directly related to the services provided. (Hourly rates for

1 fiscal year 2018/2019 are \$180.00 for attorney services and \$117 for paralegal services. Rates are adjusted
2 each fiscal year.) Counsel shall provide RCHC with an invoice with a summary of legal Counsel Services
3 rendered each month. Monthly billing invoices shall be submitted to RCHC within twenty-one (21) days
4 after the end of each month in which services are provided. Monthly billing invoices account for services
5 rendered with hourly units of service rounded to the nearest 1/10th of an hour. Billing invoices shall also
6 list a description of the activity for which payment is requested, including case name, activity type, and
7 outcome of the activity, as applicable.

8 RCHC shall notify Counsel in writing within ten (10) working days of receipt of any dispute
9 concerning individual charges and shall include a basis for the dispute. In the event Counsel determines
10 that a charge was billed incorrectly, an addendum to the invoice in question shall be provided and RCHC
11 shall be credited for the amount incorrectly charged.

12
13 VII. REIMBURSEMENT RECORDS AND AUDITS. Counsel shall maintain auditable books,
14 records, documents and other evidence pertaining to costs and expenses in this Agreement. Counsel shall
15 maintain these records for three (3) years after final payment has been made or until all pending county,
16 state, and federal audits, if any, are completed, whichever is later.

17 Any authorized representative of the RCHC, the State of California, and the federal government
18 shall have access to any documents, papers, electronic data, and other records, which these representatives
19 may determine to be pertinent to this Agreement, for the purposes of performing an audit, evaluation,
20 inspection, review, assessment or examination, except for information which may be deemed to be
21 privileged and confidential under attorney-client and/or attorney work-product privileges. These
22 representatives are authorized to obtain excerpts, transcripts, and copies, as they deem necessary. Further,
23 these authorized representatives shall have the right at all reasonable times to inspect or otherwise
24 evaluate the work performed, or being performed, under this Agreement and the premises in which it is
25 being performed.

26 This access to records includes, but is not limited to, service delivery, referral, financial, and
27 administrative documents for three (3) years after final payment is made, or until all pending county,
28 state, and federal audits are completed, whichever is later.

1
2 VIII. GENERAL PROVISIONS.

- 3 1. As an affiliate of the Housing Authority of the County of Riverside, Counsel and
4 RCHC will work cooperatively to support the core mission of the other. To this end,
5 Counsel and RCHC may meet twice during the County's fiscal year to address any
6 topic or issue of concern to either party regarding the purposes or administration of this
7 Agreement if requested by either party.
- 8 2. Nothing in this Agreement shall be construed to set the level of resources committed
9 by Counsel. Nor shall this Agreement be construed to constrain the discretion of each
10 party's authorized designee as to the use and expenditure of its funding and resources.
- 11 3. This Agreement may be amended in writing with the written consent of both parties.
- 12 4. This Agreement may be terminated by either party at any time.
- 13 5. Each party shall maintain the confidentiality of information and records of the other
14 and comply with all applicable statutes, rules, regulations and County policies relating
15 thereto.
- 16 6. This Agreement is not in effect or enforceable until executed by both parties. Upon
17 execution, each party shall be responsible for informing their line staff of this
18 Agreement and issuing any necessary directive for its implementation.
- 19 7. All notices and correspondence concerning this Agreement shall be addressed as
20 follows:

21 TO RCHC:

22 Carrie Harmon
23 Chief Operating Officer
24 Riverside Community Housing Corp.
25 5555 Arlington Avenue
26 Riverside, CA 92504
27 (951) 343-5455

28 TO Counsel:

Office of County Counsel, Riverside County
3960 Orange Street, Suite 500
Riverside, CA 92501
(951) 955-6300

1
2
3 IX. REPRESENTATIONAL CONFLICTS.

4 RCHC acknowledges that Counsel serves as the County of Riverside and the Housing Authority
5 of the County of Riverside's legal advisor and representative on all matters. Counsel also serves as the
6 legal advisor for a number of other separate legal entities that are governed by the same five individuals
7 who sit as the Board of Supervisors for the County ("Related Public Entities"). Counsel must preserve its
8 ability to represent the County and Related Public Entities on matters that may arise in the future,
9 including matters in which the County's and/or Related Public Entities' interests are adverse to RCHC's
10 interest. Counsel is not willing to undertake representation of RCHC in the absence of RCHC's consent
11 as set forth in this section because Counsel must preserve the ability to represent its primary client, the
12 County, and Related Public Entities. RCHC's engagement of Counsel with respect to any particular
13 matter includes RCHC's consent to Counsel's ongoing representation of its primary client, the County,
14 and Related Public Entities, in all matters, including transactions and litigation, in which the interests of
15 the County and/or Related Public Entities are potentially or actually adverse to the interests of RCHC
16 and notwithstanding that Counsel may have obtained confidential information from RCHC subject to
17 the conditions below.

18 At the time RCHC engages the services of Counsel for a particular matter, Counsel will inform
19 RCHC based on the available facts of any specific matters in which the County's interests and the
20 RCHC's interests are then actually or potentially adverse. As of the date this Agreement is signed by
21 RCHC, Counsel is not aware of any actual or potential conflicts of interest.

22 Counsel is governed by specific rules relating to representation of clients when present or potential
23 conflicts of interest exist. Those rules are outlined in Rule 3-310 of the California Rules of Professional
24 Conduct.

25 Neither the County, Related Public Entities, RCHC nor Counsel intends to provide for Counsel's
26 continuing representation of both RCHC and the County in matters where the interests of RCHC and the
27 County or Related Public Entities are actually adverse or where a dispute arises between RCHC and
28 County or Related Public Entities, but the parties anticipate that any such instances are likely to be very
rare. In the event that either a dispute or an actual conflict of interest arises during the course of

1 representation, Counsel will promptly inform RCHC that a conflict or dispute has arisen, and will
2 discontinue representing RCHC and will continue to represent the County and/or Related Public Entities,
3 and further provided that Counsel shall not disclose the reason for the conflict to RCHC if the County
4 and/or Related Public Entities has requested that those reasons remain confidential. RCHC acknowledges
5 that in such a circumstance it is free to hire substitutional counsel of its own choosing and at its own
6 expense.

7 RCHC acknowledges that its consent to Counsel's ongoing representation of the County and
8 Related Public Entities in matters where the interests of the County (and/or Related Public Entities) and
9 RCHC are potentially or actually adverse has significant implications that RCHC has considered. By
10 signing this Agreement, RCHC acknowledges that it has been advised of the potential conflicts
11 associated with concurrent representation; that it has been advised of Counsel's present and continuing
12 relationship with the County and Related Public Entities; and that RCHC, upon requesting assistance
13 from Counsel on a particular matter, and having been presented with the information about potential and
14 actual conflicts of interest as required by this section, provides its consent under Rule 3-310 of the Rules
15 and Professional Conduct to Counsel's ongoing representation of the County and Related Public Entities,
16 notwithstanding any potential or actual conflict of interest between the County (and/or Related Public
17 Entities) and RCHC that may develop. RCHC waives any and all rights to disqualify Counsel from
18 representing the County (and/or Related Public Entities) based on a conflict of interest arising out of
19 concurrent representation of the County (and/or Related Public Entities) and RCHC's consent and waiver
20 extends to "subsequent representation," where by reason of Counsel's former representation of RCHC in
21 a matter, Counsel has confidential information material to a matter in which the County's (and/or Related
22 Public Entities') interests are adverse to RCHC's interests, and Counsel no longer represents RCHC in
23 any matter.

24 In addition, Counsel represents other public entities in the County. In the event that an
25 unanticipated actual or potential conflict of interest arises between or among two or more non-County
26 public-entity clients represented by Counsel during the course of representation of RCHC, Counsel will
27 immediately notify RCHC of the actual or potential conflict and either (1) RCHC will acknowledge and
28 waive the actual or potential conflict, in which case Counsel will erect an ethical wall between the

1 attorney representing RCHC and the attorney representing the other non-County public entity client; or
2 (2) if RCHC declines to waive the actual or potential conflict, Counsel will withdraw from representing
3 all non-County public-entity clients in that matter. If Counsel will withdraw from representing all non-
4 County public-entity clients in a matter, RCHC acknowledges that it is free to hire substitute counsel of
5 its own choosing and at its own expense.

6 X. Effective Date.

7 This Agreement will govern all legal services performed by Counsel on behalf of Client
8 commencing with the date Counsel first performed services. The date this Agreement was signed is for
9 reference only. Even if this Agreement does not take effect, RCHC will be obligated to pay Counsel the
10 reasonable value of any services Counsel may have performed for RCHC.

11 XI. Complete Agreement; Amendment.

12 This Agreement, together with exhibits thereto, expresses the understandings of the parties
13 concerning all matters covered and supersedes all prior negotiations, representations or agreements, either
14 written or oral. No additions to, or alteration of the terms of this Agreement, whether by written or verbal
15 understanding of the parties, their officers, agents or employees, shall be valid unless made in the form of
16 a written amendment to this Agreement and formally approved by the parties.

