ATTACHMENTS FOR ITEM 70
DISPOSITION AND DEVELOPMENT AGREEMENT

Between

THE PERRIS HOUSING AUTHORITY,

a public body, corporate and politic

and

AMCAL MULTI-HOUSING, INC.,

a California corporation

____________________ Apartments)
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DISPOSITION AND DEVELOPMENT AGREEMENT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT ("Agreement") is entered into as of the date executed by the Authority, between the PERRIS HOUSING AUTHORITY, a public body, corporate and politic ("Authority"), and AMCAL MULTI-HOUSING, INC., a California corporation ("Developer"). The parties agree as follows:

RECITALS

A. This Agreement and the Attachments hereto are made pursuant to Health & Safety Code Section 34200 et seq., which authorizes the Authority to carry out, provide financing for, and/or assist in the construction, reconstruction, improvement, alteration, or repair of housing projects for persons of low, very low, and extremely low income.

B. Through this Agreement, Authority intends to assist with Developer's development, operation, and use of a mixed-use affordable housing apartment complex with commercial and/or retail uses within a transit oriented development project area, to be located at 101 North "D" Street, Perris (constituting Assessor's Parcel Numbers 313-092-001, 313-092-007, and 313-092-022). All of the residential units within the Project, other than the Manager's Unit, will be rental units covenanted to be available to Low, Very Low, and Extremely Low Income Households (as said terms are defined herein).

1. DEFINITIONS

The following terms as used in this Agreement shall have the meanings given unless expressly provided to the contrary:

1.1 Affordable Rent.

The term "Affordable Rent" shall have the meaning prescribed for that term in Health and Safety Code § 50053(b) and the regulations promulgated pursuant to or incorporated therein, including, without limitation, any applicable regulations promulgated pursuant to Health and Safety Code § 50093.

Extremely Low Income Households are entitled to receive Affordable Rent, including a reasonable utility allowance, which does not exceed the product of thirty percent (30%) times thirty percent (30%) of the area median income, adjusted for family size appropriate for the unit.

Very Low Income Households are entitled to receive Affordable Rent, including a reasonable utility allowance, which does not exceed the product of thirty percent (30%) times fifty percent (50%) of the area median income, adjusted for family size appropriate for the unit.

Low Income Households are entitled to receive Affordable Rent, including a reasonable utility allowance, which does not exceed the product of thirty percent (30%) times sixty percent (60%) of the area median income, adjusted for family size appropriate for the unit.

Notwithstanding anything to the contrary set forth herein, in the event of a conflict between the Affordable Rent set forth herein and the rent which the Developer may charge for a tenant of the
same percentage of area median income, pursuant to the rules and regulations of the California Strategic Growth Council, the Developer may elect to use the rents established by the California Strategic Growth Council, if applicable.

1.2 Authority.

The term “Authority” shall mean the Perris Housing Authority.

1.3 Authority Financial Assistance.

The term “Authority Financial Assistance” shall have the meaning ascribed in Section 3.3.

1.4 Agreement.

The term “Agreement” shall mean this entire Disposition and Development Agreement, including all attachments, which attachments are a part hereof and incorporated herein in their entirety, and all other documents incorporated herein by reference.

1.5 City.

The term “City” shall mean the City of Perris, California.

1.6 Closing

The term “Closing” or “Closing Date” shall mean the closing of Escrow by the Escrow Agent distributing the funds and documents received through Escrow to the party entitled thereto as provided herein, which closing shall occur on or before the date established in the Schedule of Performance.

1.7 Days.

The term “days” shall mean calendar days and the statement of any time period herein shall be calendar days, and not working days, unless otherwise specified.

1.8 Deed

The term “Deed” or “Grant Deed” shall mean that Grant Deed in substantially the form attached hereto as Attachment No. 6 by which Authority as Grantor will convey fee title to the Site to Developer as Grantee.

1.9 Deed of Trust.

The term “Deed of Trust” shall refer to that deed of trust and assignment of rents attached hereto as Attachment No. 8, securing the performance of the Regulatory Agreement and the Grant Deed.
1.10  **Effective Date.**

The Effective Date of this Agreement shall occur after public hearing and approval hereof by the Authority, and shall mean the date this Agreement is executed on behalf of the Authority and the Developer.

1.11  **Enforced Delay.**

The term “Enforced Delay” shall mean any delay described in Section 8.3 caused without fault and beyond the reasonable control of a party, which delay shall justify an extension of time to perform as provided in Section 8.3.

1.12  **Escrow**

The term “Escrow” shall mean the escrow established pursuant to this Agreement for the conveyance of title to the Site from Authority to Developer.

1.13  **Escrow Agent.**

The term “Escrow Agent” shall mean Lawyers Title Company located at 888 South Figueroa, Suite 2100, Los Angeles, CA 90017 and empowered hereunder to act as the Escrow Agent for this transaction. The Escrow Agent contact shall be Sara Soudani, (805) 766-3835.

1.14  **Extremely Low Income Household.**

The term “Extremely Low Income Household” shall mean a household whose income does not exceed thirty percent (30%) of the area median income for Riverside County, adjusted for applicable household size, as computed in accordance with Health & Safety Code Section 50106 and the regulations promulgated pursuant thereto or incorporated therein, including, without limitation, all regulations promulgated pursuant to Health and Safety Code Section 50093, or any successor statute.

1.15  **Housing Plan.**

The term “Housing Plan” shall mean the Housing Plan for the Central/North Housing Project Area in the City of Perris, as adopted by Ordinance No. 580 of the City Council on May 31, 1983, and as such Housing Plan has been amended from time to time. Authority hereby warrants and represents that the Housing Plan was validly adopted and is in full force and effect, that the applicable limitations period for challenging the validity of the Housing Plan has expired, and that the proposed Project is in accordance with and permissible under the Housing Plan. A copy of the Housing Plan is on file in the office of the City Clerk of the City, located at 101 North “D” Street, Perris, California 92570. The Housing Plan is incorporated herein by reference and made a part hereof as though fully set forth herein.
1.16 **Housing Project Area.**

The term “Housing Project Area” shall mean the Central/North Perris Housing Project Area that is located in the City of Perris, California. The exact boundaries of the Housing Project Area are specifically described in the Housing Plan.

1.17 **Low Income Household.**

The term “Low Income Household” shall mean a household whose income does not exceed eighty percent (80%) of the area median income for Riverside County, adjusted for applicable household size, as computed in accordance with Health & Safety Code Section 50079.5 and the regulations promulgated pursuant thereto or incorporated therein, including, without limitation, all regulations promulgated pursuant to Health and Safety Code Section 50093, or any successor statute.

1.18 **Manager’s Unit**

The term “Manager’s Unit” shall mean the one (1) housing unit within the Project that shall be designated by Developer as a residence for a “Qualified Manager.” The Manager’s Unit shall not be a restricted Residential Unit.

1.19 **Project.**

The term “Project” shall mean all of the improvements required to be constructed by Developer on the Site and each parcel thereof pursuant to this Agreement, including, but not limited to, the construction of buildings, glass and concrete work, landscaping, construction of parking areas, and related improvements. The overall Project is more particularly described in the Scope of Development attached hereto as **Attachment No. 4.** Upon completion, the Project will consist of a 60-unit affordable housing apartment complex located within a transit oriented development project area.

Notwithstanding anything to the contrary set forth herein, in the event of a conflict between the total number of restricted affordable units set forth herein and the total number of restricted affordable units which the Authority may require by statute, Developer may elect to use the affordable unit restrictions established by the rules and regulations of the California Strategic Growth Council, if applicable.

1.20 **Qualified Tenant.**

The term “Qualified Tenant” shall mean those households seeking to rent a Residential Unit who satisfy all of the following requirements:

a. Upon execution of a lease with Developer pursuant to this Agreement, each member of the household shall occupy the Residential Unit as its principal residence, and each member shall intend to thereafter continuously occupy such Residential Unit as its principal residence.

b. The household has been selected in accordance with the tenant selection criteria set forth in the Regulatory Agreement.
c. Upon execution of a lease with Developer pursuant to this Agreement, the household is a Low, Very Low, or Extremely Low Income Household in accordance with this Agreement.

1.21 Regulatory Agreement.

The term “Regulatory Agreement” shall mean that Regulatory Agreement attached hereto as Attachment No. 7, running with the land and providing for the proper maintenance of common facilities and improvements and the management and use of the Project, which also sets forth the limitations on occupancy, residency, and use of the Residential Units.

1.22 Reimbursement Parcel

The term “Reimbursement Parcel” shall mean the one (1) parcel with Assessor’s Parcel Number 313-081-005 which shall be purchased and or owned by Developer and for which the Authority shall acquire from Developer. The Reimbursement Parcel is depicted as Parcel 1 on the Site Map.