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20 [Remainder of Page Blank]

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23 [Signatures on Following Page]
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1 IN WITNESS WHEREOF, RCHC and Counsel have caused this Agreement to be executed by
2 their duly authorized representatives as of the last date opposite the respective signatures below.
3

4 **“County”**

“RCHC”

5 COUNTY OF RIVERSIDE, a political subdivision
6 of the State of California

RIVERSIDE COMMUNITY HOUSING CORP., a
California non-profit public benefit corporation

7 By: _____
8 Kevin Jeffries,
Chairperson, Board of Supervisors

By: _____
Carrie Harmon,
Chief Operating Officer

9
10 Date: _____

Date: _____

11 ATTEST:

12 KECIA HARPER-IHAM
13 Clerk of the Board

14
15 By: _____
(Deputy)

16
17 APPROVED AS TO FORM:

18 GREGORY P. PRIAMOS
19 County Counsel

20 By: _____
21 Jhaila R. Brown,
Deputy County Counsel

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1 **LEGAL SERVICES AGREEMENT**
2 **BETWEEN PERRIS PARK HOUSING LLC**
3 **AND THE OFFICE OF COUNTY COUNSEL**
4

5 This LEGAL SERVICES AGREEMENT (“Agreement”) is entered into this ____ day of
6 _____, 2019 by and between Perris Park Housing LLC, a California limited liability company
7 (“PPH LLC”), and the County of Riverside, a political subdivision of the State of California, on behalf of
8 the Office of County Counsel (“Counsel”).

9 **RECITALS**

10 WHEREAS, it is the desire of PPH LLC and Counsel to clarify how legal services are provided to
11 PPH LLC by Counsel and to clarify the basis and procedures for PPH LLC’s payment of said services;

12 WHEREAS, said legal services are generally described as the provision of as-needed general legal
13 services for the PPH LLC in conformity with the terms of this Agreement; and

14 WHEREAS, PPH LLC has requested said services to be provided and will be billed directly and
15 pay for said legal services.

16 NOW, THEREFORE, it is agreed by PPH LLC and Counsel as follows:

17 I. TERM OF AGREEMENT. This Agreement has an effective date through June 30, 2022
18 and shall renew for successive one year periods, unless terminated or otherwise modified as provided
19 herein.

20 II. ESTIMATED MAXIMUM REIMBURSABLE AMOUNT. The maximum reimbursable
21 amount for Counsel Services (defined below) rendered under this Agreement is estimated not to exceed
22 \$100,000 annually. In the event legal services provided approach this estimated amount, Counsel shall
23 notify the Chief Operating Officer or designee of the managing member of PPH LLC to consider an
24 amendment to this Agreement.

25 III. SCOPE OF LEGAL SERVICES. Counsel services to be rendered shall include, but are
26 not limited to the following issues (collectively referred to herein as “Counsel Services”):

27 1. Serve as general legal counsel to PPH LLC, on an as-needed basis, except where
28 special counsel is required.

- 1 2. Attend in-person meetings with the PPH LLC Board of Directors and its employees
- 2 when requested.
- 3 3. Provide general advice to the Board members, officers and employees as requested by
- 4 PPH LLC.
- 5 4. Prepare legal opinions as necessary and requested by PPH LLC.
- 6 5. Assist PPH LLC in responding to Public Records Act requests as needed.
- 7 6. Prepare and/or review contracts, agreements, resolutions, ordinances, or any legal
- 8 matter.
- 9 7. Prepare occasional reports and present information at public hearings as requested.
- 10 8. Negotiate, represent, and render advice on transactional matters.
- 11 9. Prepare and give training sessions or other presentations when requested.
- 12 10. Any other legal services requested by the Board of Directors or PPH LLC managing
- 13 member or designee.
- 14 11. Litigation matters will require a separate agreement.

15 IV. REQUESTS FOR SERVICES. PPH LLC and Counsel shall designate appropriate
16 personnel who shall serve as the contact persons for their respective agency and office, for the purpose of
17 coordinating, and also addressing issues or problems, regarding the delivery of legal services. All
18 requests for legal services should be made in writing by email or by hard copy by the managing member
19 of PPH LLC or designee. It is understood by the parties that PPH LLC shall not be relieved from the
20 obligation to pay Counsel for legal services provided when such requests are not in writing.

21 V. CIVIL LITIGATION AND OTHER SIGNIFICANT MATTERS. In the event civil
22 litigation is filed against the PPH LLC or its employees, Counsel shall coordinate with PPH LLC to
23 determine if Counsel will provide coverage for the litigation filed or if PPH LLC will engage special
24 counsel. If it is determined that Counsel will provide services, PPH LLC shall be charged for the legal
25 services provided in connection with the litigation filed.

26 VI. INVOICES, RATES AND PROCEDURES FOR REIMBURSEMENT. Counsel shall bill
27 PPH LLC for all attorney and paralegal services rendered at an hourly rate established by the Board of
28 Supervisors and such other costs as may be directly related to the services provided. (Hourly rates for

1 fiscal year 2018/2019 are \$180.00 for attorney services and \$117 for paralegal services. Rates are adjusted
2 each fiscal year.) Counsel shall provide PPH LLC with an invoice with a summary of legal Counsel
3 Services rendered each month. Monthly billing invoices shall be submitted to PPH LLC within twenty-
4 one (21) days after the end of each month in which services are provided. Monthly billing invoices
5 account for services rendered with hourly units of service rounded to the nearest 1/10th of an hour. Billing
6 invoices shall also list a description of the activity for which payment is requested, including case name,
7 activity type, and outcome of the activity, as applicable.

8 PPH LLC shall notify Counsel in writing within ten (10) working days of receipt of any dispute
9 concerning individual charges and shall include a basis for the dispute. In the event Counsel determines
10 that a charge was billed incorrectly, an addendum to the invoice in question shall be provided and PPH
11 LLC shall be credited for the amount incorrectly charged.

12
13 VII. REIMBURSEMENT RECORDS AND AUDITS. Counsel shall maintain auditable books,
14 records, documents and other evidence pertaining to costs and expenses in this Agreement. Counsel shall
15 maintain these records for three (3) years after final payment has been made or until all pending county,
16 state, and federal audits, if any, are completed, whichever is later.

17 Any authorized representative of the PPH LLC, the State of California, and the federal
18 government shall have access to any documents, papers, electronic data, and other records, which these
19 representatives may determine to be pertinent to this Agreement, for the purposes of performing an audit,
20 evaluation, inspection, review, assessment or examination, except for information which may be deemed
21 to be privileged and confidential under attorney-client and/or attorney work-product privileges. These
22 representatives are authorized to obtain excerpts, transcripts, and copies, as they deem necessary. Further,
23 these authorized representatives shall have the right at all reasonable times to inspect or otherwise
24 evaluate the work performed, or being performed, under this Agreement and the premises in which it is
25 being performed.

26 This access to records includes, but is not limited to, service delivery, referral, financial, and
27 administrative documents for three (3) years after final payment is made, or until all pending county,
28 state, and federal audits are completed, whichever is later.

1
2 VIII. GENERAL PROVISIONS.

- 3 1. As an affiliate of the Riverside Community Housing Corp. (an affiliate of the Housing
4 Authority of the County of Riverside), Counsel and PPH LLC will work cooperatively
5 to support the core mission of the other. To this end, Counsel and PPH LLC may meet
6 twice during the County's fiscal year to address any topic or issue of concern to either
7 party regarding the purposes or administration of this Agreement if requested by either
8 party.
- 9 2. Nothing in this Agreement shall be construed to set the level of resources committed
10 by Counsel. Nor shall this Agreement be construed to constrain the discretion of each
11 party's authorized designee as to the use and expenditure of its funding and resources.
- 12 3. This Agreement may be amended in writing with the written consent of both parties.
- 13 4. This Agreement may be terminated by either party at any time.
- 14 5. Each party shall maintain the confidentiality of information and records of the other
15 and comply with all applicable statutes, rules, regulations and County policies relating
16 thereto.
- 17 6. This Agreement is not in effect or enforceable until executed by both parties. Upon
18 execution, each party shall be responsible for informing their line staff of this
19 Agreement and issuing any necessary directive for its implementation.
- 20 7. All notices and correspondence concerning this Agreement shall be addressed as
21 follows:

22 TO PPH LLC:

23 Perris Park Housing LLC
24 c/o Riverside Community Housing Corp.
25 5555 Arlington Avenue
26 Riverside, CA 92504
27 Att: Carrie Harmon, Chief Operating Officer
28 (951) 343-5455

TO Counsel:

Office of County Counsel, Riverside County
3960 Orange Street, Suite 500
Riverside, CA 92501
(951) 955-6300

1
2
3
4 IX. REPRESENTATIONAL CONFLICTS.