1.23 Release of Construction Covenants.

The term “Release of Construction Covenants” shall mean that document prepared in accordance with Section 4.13 of this Agreement, in the form attached as Attachment No. 5, which shall evidence that the construction and development of the improvements required by this Agreement have been satisfactorily completed.

1.24 Residential Unit.

The term “Residential Unit” shall mean and refer to each of the residential units in the Project, each of which is restricted to occupancy by this Agreement and the Regulatory Agreement to a Qualified Tenant. “Residential Units” shall mean and refer collectively to each and every Residential Unit located on the Site.

1.25 Schedule of Performance.

The term “Schedule of Performance” shall mean that certain Schedule of Performance attached hereto as Attachment No. 3.

1.26 Site.

The term “Site” shall mean the three (3) parcels with Assessor’s Parcel Numbers 313-092-001 (Parcel 2), 313-092-007 (Parcel 4), and 313-092-022 (Parcel 3). Developer shall acquire Parcel 2, and Parcels 3 and 4 shall be transferred to Developer pursuant to this Agreement to allow Developer to construct the Project. The Site is depicted on the Site Map and legally described on Attachment No. 2.

1.27 Site Map.

The Project shall be located upon the Site, which is within the City, as shown in the “Site Map” attached hereto as Attachment No. 1.
1.28 **Title.**

The term “Title” shall mean the fee title to Parcels 3 and 4 the Site which shall be conveyed to Developer pursuant to the Deed.

1.29 **Title Company.**

The term “Title Company” shall mean Lawyers Title Company, located at 888 South Figueroa, Suite 2100, Los Angeles, CA 90017, and empowered hereunder to act as the Title company for this transaction. The title officer shall be Sara Soudani, (805) 766-3835.

1.30 **Very Low Income Household.**

The term “Very Low Income Household” shall mean a household whose income does not exceed fifty percent (50%) of area median income for Riverside County, adjusted for applicable household size, as computed in accordance with Health & Safety Code Section 50105 and the regulations promulgated pursuant thereto or incorporated therein, including, without limitation, all regulations promulgated pursuant to Health and Safety Code Section 50093, or any successor statute.

2. **PARTIES TO THE AGREEMENT**

2.1 **Authority.**

Authority is a public body, corporate and politic, exercising governmental functions and powers, organized and existing under the Housing Authority Law of the State of California (Health and Safety Code Section 34200, et seq.). The office of Authority is located at 101 North “D” Street, Perris, California 92570. The term “Authority,” as used in this Agreement, includes the Perris Housing Authority and any assignee of, or successor to, its rights, powers and responsibilities.

2.2 **Developer.**

   a. **Identification.**

Developer is AMCAL Multi-Housing, Inc., a California corporation, or its transferee as described in Section 2.3. The principal office of Developer for the purposes of this Agreement is located at 30141 Agoura Road, Suite No. 100, Agoura Hills, California 91301. Developer warrants and represents to Authority that Developer is and will be qualified to do business, is in good standing under the laws of the State of California, and has all requisite power and authority to carry out Developer’s business as now and whenever conducted and to enter into and perform Developer’s obligations under this Agreement.

   b. **Successors and Assigns.**

Except as may be expressly provided hereinbelow, all of the terms, covenants, and conditions of this Agreement shall be binding on, and shall inure to the benefit of, Developer and the permitted successors, assigns and nominees of Developer as to each portion of the Site. Wherever the term “Developer” is used herein, such term shall include any permitted successors and assigns of Developer as herein provided.
3. Qualifications.

The qualifications and identity of Developer are of particular concern to the Authority, and it is because of such qualifications and identity that Authority has entered into this Agreement with Developer. The Authority has considered the experience, financial capability, and product being marketed by Developer, the Site location and characteristics, the public costs of acquiring and developing the Site and return on investment, and the product mix necessary to produce a Project. Based upon these considerations, the Authority has imposed those restrictions on transfer set forth in this Agreement.

2.3 Restrictions on Transfer.

a. Transfer Defined.

As used in this Section, the term “Transfer” shall include any assignment, hypothecation, mortgage, pledge, conveyance, or encumbrance of this Agreement, the Site, or the improvements thereon. A Transfer shall also include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Developer in the aggregate, taking all transfers into account on a cumulative basis, except transfers of such ownership or control interest between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries are limited to members of the Transferor’s immediate family. In the event Developer or its successor is a corporation or trust, such Transfer shall refer to the Transfer of the issued and outstanding capital stock of Developer, or of beneficial interests of such trust. In the event that Developer is a limited or general partnership, such Transfer shall refer to the Transfer of more than twenty-five percent (25%) of the limited or general partnership interest. In the event that Developer is a joint venture, such Transfer shall refer to the Transfer of more than twenty-five percent (25%) of the ownership and/or control of any such joint venture partner, taking all Transfers into account on a cumulative basis.

b. Restrictions Prior to Completion.

Developer shall not Transfer this Agreement or any of Developer’s rights hereunder, or any interest in the Site or in the improvements thereon, directly or indirectly, voluntarily or by operation of law, except as provided below, without the prior written approval of Authority, which shall not be unreasonably withheld, and if so purported to be Transferred, the same shall be null and void. In considering whether it will grant approval to any Transfer by Developer of its interest in the Site, Authority shall consider factors such as (i) whether the completion or implementation of the Project is jeopardized; (ii) the financial strength and capability of the proposed assignee to perform Developer’s obligations hereunder; and (iii) the proposed assignee’s experience and expertise in the planning, financing, development, ownership, and operation of similar projects.

In the absence of a specific written agreement by Authority, no Transfer by Developer of all or any portion of its interest in the Site or this Agreement (including without limitation an assignment or transfer not requiring Authority approval hereunder) shall be deemed to relieve it or any successor party from any obligations under this Agreement with respect to the completion of the development of the Project with respect to that portion of the Site which is so transferred. In addition, no attempted assignment of any of Developer’s obligations hereunder shall be effective
unless and until the successor party executes and delivers to Authority an assumption agreement, in a form approved by the Authority, assuming such obligations.

c. Exceptions.

The foregoing prohibition shall not apply to any of the following:

i. Any mortgage, deed of trust, or other form of conveyance for financing, as provided in Section 4.12, but Developer shall notify Authority in advance of any such mortgage, deed of trust, or other form of conveyance for financing pertaining to the Site.

ii. Any mortgage, deed of trust, or other form of conveyance for restructuring or refinancing of any amount of indebtedness described in subsection (a) above, provided that the amount of indebtedness incurred in the restructuring or refinancing does not exceed the outstanding balance on the debt incurred to finance the acquisition of and improvements on the Site, including any additional costs for completion of construction, whether direct or indirect, based upon the estimates of architects and/or contractors.

iii. The granting of easements or licenses to any appropriate governmental agency or utility or permits to facilitate the development and/or operation of the Site.

iv. A sale or Transfer resulting from or in connection with a reorganization as contemplated by the provisions of the Internal Revenue Code of 1986, as amended or otherwise, in which the ownership interests of a corporation are assigned directly or by operation of law to a person or persons, firm or corporation which acquires the control of the voting capital stock of such corporation or all or substantially all of the assets of such corporation.

v. A sale or Transfer of 49% or more of ownership or control interest between members of the same immediate family, or Transfers to a trust, testamentary or otherwise, in which the beneficiaries consist solely of immediate family members of the Trustor or Transfers to a corporation or partnership in which the immediate family members or shareholders of the Transferor have a controlling majority interest of 51% or more.

vi. A sale or Transfer to a California limited partnership in which the Developer, or an Affiliate of the Developer, is a general partner. The term “Affiliate” shall mean (i) any entity in which Developer directly or indirectly owns or controls fifty percent (50%) or more of the voting and/or membership interests or (ii) any entity in which the owner(s) of Developer directly or indirectly own or control fifty percent (50%) or more of the voting or membership interest.

vii. The admission of a California nonprofit corporation as a managing general partner of Developer, or the permitted successor thereof.
3. ACQUISITION AND DISPOSITION OF THE SITE

3.1 Financing Milestones.

The parties acknowledge that Developer intends to finance the acquisition, development, construction, and equipping costs for the Project with funds from a variety of sources, including (but not necessarily limited to) those funding sources identified on the Project Budget attached to the Scope of Development. Developer shall diligently apply for and pursue each funding source identified in the Project Budget at the earliest feasible opportunity, taking into account rules, requirements and scoring criteria applicable to each funding source. Not counting the Authority Financial Assistance to be provided pursuant to this Agreement, Developer shall demonstrate, to Authority’s reasonable satisfaction by the dates set forth in the Schedule of Performance, that Developer has secured a bona fide award, commitment or reservation of cap and trade funding available through the Affordable Housing and Sustainable Communities (“AHSC”) Program administered by the California Strategic Growth Council (collectively, “Housing Program Funds”) in an amount sufficient to provide for development of the Project in accordance with the Project Budget.

Developer shall submit its application to the California Strategic Growth Council for funding under the AHSC Program, as specified in the Schedule of Performance. In the event that the Developer applies for and does not receive funding, Developer and the Authority shall meet and confer to determine whether Developer shall make another application if all parties agree that such application would be competitive under the then-applicable AHSC Program scoring criteria, provided that neither party shall have an obligation to continue this Agreement.

All funding sources for the Project shall be subject to Authority’s prior approval, which approval shall not be unreasonably withheld.

3.2 Acquisition of the Site.

The Site shall consist of three (3) parcels with Assessor’s Parcel Numbers 313-092-001 (Parcel 2), 313-092-007 (Parcel 4), and 313-092-022 (Parcel 3), as shown on the Site Map attached hereto as Attachment No. 1. Developer shall acquire Parcel 2, and Parcels 3 and 4 shall be transferred to Developer pursuant to this Agreement to allow Developer to construct the Project.

Remediation of any environmental conditions associated with the Site shall not be included in the Authority Financial Assistance, and Authority has not undertaken to remediate any such environmental conditions.

3.3 Disposition of the Site.

At the time set forth in the Schedule of Performance, Authority shall convey Parcels 3 and 4 of the Site to Developer, and Developer shall acquire Parcels 3 and 4 of the Site from Authority, upon the terms and conditions hereinafter set forth. Without limiting the generality of the foregoing, Developer shall not be obligated to accept any partial conveyance of Parcels 3 and 4 of the Site, except as provided in Section 3.4, and, unless otherwise agreed to by the parties hereto, Authority shall convey fee title to Parcels 3 and 4 of the Site to Developer at one time.
a. **Purpose of Sale.**

Developer agrees to develop the Site with the Project, which includes mixed use commercial/retail and sixty (60) rental units which rental units, other than the one (1) Manager’s Unit for a Qualified Manager, shall be restricted for rent to Qualified Tenants as provided herein and all as described in the Scope of Development.

b. **Authority’s Financial Assistance to Developer.**

The total estimated cost of the Project is approximately $__________, as further described in the Project Budget. This estimated cost includes the hard and soft costs of constructing the Project. The Authority’s financial assistance shall include the Agency’s contribution of Parcels 3 and 4 of the Site, which have a combined value of FIVE HUNDRED THIRTY THOUSAND DOLLARS ($530,000.00), but which amount may be increased based upon a future appraisal which may be obtained by the Developer (“Purchase Price”). Authority shall also secure and provide up to TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS ($225,000.00) in cash financing (“Authority Cash Financing”) for the purchase of the Reimbursement Parcel. The Authority Cash Financing and Purchase Price collectively is called the “Authority Financial Assistance”. In no event shall the Authority Financial Assistance exceed SEVEN HUNDRED FIFTY-FIVE THOUSAND DOLLARS ($755,000.00).

The Authority Financial Assistance shall be in the form of a grant, which, at Developer’s election, may be made to an intermediate entity such as the nonprofit managing general partner of the Project ownership, a limited liability company in which a general partner of the Project ownership is a member, or a corporation in which Developer is a majority owner, and in turn loaned to the Project ownership. The grant shall be conditioned on continued compliance with the Regulatory Agreement to operate the Project in accordance with the covenants for a period of fifty-five (55) years.

The Authority Financial Assistance is based on the attached Project Budget, which assumes an AHSC Program application in the first round, which occurs after Developer receives all discretionary approvals from City for the Site.

c. **Disbursement of Authority’s Financial Assistance.**

The Authority Cash Financing shall be disbursed upon the close of Escrow directly to the seller of the Reimbursement Parcel.

d. **Other Assistance/Reimbursement.**

If Developer is not awarded Housing Program Funds through the AHSC Program, then Authority shall reimburse Developer up to TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS ($225,000.00) for Developer’s acquisition of Parcel 2 of the Site, which shall revert to Authority. Authority’s obligation under this paragraph shall be paid within forty-five (45) days of written notice from Developer that Housing Program Funds through the AHSC Program were not awarded to Developer.
3.4 **Escrow.**

Escrow shall be opened within the time period specified in the Schedule of Performance. This Agreement shall constitute the joint Escrow instructions of Authority and Developer for the Site and the Reimbursement Parcel, and a duplicate original of this Agreement shall be delivered to the Escrow Agent upon the opening of Escrow. Escrow Agent is empowered to act under these instructions. Authority and Developer shall promptly prepare, execute, and deliver to the Escrow Agent such additional Escrow instructions consistent with the terms herein as shall be reasonably necessary. No provision of any additional Escrow instructions shall modify this document without specific written approval of the modifications by both Developer and Authority.

3.5 **Conditions to Close of Escrow for Acquisition.**

a. **Developer's Conditions to Closing.**

Developer’s obligation to acquire the Site and the Reimbursement Parcel and to close Escrow hereunder, shall, in addition to any other conditions set forth herein in favor of Developer, be conditional and contingent upon the satisfaction, or waiver by Developer, of each and all of the following conditions (collectively, "**Developer's Conditions to Closing**") within the time provided in the Schedule of Performance:

i. Title shall be conveyed subject only to conditions and exceptions recited in the Deed, the Authority Deed of Trust, and the Regulatory Agreement.

ii. Authority shall have deposited into Escrow a certificate ("**FIRPTA Certificate**") in such form as may be required by the Internal Revenue service pursuant to Section 1445 of the Internal Revenue Code.

iii. Developer shall have obtained financing commitments for the acquisition and development of the Site acceptable to Developer in accordance with Section 3.8, and Authority shall have approved such commitments.

iv. Authority shall have deposited into Escrow the executed Grant Deed and Authority Cash Financing.

v. Developer shall have determined that the acquisition and development of the Site is financially feasible.

vi. Developer shall have approved the physical and environmental condition of the Site and the Project.

Any waiver of the foregoing conditions must be express and in writing. In the event that the foregoing conditions have not been satisfied within the time provided therefor in the Schedule of Performance, either party may terminate this Agreement by delivering a written notice in accordance with Section 3.11.

b. **Authority's Conditions to Closing.**
Authority’s obligation to sell the Site and to close Escrow hereunder, shall, in addition to any other conditions set forth herein in favor of Authority, be conditional and contingent upon the satisfaction, or waiver by Authority, of each and all of the following conditions (collectively, “Authority’s Conditions to Closing”) within the time provided in the Schedule of Performance:

i. Developer shall have obtained evidence of financing commitments for the acquisition and development of the Site in accordance with Section 3.8, and Authority shall have approved such commitments.

ii. Developer shall not have made or attempted to make a Transfer in violation of Section 2.3, provided that Authority shall give notice of any violation of Section 2.3 and afford Developer the opportunity to cure the violation.

iii. Developer shall have deposited into Escrow the Regulatory Agreement and Deed of Trust.

iv. Developer shall have deposited into Escrow all the documents required under Section 3.6(d).

Any waiver of the foregoing conditions must be express and in writing. In the event that Developer fails to satisfy Authority’s foregoing conditions or defaults in the performance of its obligations hereunder, Authority may terminate this Escrow.

c. Both Parties’ Conditions to Closing.

Prior to the Closing Date, Developer and Authority shall execute and deliver a certificate (“Taxpayer ID Certificate”) in such form as may be required by the IRS pursuant to Section 6045 of the Internal Revenue Code, or the regulations issued pursuant thereto, certifying as to the description of the Site, date of closing, gross price, and taxpayer identification number for Developer and Authority. Prior to the Closing, Developer and Authority shall cause to be delivered to the Escrow Agent such other items, instruments and documents, and the parties shall take such further actions, as may be necessary or desirable in order to complete the Closing. At the Closing neither party shall be in breach of its obligations hereunder.

d. Conveyance Prior to Closing.

Notwithstanding the foregoing, Developer and Authority may agree to a partial conveyance of Parcels 3 and 4 of the Site prior to Closing, if they mutually agree such partial conveyance is necessary to provide collateral to secure the Housing Program Funds described in Section 3.1 or the Authority Financial Assistance described in Section 3.3(b).

3.6 Conveyance of the Site.

a. Time for Conveyance.

Escrow shall close after satisfaction of all conditions to close of Escrow, but not later than the date specified in the Schedule of Performance, unless extended by the mutual agreement of the
parties or any Enforced Delay. Possession of the Site shall be delivered to Developer concurrently
with the conveyance of Title.

b. Escrow Agent to Advise of Costs.

On or before the date set in the Schedule of Performance, the Escrow Agent shall advise the
Authority and the Developer in writing of the fees, charges, and costs necessary to clear title and
close Escrow, and of any documents which have not been provided by said party and which must be
deposited in Escrow to permit timely Closing.

c. Deposits By Authority Prior to Closing.