5 PPH LLC acknowledges that Counsel serves as the County of Riverside and the Housing
6 Authority of the County of Riverside's legal advisor and representative on all matters. Counsel also
7 serves as the legal advisor for a number of other separate legal entities that are governed by the same five
8 individuals who sit as the Board of Supervisors for the County ("Related Public Entities"). Counsel must
9 preserve its ability to represent the County and Related Public Entities on matters that may arise in the
10 future, including matters in which the County's and/or Related Public Entities' interests are adverse to
11 PPH LLC's interest. Counsel is not willing to undertake representation of PPH LLC in the absence of
12 PPH LLC's consent as set forth in this section because Counsel must preserve the ability to represent its
13 primary client, the County, and Related Public Entities. PPH LLC's engagement of Counsel with respect
14 to any particular matter includes PPH LLC's consent to Counsel's ongoing representation of its primary
15 client, the County, and Related Public Entities, in all matters, including transactions and litigation, in
16 which the interests of the County and/or Related Public Entities are potentially or actually adverse to the
17 interests of PPH LLC and notwithstanding that Counsel may have obtained confidential information
18 from PPH LLC subject to the conditions below.

19 At the time PPH LLC engages the services of Counsel for a particular matter, Counsel will
20 inform PPH LLC based on the available facts of any specific matters in which the County's interests and
21 the PPH LLC's interests are then actually or potentially adverse. As of the date this Agreement is signed
22 by PPH LLC, Counsel is not aware of any actual or potential conflicts of interest.

23 Counsel is governed by specific rules relating to representation of clients when present or potential
24 conflicts of interest exist. Those rules are outlined in Rule 3-310 of the California Rules of Professional
25 Conduct.

26 Neither the County, Related Public Entities, PPH LLC nor Counsel intends to provide for
27 Counsel's continuing representation of both PPH LLC and the County in matters where the interests of
28 PPH LLC and the County or Related Public Entities are actually adverse or where a dispute arises
between PPH LLC and County or Related Public Entities, but the parties anticipate that any such

1 instances are likely to be very rare. In the event that either a dispute or an actual conflict of interest arises
2 during the course of representation, Counsel will promptly inform PPH LLC that a conflict or dispute has
3 arisen, and will discontinue representing PPH LLC and will continue to represent the County and/or
4 Related Public Entities, and further provided that Counsel shall not disclose the reason for the conflict to
5 PPH LLC if the County and/or Related Public Entities has requested that those reasons remain
6 confidential. PPH LLC acknowledges that in such a circumstance it is free to hire substitutional counsel
7 of its own choosing and at its own expense.

8 PPH LLC acknowledges that its consent to Counsel's ongoing representation of the County and
9 Related Public Entities in matters where the interests of the County (and/or Related Public Entities) and
10 PPH LLC are potentially or actually adverse has significant implications that PPH LLC has considered.
11 By signing this Agreement, PPH LLC acknowledges that it has been advised of the potential conflicts
12 associated with concurrent representation; that it has been advised of Counsel's present and continuing
13 relationship with the County and Related Public Entities; and that PPH LLC, upon requesting assistance
14 from Counsel on a particular matter, and having been presented with the information about potential and
15 actual conflicts of interest as required by this section, provides its consent under Rule 3-310 of the Rules
16 and Professional Conduct to Counsel's ongoing representation of the County and Related Public Entities,
17 notwithstanding any potential or actual conflict of interest between the County (and/or Related Public
18 Entities) and PPH LLC that may develop. PPH LLC waives any and all rights to disqualify Counsel
19 from representing the County (and/or Related Public Entities) based on a conflict of interest arising out of
20 concurrent representation of the County (and/or Related Public Entities) and PPH LLC's consent and
21 waiver extends to "subsequent representation," where by reason of Counsel's former representation of
22 PPH LLC in a matter, Counsel has confidential information material to a matter in which the County's
23 (and/or Related Public Entities') interests are adverse to PPH LLC's interests, and Counsel no longer
24 represents PPH LLC in any matter.

25 In addition, Counsel represents other public entities in the County. In the event that an
26 unanticipated actual or potential conflict of interest arises between or among two or more non-County
27 public-entity clients represented by Counsel during the course of representation of PPH LLC, Counsel
28 will immediately notify PPH LLC of the actual or potential conflict and either (1) PPH LLC will

1 acknowledge and waive the actual or potential conflict, in which case Counsel will erect an ethical wall
2 between the attorney representing PPH LLC and the attorney representing the other non-County public
3 entity client; or (2) if PPH LLC declines to waive the actual or potential conflict, Counsel will withdraw
4 from representing all non-County public-entity clients in that matter. If Counsel will withdraw from
5 representing all non-County public-entity clients in a matter, PPH LLC acknowledges that it is free to hire
6 substitute counsel of its own choosing and at its own expense.

7 X. Effective Date.

8 This Agreement will govern all legal services performed by Counsel on behalf of Client
9 commencing with the date Counsel first performed services. The date this Agreement was signed is for
10 reference only. Even if this Agreement does not take effect, PPH LLC will be obligated to pay Counsel
11 the reasonable value of any services Counsel may have performed for PPH LLC.

12 XI. Complete Agreement; Amendment.

13 This Agreement, together with exhibits thereto, expresses the understandings of the parties
14 concerning all matters covered and supersedes all prior negotiations, representations or agreements, either
15 written or oral. No additions to, or alteration of the terms of this Agreement, whether by written or verbal
16 understanding of the parties, their officers, agents or employees, shall be valid unless made in the form of
17 a written amendment to this Agreement and formally approved by the parties.

18
19
20
21 [Remainder of Page Blank]

22
23
24 [Signatures on Following Page]

1
2 IN WITNESS WHEREOF, PPH LLC and Counsel have caused this Agreement to be executed by
3 their duly authorized representatives as of the last date opposite the respective signatures below.
4

5 **"County"**

6 COUNTY OF RIVERSIDE, a political subdivision
7 of the State of California

8 By: _____
9 Kevin Jeffries,
10 Chairperson, Board of Supervisors

11 Date: _____

12 ATTEST:

13 KECIA HARPER-IHAM
14 Clerk of the Board

15
16 By: _____
17 (Deputy)

18 APPROVED AS TO FORM:

19 GREGORY P. PRIAMOS
20 County Counsel

21 By: _____
22 Jhaila R. Brown,
23 Deputy County Counsel
24
25
26
27
28

"PPH LLC"

PERRIS PARK HOUSING LLC, a California
limited liability company

By: Riverside Community Housing
Corp., a California non-profit public benefit
corporation, its sole member and manager

By: _____
Carrie Harmon,
Chief Operating Officer

Date: _____

1 **PROPERTY MANAGEMENT AGREEMENT**
2 **BY AND BETWEEN**
3 **PERRIS PARK HOUSING LLC.**
4 **AND**
5 **HYDER & COMPANY**
6

7 This PROPERTY MANAGEMENT AGREEMENT (“Agreement”) dated June ____,
8 2019 is made by and between the **PERRIS PARK HOUSING LLC.**, a California limited
9 liability company, (“Owner”) and **HYDER & COMPANY**, a California corporation, (“Property
10 Manager”). Owner and Property Manager are each referred to herein as a “Party” and
11 collectively as the “Parties.”
12

13 **RECITALS**
14

15 **WHEREAS**, Owner is a limited liability company, duly created, established and
16 authorized to transact business in the State of California;

17 **WHEREAS**, this Agreement pertains to that certain real property owned by
18 Owner located within the County of Riverside at 1450 South Perris Boulevard, Perris, CA 92570
19 as further described in **Exhibit A** and together with all improvements, appurtenances, and fixtures
20 located thereon (“Property”);

21 **WHEREAS**, the use occupancy, management and operation of the Property is
22 subject to the rules and regulations of the Low-Income Housing Tax Credit Program and Section
23 8 Program defined below;

24 **WHEREAS**, Property Manager was the successful proposer in connection with
25 Owner’s Request for Proposal (“RFP”) No. 2018-005 for Property Management Service for the
26 Perris Park Apartments, dated November 21, 2018 attached hereto as **Exhibit C** and incorporated
27 herein by this reference (“RFP No. 2018-005”);

28 **WHEREAS**, Property Manager has the expertise, special skills, knowledge and

1 experience to perform the duties set out herein and in RFP No. 2018-005, and desires to provide
2 such services to Owner; and

3 **WHEREAS**, Owner desires to enter into an agreement with Property Manager to
4 provide full property management services for the Property to ensure continuity of services for
5 the tenants, as more specifically provided below.

6 **NOW THEREFORE**, based on the foregoing Recitals and for good and valuable
7 consideration, the receipt and sufficiency of which is acknowledges by all Parties, the Parties
8 hereby agree as follows:

9
10 **Article 1: Definitions**

11 The following definitions reflect the terms as used in this Agreement:

- 12 (a) **"Fiscal Year"** is the year commencing on July 1st and ending June 30th.
- 13 (b) **"Gross Collections"** means all amounts actually collected by Property Manager,
14 including, rents or other payments, any federal rental assistance, utility payments
15 and deposit forfeitures, interest earned on bank accounts opened by the Property
16 Manager for the benefit of OWNER, and other collected revenues, but excluding
17 (i) Tenant Deposits and other refundable deposits received from Tenants that have
18 not been forfeited; and (ii) any and all proceeds from property insurance policies.
- 19 (c) **"HUD"** is the U.S. Dept. of Housing and Urban Development.
- 20 (d) **"Lease"** is any rental agreement whereby OWNER has agreed to let and Tenant
21 has agreed to accept a Rental Unit in the Property identified in the Lease in
22 accordance with the terms of the Lease. The form of Lease entered into by a
23 Tenant must meet the requirements set forth in Sections 5.3(d) and 5.3(e) of this
24 Agreement.
- 25 (e) **"Legal Requirements"** means governmental statutes, laws, constitutions, codes,
26 ordinances, regulations and rules of governmental entities having jurisdiction over
27 Property Manager or the Property, orders of any insurance company, and any
28 covenants recorded against the Property.