On or before, but not later than 1:00 p.m. of the date set in the Schedule of Performance,
Authority shall execute, acknowledge and deposit into Escrow: (i) the Deed; (ii) an estoppel
certificate certifying that Developer has completed all acts, other than as specified, necessary for
conveyance, if such be the fact; (iii) Authority Cash Financing; and (iv) payment to Escrow Agent of
Authority’s share of costs as determined by the Escrow Agent pursuant to Section 3.10.

d. Deposits By Developer Prior to Closing.

On or before, but not later than 1:00 p.m. of the date set in the Schedule of Performance,
Developer shall execute and acknowledge as may be required and deposit into Escrow: (i) the
Regulatory Agreement; (ii) the Deed of Trust; (iii) an estoppel certificate certifying that Authority
has completed all acts, other than as specified, necessary to conveyance, if such be the fact; and (iv)
payment to Escrow Agent of Developer’s share of costs as determined by the Escrow Agent pursuant
to Section 3.10.

e. Recordation and Disbursement of Funds.

Upon the completion by the Authority and Developer of the deliveries and actions specified
in these Escrow instructions precedent to Closing, the Escrow Agent shall be authorized to buy, affix
and cancel any documentary stamps and pay any transfer tax and recording fees, if required by law,
and thereafter cause to be recorded in the appropriate records of Riverside County, California, the
Deed, the Regulatory Agreement, the Deed of Trust, and any other appropriate instruments delivered
through this Escrow, if necessary or proper to, and provided that the fee title interest can, vest in
Developer in accordance with the terms and provisions herein. Concurrent with recordation, Escrow
Agent shall deliver the Title Policy to Developer insuring title and conforming to the requirements of
Section 3.7. Following recordation, the Escrow Agent shall deliver copies of said instruments to
Developer and Authority.

3.7 Title Matters.

a. Condition of Title.

Authority shall convey to Developer fee interest in Parcels 3 and 4 of the Site, subject only
to: (i) this Agreement, conditions in the Deed, the Deed of Trust, and the Regulatory Agreement; (ii)
current taxes, a lien not yet payable; (iii) quasi-public utility, public alley, and public street
easements of record approved by Developer, which approval shall not be unreasonably withheld; and
(iv) covenants, conditions and restrictions, reciprocal easements, and other encumbrances and title exceptions approved by Developer under this Section. Authority shall convey title pursuant to the Deed in the form set forth in Attachment No. 6 hereto.

b. **Authority Not to Encumber Site.**

Authority hereby warrants to Developer that it has not and will not, from the Effective Date of this Agreement through close of Escrow, transfer, sell, hypothecate, pledge, or otherwise encumber Parcels 3 and 4 of the Site without express written permission of Developer.

c. **Approval of Title Exceptions.**

Prior to the date in the Schedule of Performance, Authority shall deliver a preliminary title report for the Parcels 3 and 4, known as Assessor's Parcel Numbers 313-092-022 and 313-092-007, respectively, dated no earlier than the date of this Agreement, to Developer including copies of all documents referenced therein. Prior to the date in the Schedule of Performance, Developer shall deliver to Authority written notice, with a copy to Escrow Agent, specifying in detail any exception disapproved and the reason therefor. Prior to the date in the Schedule of Performance, Authority shall deliver written notice to Developer as to whether Authority will or will not cure the disapproved exceptions. If Authority elects not to cure the disapproved exceptions, Developer may terminate this Agreement without any liability of Authority to Developer, or Developer may withdraw its earlier disapproval. If Authority elects to cure the disapproved exceptions, Authority shall do so on or before the close of Escrow.

d. **Title Policy.**

At the close of Escrow, Escrow Agent shall furnish Developer with a CLTA Policy of Title Insurance ("Title Policy") for the Developer's interest, wherein the Title Company shall insure that title to the Site shall be vested in Developer, containing no exception to such title that has not been approved or waived by Developer in accordance with this Section. The Title Policy shall include any available additional title insurance, extended coverage or endorsements that Developer has reasonably requested. The Authority shall pay only for that portion of the title insurance premium attributable to the standard coverage. Developer shall pay for the premium for any additional title insurance, extended coverage or special endorsements.

3.8 **Evidence of Financial Capability.**

Within the time set forth in the Schedule of Performance, Developer shall submit to Authority's Executive Director for approval evidence reasonably satisfactory to the Executive Director that Developer has the financial capability necessary for the acquisition of the Site and development of the Project thereon pursuant to this Agreement. Such evidence of financial capability shall include all of the following:

a. Reliable cost estimates for Developer's total cost of acquiring the Site and developing the Project (including both "hard" and "soft" costs).

b. A complete copy of the construction loan commitment obtained by Developer to finance the development of the Project, or such other documentation reasonably satisfactory to the
Executive Director sufficient to demonstrate that Developer has adequate funds available and committed to finance the development of the Project.

c. A financial statement and/or other documentation reasonably satisfactory to the Executive Director sufficient to demonstrate that Developer has adequate funds available and/or committed (when combined with the Housing Program Funds and the Authority Loan) to cover the difference between the total acquisition costs of the Site and development costs of the Project (subparagraph (1) above) and the proceeds of the construction loan commitment (subparagraph (2) above).

d. A copy of the proposed contract between Developer and its general contractor for all of the improvements required to be constructed by Developer hereunder, certified by Developer to be a true and correct copy thereof. The Executive Director shall also have the right to review and approve any revisions that are made to the proposed contract after its approval by the Executive Director which would increase the amount of the contract by more than ten percent (10%) and/or substantially change other terms in the contract.

Developer covenants and agrees to take all action, furnish all information, give all consents, and pay all sums reasonably required to keep the construction loan commitment in full force and effect and shall comply in all material respects with all conditions thereof, and shall promptly execute, acknowledge and deliver all applications, credit applications and data, financial statements, and documents in connection therewith.

3.9 **Condition of Site.**

a. **Site Assessment and Remediation.**

The Site consists of three (3) lots identified in Section 3.2, specifically Assessor’s Parcel Numbers 313-092-001 (Parcel 2), 313-092-007 (Parcel 4), and 313-092-022 (Parcel 3), as shown on the Site Map attached hereto as Attachment No. 1. Developer shall be responsible for conducting assessments of the Site and for any required remediation if the Developer acquires the Site pursuant to the terms of this Agreement. Authority shall be entitled to review any remedial workplan prepared for the Site. Authority is conveying Parcels 3 and 4 of the Site in an “AS-IS” condition and shall not be responsible for any Hazardous Materials thereon.

b. **Disclaimer of Warranties.**

Upon the Close of Escrow, Developer shall acquire the Site in its “AS-IS” condition and shall be responsible for any defects in the Site, whether patent or latent, including, without limitation, the physical, environmental, and geotechnical condition of the Site and the existence of any contamination, Hazardous Materials, vaults, debris, pipelines, abandoned wells or other structures located on, under or about the Site. Authority makes no representation or warranty concerning the physical, geotechnical or other condition of the Site, the suitability of the Site for the Project, or the present use of the Site, and specifically disclaims all representations or warranties of any nature concerning the Site made by Authority or the City and their employees, agents and representatives. The foregoing disclaimer includes, without limitation, hazardous materials, topography, climate, air, water rights, utilities, present and future zoning, soil, subsoil, the purpose
for which the Site is suited, or drainage. Moreover, Authority makes no representation or warranty concerning the compaction of soil upon the Site, nor of the suitability of the soil for construction.

c. **Right to Enter Site, Indemnification.**

Developer shall have the right to enter upon the Site to conduct soils, engineering, or other tests and studies, to perform preliminary work or Site investigation or for any other purposes to carry out the terms of this Agreement. Developer shall indemnify, defend, and hold Authority harmless from and against any claims, injuries or damages arising out of or involving any such entry or activity as provided in Section 4.5. Any such activity shall be undertaken only after securing any necessary permits from the appropriate governmental agencies and providing Authority with certificates of insurance evidencing the coverages required in Section 4.6.

d. **Hazardous Materials.**

Developer understands and agrees that in the event Developer incurs any loss or liability concerning Hazardous Materials (as hereinafter defined) and/or oil wells and/or underground storage tanks and/or pipelines whether attributable to events occurring prior to or following the Closing, then Developer may look to current or prior owners of the Site, but under no circumstances shall Developer look to Authority or City for any liability or indemnification regarding Hazardous Materials and/or oil wells and/or underground storage tanks and/or pipelines. Developer, and each of the entities constituting Developer, if any, from and after the Closing, hereby waives, releases, remises, acquits and forever discharges Authority, City, their directors, officers, employees, and agents, and their respective heirs, successors, personal representatives and assigns, of and from any and all Environmental Claims, Environmental Cleanup Liability and Environmental Compliance Costs, as those terms are defined below, and from any and all actions, suits, legal or administrative orders or proceedings, demands, actual damages, punitive damages, loss, costs, liabilities and expenses, which concern or in any way relate to the physical or environmental conditions of the Site, the existence of any Hazardous Material thereon, or the release or threatened release of Hazardous Materials therefrom, whether existing prior to, at or after the Closing. It is the intention of the parties pursuant to this release that any and all responsibilities and obligations of Authority and City, and any and all rights, claims, rights of action, causes of action, demands or legal rights of any kind of Developer, its successors, assigns or any affiliated entity of Developer, against the Authority or City, arising by virtue of the physical or environmental condition of the Site, the existence of any Hazardous Materials thereon, or any release or threatened release of Hazardous Material therefrom, whether existing prior to, at or after the Closing, are by this Release provision declared null and void and of no present or future force and effect as to the parties; provided, however, that no parties other than the Indemnified Parties (defined below) shall be deemed third party beneficiaries of such release. In connection therewith, Developer and each of the entities constituting Developer, expressly agree to waive any and all rights which said party may have under Section 1542 of the California Civil Code which provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

DEVELOPER’S INITIALS: ____  AUTHORITY’S INITIALS: ____
Developer and each of the entities constituting Developer, shall, from and after the Closing, defend, indemnify, and hold harmless Authority, City and their officers, directors, employees, agents and representatives (collectively, the "Indemnified Parties") from and against any and all Environmental Claims, Environmental Cleanup Liability, Environmental Compliance Costs, and any other claims, actions, suits, legal or administrative orders or proceedings, demands or other liabilities resulting at any time from the physical and/or environmental conditions of the Site whether before or after the Closing or from the existence of any Hazardous Materials or the release or threatened release of any Hazardous Materials of any kind whatsoever, in, on or under the Site occurring at any time whether before or after the Closing, including, but not limited to, all foreseeable and unforeseeable damages, fees, costs, losses and expenses, including any and all attorneys' fees and environmental consultant fees and investigation costs and expenses, directly or indirectly arising therefrom, and including fines and penalties of any nature whatsoever, assessed, levied or asserted against any Indemnified Parties to the extent that the fines and/or penalties are the result of a violation or an alleged violation of any Environmental Law. Developer further agrees that in the event Developer obtains, from former or present owners of the Site or any other persons or entities, releases from liability, indemnities, or other forms of hold harmless relating to the subject matter of this Section, Developer shall use its diligent efforts to obtain for Authority and City the same releases, indemnities and other comparable provisions.

For purposes of this Section, the following terms shall have the following meanings:

i. "Environmental Claim" means any claim for personal injury, death and/or property damage made, asserted, or prosecuted by or on behalf of any third party, including, without limitation, any governmental entity, relating to the Site or its operations and arising or alleged to arise under any Environmental Law.

ii. "Environmental Cleanup Liability" means any cost or expense of any nature whatsoever incurred to contain, remove, remedy, clean up, or abate any contamination or any Hazardous Materials on or under all or any part of the Site, including the ground water thereunder, including, without limitation, (A) any direct costs or expenses for investigation, study, assessment, legal representation, cost recovery by governmental agencies, or ongoing monitoring in connection therewith and (B) any cost, expense, loss or damage incurred with respect to the Site or its operation as a result of actions or measures necessary to implement or effectuate any such containment, removal, remediation, treatment, cleanup or abatement.

iii. "Environmental Compliance Cost" means any cost or expense of any nature whatsoever necessary to enable the Site to comply with all applicable Environmental Laws in effect. "Environmental Compliance Cost" shall include all costs necessary to demonstrate that the Site is capable of such compliance.

iv. "Environmental Law" means any federal, state or local statute, ordinance, rule, regulation, order, consent decree, judgment or common-law doctrine, and provisions and conditions of permits, licenses and other operating authorizations relating to (A) pollution or protection of the environment, including natural resources, (B) exposure of persons, including employees, to Hazardous Materials or other products, raw materials, chemicals or other substances, (C) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical sub-stances from industrial or commercial activities, or (D)
regulation of the manufacture, use or introduction into commerce of chemical substances, including, without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal.

v. "Hazardous Material" is defined to include any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is: (A) petroleum or oil or gas or any direct or derive product or byproduct thereof; (B) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (C) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (D) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Sections 25501(j) and (k) and 25501.1 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (E) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (F) "used oil" as defined under Section 25250.1 of the California Health and Safety Code; (G) asbestos; (H) listed under Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations, or defined as hazardous or extremely hazardous pursuant to Chapter 10 of Division 4.5 of Title 22 of the California Code of Regulations; (I) defined as waste or a hazardous substance pursuant to the Porter-Cologne Act, Section 13050 of the California Water Code; (J) designated as a "toxic pollutant" pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1317; (K) defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (42 U.S.C. § 6903); (L) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (42 U.S.C. § 9601); (M) defined as "Hazardous Material" pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; or (N) defined as such or regulated by any "Superfund" or "Superlum" law, or any other federal, state or local law, statute, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials and/or oil wells and/or underground storage tanks and/or pipelines, as now, or at any time here-after, in effect.

Notwithstanding any other provision of this Agreement, Developer's release and indemnification as set forth in the provisions of this Section, as well as all provisions of this Section, shall survive the termination of this Agreement and shall continue in perpetuity, with respect to any act or omission of Developer (its employees, persons, invitees, agents, assignees, contractors, subcontractors) related to the Site and/or the Project.

3.10 Costs of Escrow.

a. Allocation of Costs.

The Escrow Agent is authorized to allocate costs as follows: Authority shall pay the cost of the Title Policy as provided above while Developer shall pay premiums for any additional insurance, extended coverage or special endorsements. Authority shall pay the documentary transfer tax as well as all recording fees. Developer and Authority shall each pay one-half of all Escrow and
similar fees, except that if one party defaults under this Agreement, the defaulting party shall pay all Escrow fees and charges. Subject to Section 7.6, each party shall pay its own attorneys’ fees.

b. **Proration and Adjustments.**

Ad valorem taxes and assessments on the Site and insurance for the current year shall be prorated by the Escrow Agent as of the date of Closing with the Authority responsible for those levied, assessed, or imposed prior to Closing and the Developer responsible for those after Closing. If the actual taxes are not known at the date of Closing, the proration shall be based upon the most current tax figures. When the actual taxes for the year of Closing become known, Developer and Authority shall, within thirty days thereafter, re-prorate the taxes in cash between the parties.

c. **Extraordinary Services of Escrow Agent.**

It is understood that Escrow fees and charges contemplated by this Agreement incorporate only the ordinary services of the Escrow Agent as listed in these instructions. In the event that the Escrow Agent renders any service not provided for in this Agreement or that there is any assignment of any interest in the subject matter of this Escrow or that any controversy arises hereunder, or that the Escrow Agent is made a party to, or reasonably intervenes in, any litigation pertaining to this Escrow or the subject matter thereof, then the Escrow Agent shall be reasonably compensated for such extraordinary services and reimbursed for all costs and expenses occasioned by such default, controversy or litigation.

d. **Escrow Agent’s Right to Retain Documents.**

Escrow Agent shall have the right to retain all documents and/or other things of value at any time held by it hereunder until such compensation, fees, costs and expenses shall be paid. The undersigned hereby jointly and severally promise to pay such sums upon demand.

3.11 **Termination of Escrow.**

a. **Termination.**

Escrow may be terminated by demand of either party who then shall have fully performed its obligations hereunder required to be performed by the date of such demand if:

i. The Conditions to Closing have not occurred or have not been approved, disapproved, or waived as the case may be, by the approving party by the date established herein for the occurrence of such Condition, including any grace period pursuant to this Section; or

ii. Either party is in breach of the terms and conditions of this Agreement after the expiration of any applicable notice and cure periods; or

iii. Either party has been granted such right expressly in this Agreement, including, but not limited to, the right to terminate pursuant to Section 3.5.