- 1 (f) **“Low-Income Housing Tax Credit Program”** The California Tax Credit
2 Allocation Committee (“CTCAC”) administers the low-income housing tax credit
3 program to encourage private investment in affordable rental housing for
4 households meeting certain income requirements. Credits are available for new
5 construction projects or existing properties undergoing rehabilitation.
- 6 (g) **“Net Operating Income”** means Gross Collections minus Operating Expenses.
- 7 (h) **“Operating Expenses”** means: (a) Management Fees calculated in accordance
8 with the terms of this Agreement, and (b) all expenses reasonably and necessarily
9 incurred in connection with the business, operation and maintenance of the
10 Property during the term as provided in the approved budget, including rental
11 taxes, utilities, casualty and liability insurance premiums, real and personal
12 property taxes, costs and expenses of Operating Supplies, but excluding leasing
13 incentives.
- 14 (i) **“Operating Supplies”** means consumables used by Property Manager or its
15 employees in the operation of the Property, including light bulbs, cleaning
16 supplies, batteries, furnace filters, pool chemicals, and other items of a similar
17 nature.
- 18 (j) **“Person”** is any natural person, or any partnership, joint venture, limited liability
19 company, limited partnership, corporation, association, trust or trustee, or any
20 other legal entity.
- 21 (k) **“Project Requirements”** are the leasing and other requirements contained in the
22 US Dept. of Housing and Urban Development (HUD) Section 8 Program
23 requirements, and also the California Low-Income Housing Tax Credit Program,
24 as applicable, in connection with the acquisition, financing, and ownership of the
25 Property (the "Requirements"). The Project Requirements provide tenant income
26 and rent limits, insurance requirements, lease provisions, reporting and
27 recordkeeping requirements, and grievance procedures.
- 28

- 1 (l) **“Property”** refers to the Property, collectively; “each,” “any,” or “a” Property, or
2 phrases of similar import, refers to each residence unit comprising a portion of the
3 Property, as identified in **Exhibit A** attached hereto and incorporated herein by
4 this reference.
- 5 (m) **“Rent Limitations”** Owner will adopt affordable rents as defined by the California
6 Health and Safety Code Section 50053(b)(2) as the minimal compliance with this
7 standard, and as required pursuant to the California Low-Income Housing Tax
8 Credit Program and/or the HUD Section 8 Program, as applicable to the Rental
9 Unit. The maximum monthly allowances for utilities and services (excluding
10 telephone) will not exceed the utility allowance set by Owner.
- 11 (n) **“Rent”** is the monthly amount (excluding federal rental assistance payments) that
12 a Tenant is obligated to pay Owner pursuant to the terms of a Lease.
- 13 (o) **“Rental Unit”** is a dwelling unit inside the Property, already rented, or to be rented
14 to residential Tenants.
- 15 (p) **“Section 8 Program”** is the Section 8 of the Housing Act of 1937 (42 U.S.C. §
16 1437f) as amended and its implementing regulations located in 24 Code of Federal
17 Regulations Part 982, Section Tenant -Based Assistance: Housing Choice Voucher
18 Program.
- 19 (q) **“Tenant”** is one or more persons occupying a Rental Unit pursuant to a Lease.
- 20 (r) **“Tenant Deposit”** is any security deposit, cleaning deposit, prepaid rent deposit,
21 or other sum advanced by a Tenant under terms that may require repayment by
22 Owner or application against a future liability of such Tenant.
- 23 (s) **“Trust Operating Account”** is an account in Property Manager's name on behalf
24 of Owner. The account name shall identify the Property and be approved in writing
25 by Owner, at such financial institution as Owner may specify in writing. Owner
26 approves of the existing Trust Operating Account held by Property Manager for
27 the benefit of Owner. Separate accounting of income and expenses and operating
28

1 profit will be reported every three (3) months to Owner for each designated
2 complex, unless more frequent reporting is requested by Owner.
3

4 **Article 2: Appointment and Acceptance**

5 2.1 Owner appoints Property Manager for the management of the Property as
6 described more fully in **Exhibit A** attached hereto and incorporated herein by this reference, and
7 Property Manager accepts the appointment, subject to the terms and conditions set forth in this
8 Agreement.

9 2.2 Property Manager is not a joint venturer, partner or employee of Owner. In the
10 performance of its duties under this Agreement, Property Manager shall act solely as property
11 manager for the account of Owner but only to the extent expressly set forth in this Agreement.

12 2.3 Property Manager will perform the services required of it under this Agreement in
13 conformance with the following standards: (a) those management, rental, sales and collection
14 practices of prudent companies that manage single-family and multi-family residential homes for
15 rent and sale of a type similar to the Property in the jurisdiction where the related Property is
16 located; (b) in accordance with commercially reasonable professional standards; (c) in
17 compliance with all Legal Requirements; (d) using good faith and commercially reasonable
18 efforts; and (e) in accordance with instructions that Owner issues from time-to-time.
19

20 **Article 3: Term**

21 3.1 The term of this Agreement shall commence on the Effective Date (defined below)
22 and continue in effect until June 30, 2020, unless earlier terminated pursuant to Article 11 below.
23 The term "Effective Date" as used herein shall mean the date the Parties execute this Agreement.
24 If the Parties execute this Agreement on more than one date, then the last date this Agreement is
25 executed by a Party shall be the Effective Date.

26 3.2 Upon mutual written agreement, Owner and Property Manager may extend this
27 Agreement for four (4) consecutive, one (1) year periods. Such extension must be approved in
28 writing by the Parties and memorialized in a written amendment to this Agreement executed by

1 the Parties hereto. The cumulative period of performance under this Agreement shall not exceed
2 five (5) years with a completion/termination date of June 30, 2024. All applicable indemnification
3 provisions in this Agreement shall survive the termination of this Agreement.

4
5 **Article 4: Compensation**

6 4.1 Owner shall pay the Property Manager for all services performed, products
7 provided and expenses incurred, pursuant to the Scope of Service, as defined in **Exhibit B**,
8 attached hereto and incorporated herein by this reference. Maximum payment by Owner to
9 Property Manager for each one (1) year contract period shall not exceed THIRTY EIGHT
10 THOUSAND FOUR HUNDRED DOLLARS, (\$38,400), not including all Operating Expenses
11 (“Maximum Contract Amount”). Owner is not responsible for any fees or costs incurred above or
12 beyond the contracted amount and shall have no obligation to purchase any specified amount of
13 services or products, unless agreed to by Owner in writing. The monthly compensation paid to
14 Property Manager for management services performed under this Agreement shall be a Forty
15 Dollar (\$40) management fee per unit, which equates to Three Thousand Two Hundred Dollars
16 (\$3,200) per month, (collectively, “Management Fees”). Property Manager may also charge a
17 one-time lease-up fee equivalent to fifty percent (50%) of one month’s rent for each new lease
18 created (collectively, “Lease-Up Fees”).

19 Property Manager acknowledges and agrees that in no event shall the cumulative
20 compensation paid by Owner to Property Manager in a single one (1) year contract period for any
21 and all fees, costs, and expenses, including, but not limited to Management Fees and non-onsite
22 Employee Costs exceed the Maximum Contract Amount. Expenditures will conform to the
23 Annual Budget as approved each year but will not allow Parties to exceed the Maximum Contract
24 Amount. Owner will authorize payment of Management Fees to Property Manager monthly, not
25 later than the fifteenth (15th) day of each month, unless otherwise agreed by the Parties.

26 4.2 Property Manager shall be paid only in accordance with an invoice submitted to
27 Owner by Property Manager and after Owner’s written approval of such invoice, Property
28 Manager shall be authorized to deduct such amount from the Trust Operating Account. Property

1 Manager shall only be authorized to deduct such Management Fees after services have been
2 rendered or delivery of materials or products, and acceptance has been made by Owner, unless
3 the expenditure is an Owner approved budgeted expense item. Prepare invoices in duplicate. For
4 this Agreement, send the original and duplicate copies of invoices to:

5 Perris Park Housing LLC.

6 5555 Arlington Avenue, Riverside, CA 92504

7 Attn: Jennifer Paz

- 8 a) Each invoice shall contain a minimum of the following information: invoice number and
9 date; remittance address; itemization of the description of the work (hourly rate and
10 extensions, if applicable); and an invoice total.
- 11 b) Owner shall not pay excess interest and/or late charges.

12 4.3 Owner's obligation for payment of this Agreement beyond the current fiscal year
13 end is contingent upon and limited by the availability of Owner's funding from which payment
14 can be made. No legal liability on the part of the Owner shall arise for payment beyond June 30
15 of each calendar year unless funds are made available for such payment. In the event that such
16 funds are not forthcoming for any reason, Owner shall immediately notify Property Manager in
17 writing, and this Agreement shall be deemed terminated and have no further force and effect.

18 4.4 Property Manager agrees that the compensation set forth in this Section 4
19 constitutes full consideration for all services of Property Manager under this Agreement.
20 Expenses related to Property Manager's corporate employees or to Property Manager's office
21 overhead (including marketing expenses), whether or not allocable to services rendered in the
22 management of the Property, are not to be an Operating Expense of the Property. All rebates,
23 discounts or commissions collected by Property Manager, or credited to Property Manager's use,
24 that relate to the purchasing of supplies or to the rendering of services for the Property, shall be
25 for the benefit of Owner, other than de minimis discounts for bulk purchases or handling charges.
26 Property Manager shall not collect or charge any undisclosed fee, rebate or discount in connection
27 with the management or leasing of the Property.

28 4.5 In the event Property Manager receives payment under this Agreement which is

1 later disallowed by Owner for nonconformance with the terms of the Agreement, Property
2 Manager shall promptly refund the disallowed amount to Owner on request; or at its option,
3 Owner may offset the amount disallowed from any payment due to the Property Manager
4

5 **Article 5: Services of Property Manager**

6 5.1 Property Manager shall disclose to Owner any and all identities of interest that
7 exist or will exist between Property Manager and Owner, suppliers of material and/or services, or
8 vendors in any combination of relationship.

9 5.2 As soon as practicable, Property Manager shall conduct inspections with
10 appropriate staff to thoroughly familiarize itself with the character, construction, and layout of
11 the Property, including the electrical, heating, plumbing, and ventilation systems and all other
12 mechanical equipment located on the Property.

13 5.3 Property Manager shall offer for rent and shall rent the Rental Units in the Property
14 in accordance with all Project Requirements, a rent schedule, including required deposit amounts
15 and conditions, approved in writing by Owner, and the leasing requirements mandated under the
16 Section 8 Program and Low-Income Housing Tax Credit Program. Pursuant to its rental
17 responsibilities, Property Manager shall:

- 18 (a) Coordinate and comply with a current list of acceptable prospective Tenants as
19 maintained by Owner, and undertake all arrangements necessary and incidental to
20 the acceptance of rental applications and the signing of Leases. Property Manager
21 shall market the Rental Units in accordance with the Affirmative Fair Housing
22 Marketing Plan, if applicable, and maintain records of the marketing activity for
23 compliance review purposes. Property Manager shall exercise its best efforts
24 (including, but not limited to, placement of advertising, interview of prospective
25 Tenants, assistance and counseling in completion of rental applications and
26 signing of Leases, processing of documents and credit and employment
27 verifications, and explanation of the program and operations of Owner) to effect
28 the leasing of Rental Units and the renewal of Leases in accordance with the terms

1 of each Lease and the requirements of the Section 8 Program and/or the Low-
2 Income Housing Tax Credit Program so that the Property is occupied as fully as
3 possible.

4 (b) Show Rental Units in the Property to all prospective Tenants.

5 (c) Take and process applications and application fees for rentals, including
6 interviewing and screening prospective Tenants to determine if they meet the
7 Leasing Guidelines and Tenant Selection Criteria as previously determined by
8 Owner. Applicants shall be selected from the waiting list in chronological order.
9 If an application is rejected, the applicant shall be advised in writing of the reason
10 for rejection. If the rejection is based on information from a credit bureau, the
11 source of the report must be revealed to the applicant pursuant to the Fair Credit
12 Reporting Act. The rejected application, together with the written notice of the
13 rejection and any other related correspondence, shall be kept on file for three years
14 following the rejection.

15 (d) Comply with the leasing and "Project Requirements" of the Low-Income Housing
16 Tax Credit Program and/or the Section 8 Program. Property Manager shall lease
17 rental units in the Property only to individuals or families who qualify under the
18 guidelines as defined by the California Health and Safety Code Section 50053(b)
19 (2). The maximum monthly allowances for utilities and services (excluding
20 telephone) will not exceed the utility allowance set by the Housing Authority of
21 the County of Riverside.

22 (e) Comply with the Low-Income Housing Tax Credit Program leasing guidelines
23 and/or Section 8 Program leasing guidelines, applicable to the Rental Unit, and
24 use a lease form that complies in all respects with State and local residential
25 tenant/landlord laws, which Lease shall be subject to the prior written approval of
26 Owner and shall be consistent with the Project Requirements.

27 (f) Certify or re-certify Tenants as required by the Project Requirements, by obtaining
28 tenant certifications and third party verification(s) of tenant income and assets.

- 1 (g) Sign all leases in Property Manager's name, identified as agent for Owner, subject
2 to prior written approval by Owner of any deviation from Owner's approved rent
3 schedule, lease forms and Leasing Guidelines.
- 4 (h) Collect, deposit, and disburse Tenant deposits, if required, in accordance with the
5 terms of each Lease and Section 9.2 hereof.
- 6 (i) Prorate the first month's Rent collected from a Tenant should the Lease term
7 commence on any other day than the first day of the month. If the Lease term
8 occurs after the 25th day of the month, the prorated amount, plus the next month's
9 rent, shall be collected on or before the first day of the Lease term.
- 10 (j) Participate with the Tenant in the inspection of each Rental Unit identified in the
11 Lease prior to move-in and upon move-out, and record in writing any damage to
12 the Rental Unit at the time the Tenant moved in and any damage occurring during
13 the Tenant's occupancy.

14 5.4 If the Property is a rehabilitation of a pre-1978 built building and contains Rental
15 Units with one bedroom or more that are expected to be available to Tenants other than the elderly
16 or disabled, then Property Manager must comply with 24 CFR Part 35, including providing each
17 prospective Tenant a copy of the informational pamphlet entitled Lead-Based Paint: Protect Your
18 Family and a copy of the Lead Hazard Evaluation report on the building prepared by Owner's
19 environmental consultant. Property Manager agrees to indemnify and hold harmless the Owner
20 for any damages and attorneys' fees incurred by Owner or Property Manager for failure to
21 properly implement this Section 5.4.

22 5.5 Property Manager shall collect, when due, all rents, charges and other amounts
23 receivable on Owner's account in connection with the management and operation of the Property.
24 Such receipts shall not be commingled with other funds and shall be deposited and held in the
25 Trust Operating Account in accordance with the provisions of Section 9.1.

26 5.6 Property Manager shall secure full compliance by each Tenant with the terms of
27 such Tenant's Lease and in a manner consistent with the Landlord-Tenant laws governing the
28 Property and the Project Requirements. Voluntary compliance will be emphasized, and Property

1 Manager shall counsel Tenants and make referrals to community agencies in cases of financial
2 hardship or under other circumstances deemed appropriate by Property Manager, to the end that
3 involuntary termination of tenancies may be avoided to the maximum extent consistent with
4 sound management of the Property. Nevertheless, Property Manager may, and shall if requested
5 by Owner, lawfully terminate any tenancy when, in Property Manager's judgment, sufficient
6 lawful cause for such termination occurs under the terms of Tenant's Lease and the Project
7 Requirements, including, but not limited to, nonpayment of rent. For this purpose, Property
8 Manager is authorized to consult with legal counsel as necessary and bring legally supported
9 actions for eviction and execute notices to vacate and judicial pleadings incident to such actions;
10 provided, however, that Property Manager shall provide Owner with prior written notice of such
11 actions and shall follow such instructions as Owner may prescribe for the conduct of any such
12 action. Project Manager shall conduct all eviction actions in accordance with applicable federal,
13 state and local laws, including, but not limited to the Section 8 Program and Low-Income Housing
14 Tax Credit Program. Reasonable attorney fees and other necessary costs incurred in connection
15 with such actions, as determined by Owner, shall be paid out of the Trust Operating Account.
16 Property Manager shall properly assess and collect from each Tenant or the Tenant Deposit the
17 cost of repairing any damages to a Rental Unit arising during the Tenant's occupancy.

18 5.7 Property Manager will ensure that the Property is maintained and repaired in
19 accordance with Owner's specifications, Housing Quality Standards (HQS) as set forth in 24 CFR
20 Part 982 et seq., and all applicable state and local health and building codes. Property Manager
21 shall, at Owner's expense, maintain the Property in a decent, safe, and sanitary condition. Property
22 Manager will ensure that the site will be kept in a condition acceptable to Owner, including but
23 not limited to cleaning, painting, decorating, plumbing, carpentry, grounds care, and such other
24 maintenance and repair work as may be necessary. The following provisions will apply:

- 25 (a) Special attention shall be given to preventive maintenance.
- 26 (b) Subject to Owner's prior written approval, Property Manager shall contract with
27 qualified independent contractors for the maintenance and repair of major
28 mechanical systems, and for the performance of extraordinary repairs beyond the

1 capability of regular maintenance personnel. Prior to commencement of any work
2 Property Manager shall obtain appropriate written evidence of such contractor's
3 liability and worker's compensation insurance.

4 (c) Property Manager shall systematically and promptly receive and investigate all
5 service requests from Tenants, take such action thereon as may be justified, and
6 keep records of the same. Emergency requests shall be serviced on a 24-hour
7 basis. Complaints of a serious nature shall be reported to Owner after investigation.
8 At Owner's request, Owner shall receive all service requests and the reports of
9 action thereon.