In the event of the foregoing, the terminating party may, in writing, demand return of its money, papers, or documents from the Escrow Agent and shall deliver a copy of such demand to the
non-terminating party. No demand shall be recognized by the Escrow Agent until fifteen (15) days after the Escrow Agent shall have mailed copies of such demand to the non-terminating party, and if no objections are raised in writing to the terminating party and the Escrow Agent by the non-terminating party within the fifteen (15) day period. In the event of such objections, the opportunity to cure shall be provided as stated below in subsection (b) of this Section. In addition, the Escrow Agent is authorized to hold all money, papers, and documents until instructed in writing by both Developer and Authority or, upon failure thereof, by a court of competent jurisdiction. If no such demands are made, the Escrow shall be closed as soon as possible and neither party shall have any further liability to the other.

b. **Opportunity to Cure.**

Prior to Closing, in the event any of the Conditions to Closing are not satisfied or waived by the party with the power to approve said Conditions (“Approving Party”), then such party shall explain in writing to the other party (“Nonapproving Party”) the reason for the disapproval. Thereafter, the Nonapproving Party shall have an additional thirty (30) days (or such shorter period as may be necessitated to meet deadlines associated with the Tax Credits) (the “Cure Period”) to satisfy any such Condition to Closing, and only if such Conditions still cannot be satisfied may the Approving Party terminate the Escrow. In the event Escrow is not in a condition to close because of a default by any party, and the performing party has made demand as stated in subsection (a) of this Section, then upon the non-performing party’s delivering its objection to Escrow Agent and the performing party within the Cure Period, the non-performing party shall have the right to cure the default in accordance with and in the time provided in Section 7.1.

c. **Other Duties upon Termination.**

Upon termination of Escrow pursuant to this Section for any reason, the Parties shall have the following duties and obligations in addition to any others described above:

i. In the event such termination is due to the default of the Developer, then subject to the rights and consents of the third party authors, all non-privileged and non-proprietary plans, drawings, specifications, reports, and other documents prepared by Developer or Developer’s contractors or vendors shall become the property of the Authority and shall be delivered to Authority, without representation or warranty, by Developer within ten (10) days of receipt of notice from Authority.

ii. In the event such termination is due to the default of Developer, Authority shall be entitled to terminate this Agreement and to receive repayment from Developer for all of the Authority Cash Financing made to, or on behalf of, Developer for the Project, with interest calculated at the rate of zero percent (0%), which repayment shall be made within fifteen (15) days of receipt of written notice from Authority. In the event that Developer fails to remit repayment of such amounts to Authority within fifteen (15) days after receipt of written notice from Authority thereof, interest on the unpaid amounts shall accrue interest at the highest maximum legal rate dating from the date of the notice to the date of repayment.

iii. In the event such termination is due to the default of Authority, Developer shall be entitled to terminate this Agreement, and in such case Developer shall be
required to repay Authority any of the amounts described in subparagraph (ii) above but Developer shall not be entitled to any damages of any kind, provided, however, Authority shall reimburse Developer for reasonable Project costs incurred prior to such termination, but not yet paid as of termination.

iv. Any portion of the Site that has been conveyed to Developer prior to such termination (including but not limited to portions of the Site transferred pursuant to Section 3.5(d)) shall be reconveyed to Authority within thirty (30) days following such termination. Developer agrees to execute any documents and take all actions necessary to accomplish the reconveyance.

3.12 Responsibility of Escrow Agent.

a. Deposit of Funds.

In accordance with Section 3.4, all funds received in Escrow shall be deposited by the Escrow Agent in a federally insured special interest-bearing Escrow account with any state or national bank doing business in the State of California and may not be combined with other Escrow funds of Escrow Agent or transferred to any other general Escrow account or accounts.

b. Notices.

All communications from the Escrow Agent shall be directed to the addresses and in the manner provided in Section 8.1 of this Agreement for notices, demands and communications between Authority and Developer.

c. Sufficiency of Documents.

The Escrow Agent is not to be concerned with the sufficiency, validity, correctness of form, or content of any document prepared outside of Escrow and delivered to Escrow. The sole duty of the Escrow Agent is to accept such documents and follow Developer’s and Authority’s instructions for their use.

d. Exculpation of Escrow Agent.

The Escrow Agent shall in no case or event be liable for the failure of any of the Conditions to Closing of this Escrow, or for forgeries or false personation, unless such liability or damage is the result of negligence or willful misconduct by the Escrow Agent.

e. Responsibilities in the Event of Controversies.

If any controversy documented in writing arises between Developer and Authority or with any third party with respect to the subject matter of this Escrow or its terms or conditions, the Escrow Agent shall not be required to determine the same, to return any money, papers or documents, or take any action regarding the Site prior to settlement of the controversy by a final decision of a court of competent jurisdiction or written agreement of the parties to the controversy. The Escrow Agent shall be responsible for timely notifying Developer and Authority of the controversy. In the event of such a controversy, the Escrow Agent shall not be liable for interest or
damage costs resulting from failure to timely close Escrow or take any other action unless such controversy has been caused by the failure of the Escrow Agent to perform its responsibilities hereunder.

4. DEVELOPMENT OF THE SITE.

4.1 Scope of Development.

The Site shall be developed by Developer as provided in the Scope of Development, the Regulatory Agreement, and the plans and permits approved by Authority and City pursuant to Section 4.2.

4.2 Development Plans, Final Building Plans and Environmental Review.

a. Proposed Development’s Consistency With Plan and Codes.

Developer shall obtain all entitlements at its own cost for approval of the Project. Authority warrants and represents that the City’s General Plan and Zoning Ordinance permit Developer’s proposed development, and construction, operation, and use of the Site as provided in this Agreement including, without limitation, the Scope of Development, subject only to (i) those development approvals yet to be obtained, including, if necessary, proposed General Plan and Zoning Ordinance amendments, Site Plan Review and subdivision approval (if required), and (ii) City’s and Authority’s review and approval of the Project in accordance with the California Environmental Quality Act (“CEQA”); provided that it is expressly understood by the parties hereto that Authority makes no representations or warranties with respect to approvals required by any other governmental entity or with respect to approvals hereinafter required from City and Authority, Authority and City reserving full police power authority over the Project. Nothing in this Agreement shall be deemed to be a prejudgment or commitment with respect to such items, nor a guarantee that such approvals or permits will be issued within any particular time or with or without any particular conditions.


On or before the date set forth in the Schedule of Performance, Developer shall submit to the City preliminary, and thereafter final, drawings and specifications for development of the Site and each Site thereof in accordance with the Scope of Development, and all in accordance with the City’s requirements. The term preliminary and final drawings shall be deemed to include site plans, building plans and elevations, grading plans, if applicable, landscaping plans, parking plans, signage, a description of structural, mechanical, and electrical systems, and all other plans, drawings and specifications. Final drawings will be in sufficient detail to obtain a building permit. Said plans, drawings and specifications shall be consistent with the Scope of Development and the various development approvals referenced hereinabove, except as such items may be amended by City (if applicable) and by mutual consent of Authority and Developer. Plans (concept, preliminary and construction) shall be progressively more detailed and will be approved if a logical evolution of plans, drawings or specifications previously approved. Plans in sufficient detail to obtain all discretionary land use approvals, including for site plan approval, conditional use permit, and other actions requiring Planning Commission approval, shall be submitted and processed concurrently for the Site.
c. **Developer Efforts to Obtain Approvals.**

Developer shall exercise its commercially reasonable efforts to timely submit all documents and information necessary to obtain all development and building approvals from the City in a timely manner. Not by way of limitation of the foregoing, in developing and constructing the Project, Developer shall comply with all applicable development standards in City’s Municipal Code and shall comply with all building code, landscaping, signage, and parking requirements, except as may be permitted through approved variances and modifications.

d. **Authority Assistance.**

Subject to Developer’s compliance with (i) the applicable City and Authority development standards for the Site, and (ii) all applicable laws and regulations governing such matters as public hearings, site plan review and environmental review, Authority agrees to provide reasonable assistance to Developer, at no cost to Authority, in the processing of Developer’s submittals required under this Section. City or Authority’s failure to provide necessary approvals or permits within such time periods, after and despite Developer’s reasonable efforts to submit the documents and information necessary to obtain the same, shall constitute an Enforced Delay.

e. **Disapproval.**

The Authority shall approve or disapprove any submittal made by Developer pursuant to this Section within forty-five (45) days after such submittal. All submittals made by Developer will note the 45-day time limit, and specifically reference this Agreement and this Section. Any disapproval shall state in writing the reason for the disapproval and the changes which the Authority requests be made. Developer shall make the required changes and revisions which would not materially impact the economic feasibility of the Project and resubmit for approval as soon as is reasonably practicable but no more than thirty (30) days after the date of disapproval. Thereafter, Authority shall have an additional thirty (30) days for review of the resubmittal, but if the Authority disapproves the resubmittal, then the cycle shall repeat, until the Authority’s approval has been obtained. The foregoing time periods may be shortened if so specified in the Schedule of Performance.

f. **CEQA.**

The Authority shall be responsible for obtaining the approval of this Agreement and the Project as required by CEQA. Without limitation of the foregoing, Developer specifically acknowledges and agrees that the Developer shall satisfy all conditions necessary to ensure that the Project conforms to all applicable CEQA requirements. The Developer agrees to supply information and otherwise assist Authority, upon Authority’s request, to determine the environmental impact of the proposed development and to allow Authority to prepare and process such environmental documents, if any, as may need to be completed for the development pursuant to the requirements of CEQA. Notwithstanding anything to the contrary set forth herein, the Developer shall not bear the cost for the preparation of an Environment Impact Report (or any of the underlying studies associated therewith) if such is required. The Authority alone shall bear the costs of preparing any necessary Environmental Impact Report.
4.3 **Developer Responsibilities During Construction.**

The cost of constructing all of the improvements required to be constructed for the Project shall be borne by Developer. As all of the Authority Financial Assistance to Developer is being funded as a grant and is being used exclusively for the low income housing portion of the Project, the parties do not believe that the Project would be considered to be a "public work" "paid for in whole or in part out of public funds," as described in California Labor Code Section 1720. No party hereto shall take any action that would reasonably cause the Project to become subject to prevailing wages. Notwithstanding the foregoing, to the extent that (contrary to the parties' intent) Developer is required to or is determined to be responsible to pay prevailing wages for the Project, Developer shall defend and hold the Authority and the City harmless from and against any all increase in construction costs, or other liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of any action or determination that any portion of the Project is subject to payment of prevailing wages. This Section shall survive termination of the Agreement.