10 (d) Property Manager shall take such action as may be necessary to comply with any
11 and all orders and requirements of federal, state, county, and municipal authorities
12 and of any board of fire underwriters, insurance companies, and other similar
13 bodies pertaining to the Property.

14 (e) Except as otherwise provided in this Section 5, Property Manager is authorized to
15 purchase, at Owner's expense, all materials, equipment, tools, appliances, supplies
16 and services necessary for proper maintenance and repair of the Property. Property
17 Manager shall obtain bids for all contracts, materials, supplies, utilities, and
18 services exceeding One Thousand Two Hundred Dollars (\$1,200.00) for those
19 items that can be obtained from more than one source. Property Manager shall
20 secure and credit to Owner all discounts, rebates, or commissions obtainable with
21 respect to purchase, service contracts, and all other transactions on Owner's behalf.

22 (f) Notwithstanding the foregoing, the prior written approval of Owner will be
23 required for any contract that exceeds one year in duration, or expenditure that
24 exceeds One Thousand Two Hundred Dollars (\$1,200.00) in any one instance, for
25 labor, materials, or otherwise in connection with the maintenance and repair of the
26 Property, except for emergency repairs involving manifest danger to persons or
27 property, or required to avoid suspension of any necessary service to the Property.
28

1 (g) In the event of emergency repairs, Property Manager shall notify Owner promptly,
2 and in no event later than seventy-two (72) hours from the occurrence of the event.

3 (h) If Property Manager uses its own employees to perform maintenance, the charge
4 for such employees shall be the payroll salary identified in the budget, including
5 all fringe benefits and payroll taxes.

6 (i) Property Manager shall use all best efforts to re-rent vacant units within twenty
7 (20) business days.

8 5.8 Property Manager shall make arrangements for water, electricity, gas, sewage, and
9 trash disposal, vermin extermination, decoration of common areas, laundry facilities, telephone
10 services, and other necessary services in connection with the Property. Subject to Owner's prior
11 written consent as required in Section 5.7, Property Manager shall make such contracts as may
12 be necessary to secure such utilities and services. Property Manager shall also include the
13 collection of utility bills from Tenants in lease provisions developed for the Property and use this
14 information to track the efficiency of energy efficiency improvements implemented in the
15 rehabilitation of the Property.

16 5.9 All personnel assigned to work on the Property shall be contracted service
17 providers or employees of Property Manager, who are subject to the approval of Owner, and shall
18 be paid by Property Manager out of the Operations Account as agreed to in the annual budget.

19 5.10 Disbursements from the Trust Operating Account shall be made in accordance
20 with the operating budget prepared pursuant to Section 5.11. In the event that the balance in the
21 Trust Operating Account is at any time insufficient to pay disbursements due and payable under
22 this Section 5.10, Property Manager shall promptly inform Owner of the fact and Owner may
23 then remit to Property Manager sufficient funds to cover the deficiency. In no event shall Property
24 Manager be required to use its own funds to pay such disbursements or be liable for any losses,
25 costs, or damages arising out of Owner's failure to cover the deficiency.

26 5.11 Operating Budget.

27 (a) Property Manager shall prepare a recommended annual operating budget and
28 projected rental rates for the Property for each Fiscal Year during the term of this

1 Agreement. Property Manager shall submit the annual operating budget to Owner
2 at least ninety (90) days before the beginning of such Fiscal Year. The proposed
3 budget shall be subject to approval by Owner in its discretion. Owner shall inform
4 Property Manager of any changes incorporated in the approved operating budget
5 within forty-five (45) days after receipt from Property Manager.

6 (b) The annual operating budget shall include a schedule of recommended rents to be
7 charged for each Rental Unit, including recommended Rent increases with respect
8 to Lease renewals and new Leases. The recommended rents shall be in compliance
9 with all applicable Project Requirements, including consideration of changes in
10 median family income and utility allowances.

11 (c) In preparing each proposed annual operating budget, Property Manager shall use
12 its best efforts to take into account anticipated increases in real estate taxes, utility
13 charges, and other operating costs. To the extent feasible, Property Manager shall
14 support anticipated increases in real estate taxes and utility charges with written
15 evidence or documentation.

16 (d) At the same time Property Manager prepares the annual operating budget, Property
17 Manager shall prepare, at Owner's request, an informal assessment based on
18 Property Manager's expertise, of the capital needs of the Property for the coming
19 Fiscal Year and for the two (2) Fiscal Years following the coming Fiscal Year.

20 (e) Property Manager shall make no expenditures in excess of the amounts in the
21 approved operating budget, for each line item of operation expense itemized,
22 without the prior written approval of Owner, except as permitted pursuant to
23 Section 5.7 for emergency repairs involving manifest danger to persons or
24 property, or required to avoid suspension of any necessary services to the Property.

25 (f) In no event shall any Security Deposits, any Gross Collections or any other funds
26 from the Property be commingled with any other funds, and in no event shall any
27 funds attributable to the Property of Owner be used for the benefit of the property
28 of another owner.

1 (g) Property Manager acknowledges and agrees that it is collecting and processing
2 rents and other charges and collections solely as the Property Manager for Owner.
3 Property Manager has no right to, or title in, the rents and other charges and
4 collections collected or processed with respect to the Property. In any bankruptcy,
5 insolvency or similar proceeding, Property Manager, or any trustee acting on
6 behalf of Property Manager, waives any claim to such rents and other charges and
7 collections other than as such may be used to pay the fees and compensation of
8 Property Manager pursuant to the terms and conditions of this Agreement.

9 5.12 Escrow and Tax Payments; Property Tax Exemption.

10 (a) If there is a mortgage loan on the Property, Property Manager shall make monthly
11 escrow payments required under the mortgage loan for the purpose of funding,
12 insurance, tax, and such other reserve or escrow accounts from funds collected in
13 accordance with Project Requirements. Property Manager shall promptly present
14 tax bills and insurance premium notices to the escrow agent for payment and shall
15 furnish Owner with evidence of timely payment of such taxes and insurance
16 premiums, and of timely payment of mortgage and escrow payments. If the
17 Property does not have a mortgage loan, then Property Manager shall make
18 monthly escrow payments into appropriate Property savings accounts and shall
19 timely pay bills from these accounts.

20 5.13 Property Manager shall acquire and keep in force at Owner's expense, any and all
21 licenses and permits required for the operation of the Property as rental housing.

22 5.14 Reports.

23 Owner may have entered into regulatory agreements governing the operations,
24 management, and maintenance of the Property. These documents are incorporated herein by this
25 reference, and Property Manager agrees to comply with them. Property Manager also agrees to
26 comply with the requirements of Section 42 of the Internal Revenue Service (IRS) Code, if
27 applicable.
28

1 Property Manager shall prepare standard reports required by the applicable governmental
2 authority. The preparation of any non-standard report or documentation shall not be included as
3 part of this Agreement. Preparation of the: Annual Owner Certification (AOC), Project
4 Ownership Profile (POP), Annual Operating Expense Report (AOE) and Lender Profile Form
5 (LP) required for tax credit projects are not considered standard reports and shall be prepared by
6 Owner. For HUD projects, Owner will participate in completing the Management Occupancy
7 Review (MOR) addendums B & C.

8 Property Manager shall prepare all reports required by the Project Requirements. Upon
9 Owner's request, Property Manager shall send all such reports to Owner for Owner's prior
10 approval, which approval shall not be unreasonably withheld or delayed; provided, however, that
11 Owner shall have two weeks to review such reports prior to submission to any government
12 agency, if required. Additionally, Property Manager shall have the following responsibilities with
13 respect to records and reports:

- 14 (a) Reports will be prepared, distributed and maintained in a manner satisfactory to
15 Owner. Property Manager shall provide Owner with a copy of all such reports.
- 16 (b) Property Manager shall establish and maintain a system of records, books, and
17 accounts in a manner satisfactory to Owner, which is consistent with and for the
18 durations mandated by the "Project Requirements". All records, books, and
19 accounts shall be subject to examination at reasonable hours upon reasonable
20 notice by any authorized representative of Owner.
- 21 (c) On or before the 20th day of the month, Property Manager shall prepare and
22 provide to Owner a monthly report in a form satisfactory to Owner, including at
23 least the following:
- 24 (i) A statement of income and expenses for the preceding month and year-to-
25 date, including a comparison with the approved budget for the same periods;
26 the income portion of the statement shall include, a statement of gross potential
27 rental income (i.e., rental income if the Property were at 100% occupancy for
28

1 the month), vacancy loss, actual rental income collected, Gross Collection and
2 Operating expenses, and an itemized statement of other income received

3 (ii) An itemized list of all delinquent rents as of the 10th day of such month,
4 as well as a report of action taken thereon by Property Manager; a rent
5 roll/cash receipts form for the previous month, including the number of
6 occupied and vacant units and the physical vacancy rate;

7 (iii) A summary of disbursements and adjusting journal entries for the
8 previous month

9 (iv) A balance sheet for the preceding month, including accounts receivable
10 and payable, and cash balances in bank accounts (including separate security
11 account balance), a report on aged receivables and any action taken thereon by
12 Property Manager.