In addition, in developing the Site, Developer shall water the ground as reasonably required by Authority, and take such other actions as Authority shall reasonably require to minimize the impact of construction and airborne debris on nearby property.

4.4 **Schedule of Performance: Progress Reports.**

Subject to Section 8.3, Developer shall begin and complete all plans, reviews, construction and development specified in the Scope of Development within the times specified in the Schedule of Performance or such reasonable extensions of said dates as may be mutually approved in writing by the parties.

Once construction is commenced, it shall be diligently pursued to completion, and shall not be abandoned for more than thirty (30) consecutive days, except when due to an Enforced Delay, as defined in Section 8.3. Developer shall keep the Authority informed of the progress of construction and shall submit monthly written reports of the progress of the construction to the Authority in the form required by the Authority.

4.5 **Indemnification During Construction.**

During the periods of construction on the Site and until such time as the Authority has issued a Release of Construction Covenants with respect to the construction of the improvements thereon, the Developer agrees to and shall indemnify and hold the Authority and the City harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person or any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person which shall occur on the Site and which shall be directly or indirectly caused by any acts done thereon or any errors or omissions of the Developer or its agents, servants, employees, or contractors. The Developer shall not be responsible for (and such indemnity shall not apply to) any acts, errors, or omissions of the Authority or the City, or their respective agents, servants, employees, or contractors. The Authority and City shall not be responsible for any acts, errors, or omissions of any person or entity except the Authority and the City and their respective agents, servants, employees, or contractors, subject to any and all
statutory and other immunities. The provisions of this Section shall survive the termination of this Agreement.

4.6 **Insurance.**

Except as provided in this Section, prior to the entry by Developer on the Site pursuant to Section 3.9(c) and prior to the commencement of any construction by Developer on the Project, Developer shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to Authority, during the entire term of such entry or construction, the following policies of insurance, as applicable:

a. **Commercial General Liability Insurance.**

A policy of commercial general liability insurance written on a per occurrence basis in an amount not less than ONE MILLION DOLLARS ($1,000,000.00) per occurrence and TWO MILLION DOLLARS ($2,000,000.00) in the aggregate.

b. **Worker’s Compensation Insurance.**

A policy of worker’s compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Developer, against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Developer in the course of carrying out the work or services contemplated in this Agreement.

c. **Automobile Insurance.**

A policy of automobile liability insurance written on a per accident basis in an amount not less than ONE MILLION DOLLARS ($1,000,000.00) combined single limit per accident for bodily injury and property damage covering owned (if applicable), leased, hired, and non-owned vehicles.

d. **Builder’s Risk Insurance.**

A policy of “Builder’s Risk” insurance covering the full replacement value of all of the improvements to be constructed by Developer pursuant to this Agreement plus Developer’s personal property and equipment. Developer shall procure the builder’s risk insurance policy prior to commencing construction.

All of the above policies of insurance, except the Builder’s Risk Insurance, shall be primary insurance and shall name Authority, City, and their officers, employees, and agents as additional insureds. The insurer shall waive all rights of subrogation and contribution it may have against Authority, City, and their officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled without providing thirty (30) days prior written notice to Authority, City and Developer. In the event any of said policies of insurance are cancelled, Developer shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section to the Executive Director. No work or services under this Agreement shall commence until the Developer has provided Authority with
Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by Authority.

The policies of insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances.

Developer shall provide in all contracts with contractors, subcontractors, architects, and engineers that said contractor, subcontractor, architect, or engineer shall maintain (if applicable) the same policies of insurance required to be maintained by Developer pursuant to this Section, unless waived or modified by the Risk Manager.

The Developer agrees that the provisions of this Section shall not be construed as limiting in any way the extent to which the Developer may be held responsible for the payment of damages to any persons or property resulting from the Developer’s activities or the activities of any person or persons for which the Developer is otherwise responsible.

4.7 City and Other Governmental Authority Permits.

Before commencement of construction or development of any buildings, structures, or other works of improvement upon the Site which are Developer’s responsibility under the applicable Scope of Development, Developer shall at his own expense secure or cause to be secured any and all permits which may be required by City or any other governmental agency affected by such construction, development or work. Developer shall not be obligated to construct if any permit is not issued. If there is delay beyond the usual time for obtaining any such permits due to no fault of Developer, the Schedule of Performance shall be extended to the extent such delay prevents any action which could not legally or would not in accordance with good business practices be expected to occur before such permit was obtained. Developer shall pay all normal and customary fees and charges applicable to such permits and any fees or charges hereafter imposed by City or Authority which are standard for and uniformly applied to similar projects in the City.

4.8 Rights of Access.

Representatives of the Authority shall have the reasonable right to access the Site upon reasonable prior notice without charges or fees, at any time during normal construction hours during the period of construction and upon reasonable notice to Developer, for the purpose of assuring compliance with this Agreement, including but not limited to the inspection of the construction work being performed by or on behalf of Developer. Such representatives of Authority shall be those who are so identified in writing by the Executive Director of Authority. Each such representative of Authority shall identify himself or herself at the job site office upon his or her entrance to the Site, and shall provide Developer, or the construction superintendent or similar person in charge on the Site, a reasonable opportunity to have a representative accompany him or her during the inspection. Authority shall indemnify, defend, and hold Developer harmless from any injury or property damage caused or liability arising out of Authority's exercise of this right of access.
4.9 **Applicable Laws.**

Developer shall carry out the construction of the improvements to be constructed by Developer in conformity with all applicable laws, including all applicable federal and state labor laws.

4.10 **Nondiscrimination During Construction.**

Developer, for itself and its successors and assigns, agrees that in the construction of the improvements to be constructed by Developer, it shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, marital status, ancestry or national origin.

4.11 **Taxes, Assessments, Encumbrances and Liens.**

Developer shall pay, prior to delinquency, all real estate taxes and assessments assessed or levied subsequent to conveyance of title of the Site. Until the date Developer is entitled to the issuance by Authority of a Release of Construction Covenants, Developer shall not place or allow to be placed thereon any mortgage, trust deed, encumbrance or lien (except mechanic’s liens prior to suit to foreclose the same being filed) prohibited by this Agreement. Developer shall remove or have removed any levy or attachment made on the Site, or assure the satisfaction thereof, within a reasonable time, but in any event prior to a sale thereunder. Nothing herein contained shall be deemed to prohibit Developer from contesting the validity or amounts of any tax, assessment, encumbrance or lien, or to limit the remedies available to Developer in respect thereto.

4.12 **Rights of Holders of Approved Security Interests in Site.**

a. **Definitions.**

As used in this Section, the term “mortgage” shall include any mortgage, whether a leasehold mortgage or otherwise, deed of trust, or other security interest, or sale and lease-back, or any other form of conveyance for financing. The term “holder” shall include the holder of any such mortgage, deed of trust, or other security interest, or the lessor under a lease-back, or the grantee under any other conveyance for financing.

b. **No Encumbrances Except Mortgages to Finance The Project.**

Notwithstanding the restrictions on transfer in Section 2.3, mortgages required for any reasonable method of financing of the acquisition, development and/or construction of the improvements are permitted before issuance of a Release of Construction Covenants but only for the purpose of securing loans of funds used or to be used for construction and development of improvements on the Site, and for any other expenditures necessary and appropriate to develop the Site under this Agreement, or for restructuring or refinancing any for same, so long as the refinancing does not exceed the then outstanding balance of the existing financing, including any additional costs for completion of construction, whether direct or indirect, based upon the estimates of architects and/or contractors. The Developer (or any entity permitted to acquire title under this Section) shall notify the Authority in advance of any mortgage, if the Developer or such entity proposes to enter into the same before issuance of the Release of Construction Covenants. The
Developer or such entity shall not enter into any such conveyance for financing without the prior written approval of the Authority, which shall not be unreasonably withheld. Any lender approved by the Authority pursuant to Section 3.8 shall not be bound by any amendment, implementation, or modification to this Agreement subsequent to its approval without such lender giving its prior written consent thereto. In any event, the Developer shall promptly notify the Authority of any mortgage, encumbrance, or lien that has been created or attached thereto prior to issuance of a Release of Construction Covenants, whether by voluntary act of the Developer or otherwise.