13 (v) Upon request of Owner, all reports outlined in this Section 5.14, and

14 (vi) A narrative addressing the following:

15 (A) Any unusual actions taken or emergencies responded to, and any
16 accidents, claims, and potential claims for the previous month, and
17 any outstanding maintenance requests.

18 a. A report of any claims that may be made by a Tenant or any
19 other Person arising out of the Property relating to any injury,
20 damage, loss, liability, cost, expense or other similar issues,
21 whether or not covered by insurance (the "Claims Report"), a
22 copy of which will be transmitted to Owner and its insurance
23 agent within twenty-four (24) hours of receipt by Property
24 Manager.

25 (B) The annualized expenses per unit per year and, if there is a Mortgage
26 Loan on the Property, the Debt Coverage Ratio,

27 (C) Turnovers during the month,
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- (D) An explanation for any expense items varying by more than twenty-five percent (25%) from budget;
 - (E) A statement of the number of Leases expiring in the upcoming month and whether Tenant has given or been given notice to vacate; and
 - (F) Any other information required by the Project Requirements.
- (vii) A monthly reconciliation of the Trust Deposit Accounts and Trust Operating Accounts and all deposits, disbursements, fees and charges, fund balances and all related information (the "Account Reconciliations"), not later than twenty (20) days following the end of each month.
- (d) On or before the 20th calendar day of each month:
- (i) A monthly income and expense statement (on a form furnished or approved by Operating Partnership and certified by Property Manager) that shows detail of all Gross Collection and Operating Expenses;
 - (ii) An up-to-date rent roll, including a Tenant delinquency report and a vacancy report, in a format to be determined by Owner;
 - (iii) Security deposit funds detail;
 - (iv) A balance sheet;
 - (v) Accounts receivable;
 - (vi) Accounts payable aging;
 - (vii) Expense distribution in Excel, TenMast or other Owner acceptable format;
 - (viii) Income register in Excel, TenMast or other Owner acceptable format;
 - (ix) Management Fees support;
 - (x) The monthly closing reports; and
 - (xi) Such other reports and supporting data as reasonably requested by Owner.
- (e) Property Manager shall prepare, sign, and file all forms, reports, and returns required by law in connection with Property Manager's employment of personnel, unemployment insurance, workers' compensation insurance, disability benefits,

1 social security, and other similar insurance, and all other benefits or taxes now in
2 effect or hereafter imposed.

3 (f) Unless otherwise agreed and delineated in Article 4, all off-site bookkeeping, data
4 processing services, report preparation and management overhead expenses shall
5 be paid for by Property Manager, from the Management Fee.

6 (g) Property Manager shall promptly furnish such additional information (including
7 monthly occupancy reports, Property's balance sheets, monthly budgeted and
8 actual income and expense reports, and Tenant eligibility reports) as may be
9 requested from time to time by Owner, the State of California or by HUD with
10 respect to the leasing, financial, physical, or operational condition of the Property.

11 (h) Property Manager shall establish Tenant files containing copies of Leases,
12 certification forms, notices, and other documentation required by Owner as
13 necessary to conform to the Project Requirements.

14 5.15 As additional support to the monthly financial statement required pursuant to
15 Section 5.14(c) above, Property Manager shall provide, upon Owner's request, copies of the
16 following:

- 17 A. All bank statements, bank deposit slips, and bank reconciliations;
- 18 B. Detailed cash receipts and disbursements records;
- 19 C. Detailed trial balance;
- 20 D. Paid invoices; and
- 21 E. Tenant eligibility reports.

22 5.16 Property Manager shall encourage and assist Tenants to take ownership of their
23 unit and to increase their ability and incentive to protect and maintain the Property and to
24 contribute to its efficient management. Property Manager agrees to handle all Tenant relationships
25 in a manner that incorporates professional business standards with sensitivity to the social,
26 physical, economic and emotional needs of the individuals that reside at the Property.

27 5.17 Property Manager shall be available for communications with Owner and shall
28 keep Owner advised of items materially affecting the Property. Property Manager and Owner

1 shall establish a planned schedule for communications. However, Property Manager also agrees
2 to cause a representative of Property Manager to attend meetings with Owner at any times
3 requested by Owner.

4 5.18 Property Manager will promote, cooperate with, and support any and all resident
5 assistance programs the Owner employs for the Property.

6 5.19 Management Plan.

7 (a) If not attached hereto, then within thirty (30) days from the Effective Date of this
8 Agreement, Property Manager shall provide Owner with a copy of the
9 Management Plan for the Property. The Management Plan provides a
10 comprehensive and detailed description of the policies and procedures to be
11 followed in the management of the Property. Owner shall review and approve the
12 Management Plan within forty-five (45) days after Owner receives the Plan from
13 Property Manager.

14 (b) Property Manager shall conduct its management activities in accordance with the
15 policies and procedures as set forth in the Management Plan. In addition, Property
16 Manager will carry out the tasks and responsibilities set forth in Sections 5.1
17 through 5.19 of this Agreement. The Management Plan will be reviewed annually
18 at the time the annual budget is being created to assure Owner's objectives for the
19 Property are clear and being achieved.

20 (c) An identification of duties and supervisory relationship for Property site-assigned
21 staff and Property Manager's office staff are described in the Management Plan as
22 is the pro rata division of singularly incurred operating expense common to the
23 Property Manager and Owner.

24 5.20 Property Manager shall perform such other acts and deeds requested by Owner as
25 are reasonable, necessary and proper in the discharge of Property Manager's duties under this
26 Agreement.

1 5.21 Property Manager shall organize and maintain accurate records of all of the
2 information and data prepared by or used by Property Manager in the performance of its duties,
3 including the following (collectively, the "Records"):

4 (a) All Security Deposits, Gross Collections, Operating Expenses and Management Fees;

5 (b) The original of each Lease and Tenant application;

6 (c) Each approved budget;

7 (d) The banking statements, Account Reconciliations and all back-up information
8 (including proposals, invoices, receipts, etc.) for both the Trust Deposit Accounts and Trust
9 Operating Accounts; and

10 (e) Insurance policies, all reports required under this Agreement and all correspondence
11 and activities with respect to such policies and reports.

12 (f) The Records shall be open for inspection by Owner at all reasonable times and shall
13 be sufficiently detailed to allow Owner to trace payments and withdrawals. Property Manager
14 shall provide reasonable assistance in the conduct of any audit of the financial statements of
15 Owner or any of its clients or affiliates. Property Manager shall keep safe and intact all such
16 Records for a period of seven (7) years after the year to which the records pertain.

17 5.22 Property Manager agrees that all materials, reports, or products in any form,
18 including electronic, created by Property Manager for which Property Manager has been
19 compensated by Owner pursuant to this Agreement shall be the sole property of Owner, and may
20 be used by Owner for any purpose Owner deems to be appropriate, including but not limited to
21 duplication and/or distribution within Owner's organization or to third parties. Property Manager
22 agrees not to release or circulate in whole or part such materials, reports or products without prior
23 written authorization of Owner.

24 5.23 Property Manager is not responsible for any material errors in Tenant files prior to
25 the beginning date of this Agreement. Property Manager will conduct a sample file inspection
26 within thirty (30) days of beginning management services and submit a report to Owner to address
27 any file errors, if found.

28

1 The correction of material errors in files prior to this Agreement shall not be included as
2 part of this Agreement. Owner agrees to have all material errors corrected by: (1) Property
3 Manager with a mutually agreed upon subsequent agreement or (2) An independent consultant.
4

5 **Article 6: Management Authority**

6 6.1 Property Manager's authority is expressly limited to the provisions contained
7 herein, as they may be amended in writing from time to time in accordance with the provisions
8 of this Agreement. Owner expressly withholds from Property Manager any power or authority
9 to make any structural change in the Property or to make any other major alterations or additions
10 in or to the Property or to the fixtures or equipment therein, or to incur any expense chargeable to
11 Owner other than expenses related to exercising the express powers granted to Property Manager
12 by the terms of this Agreement, without the prior written consent of Owner, which may be granted
13 or denied in its sole and absolute discretion.

14 6.2 Property Manager shall have the right to engage independent contractors for
15 performance of such of its duties hereunder as Property Manager deems necessary, other than for
16 routine maintenance and minor physical repairs, which are pre-approved operating expenses, but
17 Property Manager shall have the responsibility for supervision of the performance of such duties.
18 All contracts with independent contractors in excess of One Thousand Two Hundred Dollars
19 (\$1,200.00) shall be subject to the prior written consent of Owner pursuant to Section 5.7 (f) of
20 this Agreement. Expenses associated with such delegation of Property Manager's duties shall be
21 solely the responsibility of Property Manager and payable solely out of the Management Fees set
22 forth in Article 4.

23 6.3 Property Manager shall comply fully with all federal, state, county, municipal and
24 special district laws, ordinances, rules, regulations, and orders relative to the leasing, use,
25 operation, repair, and maintenance of the Property. Property Manager shall promptly remedy any
26 violation of any such law, ordinance, rule, code, or regulation which comes to its attention and
27 shall notify Owner in writing by the end of the next business day after Property Manager becomes
28 aware of any violation for which Owner may be subject to penalty. Property Manager shall take

1 no action so long as Owner is contesting or has affirmed its intention to contest any such order or
2 requirement.

3 6.4 In the performance of its obligations under this Agreement, Property Manager will
4 comply with the provisions of any Federal, State, or local Fair Housing law prohibiting
5 discrimination in housing or employment on the grounds of race, color, religion, sex, familial
6 status, national origin, or handicap, and other nondiscrimination laws such as Title VI of the Civil
7 Rights Act of 1964 (Public law 88-352, 78 Stat. 341), Section 504 of the Rehabilitation Act of
8 1973, and the Age Discrimination Act of 1975, and the Americans with Disabilities Act, as
9 applicable.

10 6.5 Property Manager shall maintain as confidential any financial information
11 obtained from or about Owner, even after termination of this Agreement. Property Manager shall
12 observe all Federal, State and Owner regulations concerning confidentiality of records. Property
13 Manager shall refer all requests for information to Owner in writing.

14 6.6 Property Manager shall not use for personal gain or make other improper use of
15 privileged or confidential information which is acquired in connection with this Agreement. The
16 term "privileged or confidential information" includes but is not limited to: unpublished or
17 sensitive technological or scientific information; medical, personnel, or security records;
18 anticipated material requirements or pricing/purchasing actions; Owner's information or data
19 which is not subject to public disclosure; Owner's operational procedures; and knowledge of
20 selection of contractors, subcontractors or suppliers in advance of official announcement.

21 6.7 Property Manager shall protect from unauthorized disclosure names and other
22 identifying information concerning persons receiving services pursuant to this Agreement, except
23 for general statistical information not identifying any person. The Property Manager shall not use
24 such information for any purpose other than carrying out Owner's obligations under this
25 Agreement. Property Manager shall promptly transmit to Owner all third party requests for
26 disclosure of such information. Property Manager shall not disclose, except as otherwise
27 specifically permitted by this Agreement or authorized in advance in writing by Owner, any such
28 information to anyone other than Owner. For purposes of this Section, identity shall include, but

1 not be limited to, name, identifying number, symbol, or other identifying particular assigned to
2 the individual, such as finger or voice print or a photograph.

3 6.8 Use, Access, and Storage of Social Security Numbers (SSNs).

- 4 (a) SSNs will be collected by Property Manager from all applicants as required.
- 5 (b) All documents containing SSNs shall be stored in locked, secured areas. All
6 computer applications containing SSNs shall be maintained on secured,
7 authorized-access computer stations only.
- 8 (c) Only persons who have a legitimate business reason shall have access to SSNs.
9 Such access will be granted through department heads responsible for functions
10 with reporting or transporting of such data responsibilities. Department heads and
11 employees granted such access shall take all necessary precautions to ensure the
12 integrity of records that include such numbers when the records are not being used.
- 13 (d) Records that include SSNs shall be maintained in accordance with Federal and
14 State law. When such documents are released for destruction, the records shall be
15 destroyed by shredding.
- 16 (e) If this Agreement or any part thereof, conflicts with California state law, the state
17 law shall supersede this Agreement, or the relevant portion thereof.

18 6.9 Property Manager covenants that it presently has no interest, including, but not
19 limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect,
20 which would conflict in any manner or degree with Property Manager's performance under this
21 Agreement. Property Manager further covenants that no person or subcontractor having any such
22 interest shall be employed or retained by Property Manager under this Agreement. Property
23 Manager agrees to inform Owner of all the Property Manager's interests, if any, which are or may
24 be perceived as incompatible with Owner's interests.

25 6.10 Property Manager shall not, under circumstances which could be interpreted as an
26 attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special
27 favor from individuals or firms with whom the Property Manager is doing business or proposing
28 to do business, in accomplishing the work under this Agreement.

1 6.11 Property Manager or its employees shall not offer gifts, gratuity, favors, and
2 entertainment directly or indirectly to Owner's employees.

3 **Article 7: Insurance and Indemnification**

4 7.1 Property Manager shall be personally liable for its breaches of this Agreement and
5 for damages and costs (including reasonable attorney fees) resulting from Property Manager's
6 negligence or misconduct.

7 7.2 Insurance. Without limiting or diminishing Property Manager's obligation to
8 indemnify or hold Owner harmless, Property Manager shall procure and maintain or cause to be
9 maintained, the following insurance coverage's during the term of this Agreement. As respects to
10 the insurance section only, Owner herein refers to the Perris Park Housing LLC., Riverside
11 Community Housing Corp., The Housing Authority of the County of Riverside, their respective
12 Agencies, Districts, Special Districts, and Departments, and their respective directors, officers,
13 Board of Directors, Board of Supervisors, employees, elected or appointed officials, agents or
14 representatives as Additional Insureds.

15 (a) Workers' Compensation:

16 If Property Manager has employees as defined by the State of California they shall procure and
17 maintain Workers' Compensation Insurance, in full compliance with the Workers' Compensation
18 and Occupational Disease Laws of all authorities having jurisdiction over the Property. Such
19 policy shall include Employer's Liability (Coverage B) and Occupational Disease coverage, with
20 limits not less than One Million Dollars (\$1,000,000) per person, per occurrence. Policy shall
21 provide a Waiver of Subrogation in favor of Owner.

22 (b) Commercial General Liability:

23 Procure and maintain comprehensive general liability insurance coverage that shall protect Owner
24 from claims for damages for personal injury, including, but not limited to, accidental and
25 wrongful death, as well as from claims for property damage, which may arise from Property
26 Manager's use of the Property or the performance of its obligations hereunder, whether such use
27 or performance be by Property Manager, by any subcontractor, or by anyone employed directly
28 or indirectly by either of them. Policy shall also include fire and extended coverage on the

1 improvements, alterations and fixtures to be constructed and installed upon the Property in an
2 amount not less than the full replacement value of such improvements, alterations and fixtures.
3 Such insurance shall name Owner as an additional insured with respect to this Agreement and the
4 obligations of Property Manager hereunder. Such insurance shall provide for limits of not less
5 than One Million Dollars (\$1,000,000) per occurrence. If such insurance contains a general
6 aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the
7 occurrence limit.

8 (c) Vehicle Liability:

9 If vehicles or mobile equipment are used in the performance of the obligations under this
10 Agreement, then Property Manager shall maintain liability insurance for all owned, non-owned
11 or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single
12 limit. If such insurance contains a general aggregate limit, it shall apply separately to this
13 agreement or be no less than two (2) times the occurrence limit. Policy shall name Owner as
14 Additional Insureds.

15 (d) Professional Liability:

16 Property Manager shall maintain Professional Liability Insurance providing coverage for the
17 Property Manager's performance of work included within this Agreement, with a limit of liability
18 of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If Property
19 Manager's Professional Liability Insurance is written on a claims made basis rather than an
20 occurrence basis, such insurance shall continue through the term of this Agreement and
21 Property Manager shall purchase either 1) an Extended Reporting Endorsement (also, known as
22 Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the
23 date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of
24 Insurance that Property Manager has maintained continuous coverage with the same or original
25 insurer. Coverage provided under items; 1), 2), or 3) will continue as long as the law allows.

26 (e) General Insurance Provisions - All lines:

27 1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of
28 California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements

1 are waived, in writing, by Owner's Risk Manager. If Owner's Risk Manager waives a requirement
2 for a particular insurer such waiver is only valid for that specific insurer and only for one policy
3 term.

4 2) The insurance requirements contained in this Agreement may be met with a program(s) of self-
5 insurance. Property Manager must declare its insurance self-insured retention for each coverage
6 required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such
7 retention shall have the prior written consent of Owner's Risk Manager before the commencement
8 of operations under this Agreement. Upon notification of self-insured retention unacceptable to
9 Owner, and at the election of Owner's Risk Manager, Property Manager's carriers shall either; 1)
10 reduce or eliminate such self-insured retention as respects this Agreement with Owner, or 2)
11 procure a bond which guarantees payment of losses and related investigations, claims
12 administration, and defense costs and expenses.

13 3) Property Manager shall cause Property Manager's insurance carrier(s) to furnish Owner with
14 a properly executed Certificate(s) of Insurance and copies of Endorsements effecting coverage as
15 required herein. Further, said Certificate(s) and policies of insurance shall contain the covenant
16 of the insurance carrier(s) that a minimum of thirty (30) days written notice shall be given to
17 Owner prior to any material modification, cancellation, expiration or reduction in coverage of
18 such insurance. If Property Manager's insurance carrier(s) policies does not meet the minimum
19 notice requirement found herein, Property Manager shall cause Property Manager's insurance
20 carrier(s) to furnish a 30-day Notice of Cancellation Endorsement.

21 4) In the event of a material modification, cancellation, expiration, or reduction in coverage, this
22 Agreement shall terminate forthwith, unless Owner receives, prior to such effective date, another
23 properly executed Certificate of Insurance and copies of endorsements evidencing coverage's set
24 forth herein and the insurance required herein is in full force and effect. Property Manager shall
25 not commence operations until Owner has been furnished Certificate(s) of Insurance and copies
26 of endorsements. An individual authorized by the insurance carrier to do so on its behalf shall
27 sign the original endorsements for each policy and the Certificate of Insurance.