c.  **Developer's Breach Not to Defeat Mortgage Lien.**

Developer's breach of any of the covenants or restrictions contained in this Agreement shall not defeat or render invalid the lien of any mortgage made in good faith and for value as to the Site, or any part thereof or interest therein, but unless otherwise provided herein, the terms, conditions, covenants, restrictions, easements, and reservations of this Agreement shall be binding and effective against the holder of any such mortgage of the Site whose interest is acquired by foreclosure, trustee's sale or otherwise.

d.  **Holder Not Obligated to Construct or Complete Improvements.**

The holder of any mortgage shall in no way be obligated by the provisions of this Agreement to construct or complete the improvements or to guarantee such construction or completion.

e.  **Notice of Default to Mortgages, Deed of Trust or other Security Interest Holders.**

Whenever Authority shall deliver any notice or demand to Developer with respect to any breach or default by Developer hereunder, Authority shall at the same time deliver a copy of such notice or demand to each holder of record of any mortgage who has previously made a written request to Authority therefor, or to the representative of such lender as may be identified in such a written request by the lender. No notice of default shall be effective as to the holder unless such notice is given.

f.  **Right to Cure.**

Each holder (insofar as the rights of Authority are concerned) shall have the right, at its option, within ninety (90) days after the receipt of the notice, to:

i.  obtain possession, if necessary, and to commence and diligently pursue said cure until the same is completed, and

ii.  add the cost of said cure to the security interest debt and the lien or obligation on its security interest;

provided that in the case of a default which cannot with diligence be remedied or cured within such ninety (90) day period, such holder shall have additional time as reasonably necessary to remedy or cure such default.
In the event there is more than one such holder, the right to cure or remedy a breach or default of Developer under this Section shall be exercised by the holder first in priority or as the holders may otherwise agree among themselves, but there shall be only one exercise of such right to cure and remedy a breach or default of Developer under this Section.

No holder shall undertake or continue the construction or completion of the improvements (beyond the extent necessary to preserve or protect the improvements or construction already made) without first submitting evidence satisfactory to the Authority that it has the qualifications and financial responsibility necessary to construct and complete the improvements and enter into an agreement with the Authority with respect to the obligations hereunder. Any holder properly completing such improvements shall be entitled, upon written request made to Authority, to a Release of Construction Covenants from Authority.

g. Authority’s Rights upon Failure of Holder to Complete Improvements.

In any case where one hundred eighty (180) days after default by Developer in completion of construction of improvements under this Agreement, the holder of any mortgage creating a lien or encumbrance upon the Site or improvements thereon has not exercised the option to construct afforded in this Section or if it has exercised such option and has not proceeded diligently with construction, Authority may, after ninety (90) days’ notice to such holder and if such holder has not exercised such option to construct within said ninety (90) day period, purchase the mortgage, upon payment to the holder of an amount equal to the sum of the following:

i. The unpaid mortgage debt plus any accrued and unpaid interest (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings, if any);

ii. All expenses incurred by the holder with respect to foreclosure, if any;

iii. The net expenses (exclusive of general overhead), incurred by the holder as a direct result of the ownership or management of the Site, such as insurance premiums or real estate taxes, if any;

iv. The costs of any improvements made by such holder, if any; and

v. An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence to the date of payment by the Authority.

In the event that the holder does not exercise its option to construct afforded in this Section, and Authority elects not to purchase the mortgage of holder, upon written request by the holder to Authority, Authority agrees to use reasonable efforts to assist the holder selling the holder’s interest to a qualified and responsible party or parties (as determined by Authority). The proceeds of such a sale shall be applied first to the holder of those items specified in subparagraphs a. through e. hereinabove, and any balance remaining thereafter shall be applied as follows:
(1) First, to reimburse Authority, on its own behalf and on behalf of the City, for all costs and expenses actually and reasonably incurred by Authority, including but not limited to payroll expenses, management expenses, legal expenses, and others.

(2) Second, to reimburse Authority, on its own behalf and on behalf of the City, for all payments made by Authority to discharge any other encumbrances or liens on the Site or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of Developer, its successors or transferees.

(3) Third, to reimburse Authority, on its own behalf and on behalf of the City, for all costs and expenses actually and reasonably incurred by Authority, in connection with its efforts assisting the holder in selling the holder’s interest in accordance with this Section.

(4) Fourth, any balance remaining thereafter shall be paid to Developer.

h. **Right of Authority to Cure Mortgage, Deed of Trust or Other Security Interest Default.**

In the event of a default or breach by Developer (or entity permitted to acquire title under this Section) of a mortgage prior to the issuance by Authority of a Release of Construction Covenants for the Site or portions thereof covered by said mortgage, and the holder of any such mortgage has not exercised its option to complete the development, Authority may cure the default prior to completion of any foreclosure. In such event, Authority shall be entitled to reimbursement from Developer or other entity of all costs and expenses incurred by Authority in curing the default, to the extent permitted by law, as if such holder initiated such claim for reimbursement, including legal costs and attorneys’ fees, which right of reimbursement shall be secured by a lien upon the Site to the extent of such costs and disbursements. Any such lien shall be subject to:

a. Any mortgage for financing permitted by this Agreement; and

b. Any rights or interests provided in this Agreement for the protection of the holders of such mortgages for financing;

provided, that nothing herein shall be deemed to impose upon Authority any affirmative obligations (by the payment of money, construction or otherwise) with respect to the Site in the event of its enforcement of its lien.

i. **Right of Authority to Satisfy Other Liens on the Site After Conveyance of Title.**

After the conveyance of title and prior to the recordation of a Release of Construction Covenants for construction and development, and after the Developer has had a reasonable time to challenge, cure, or satisfy any liens or encumbrances on the Site or any portion thereof, the Authority shall have the right to satisfy any such liens or encumbrances; provided, however, that nothing in this Agreement shall require the Developer to pay or make provision for the payment of any tax, assessment, lien or charge so long as the Developer in good faith shall contest the validity or amount thereof, and so long as such delay in payment shall not subject the Site or any portion thereof to forfeiture or sale.
4.13 Release of Construction Covenants.

Upon the completion of all construction required to be completed by Developer on the Site, Authority shall furnish Developer with a Release of Construction Covenants for the Site in the form attached hereto as Attachment No. 5 upon written request therefor by Developer. The Release of Construction Covenants shall be executed and notarized so as to permit it to be recorded in the office of the Recorder of Riverside County. A Release of Construction Covenants shall be, and shall state that it constitutes, conclusive determination of satisfactory completion of the construction and development of the improvements required by this Agreement upon the Site and of full compliance with the terms of this Agreement with respect thereto. A partial Release of Construction Covenants applicable to less than the entire Site shall not be permitted.

After the issuance of a Release of Construction Covenants, any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the Site shall not (because of such ownership, purchase, lease, or acquisition) incur any obligation or liability under this Agreement with respect to the Site, except that such party shall be bound by the covenants, encumbrances, and easements contained in the Deed and the Regulatory Agreement attached hereto. After issuance of a Release of Construction Covenants, the Authority shall not have any rights or remedies under this Agreement with respect to the Site, except as otherwise set forth or incorporated in the Deed or the Regulatory Agreement.

Authority shall not unreasonably withhold a Release of Construction Covenants. If Authority refuses or fails to furnish a Release of Construction Covenants within thirty (30) days after written request from Developer or any entity entitled thereto, Authority shall provide a written statement of the detailed reasons Authority refused or failed to furnish a Release of Construction Covenants. The statement shall also contain Authority’s opinion of the action Developer must take to obtain a Release of Construction Covenants. If the reason for such refusal is confined to the immediate availability of specific items or materials for landscaping, or other minor so-called “punch list” items, Authority will issue its Release of Construction Covenants upon the posting of a bond in an amount representing one hundred fifty percent (150%) of the fair value of the work not yet completed or other assurance reasonably satisfactory to Authority.

A Release of Construction Covenants shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a mortgage, or any insurer of a mortgage securing money loaned to finance the improvements, or any part thereof. Such Release of Construction Covenants is not notice of completion as referred to in the California Civil Code Section 3093. Nothing herein prevent or affect Developer’s right to obtain a Certificate of Occupancy from the City before the Release of Construction Covenants is issued.

4.14 Estoppels.

No later than thirty (30) days after the request of Developer or any holder of a mortgage or deed of trust, Authority shall, from time to time and upon the request of such holder, execute and deliver to Developer or such holder a written statement of Authority that no default or breach exists (or would exist with the passage of time, or giving of notice or both) by Developer under this Agreement, if such be the determination of the Authority, and certifying as to whether or not Developer has at the date of such certification complied with any obligation of Developer hereunder
as to which such holder may inquire. The form of any estoppel letter shall be prepared by the holder or Developer and shall be at no cost to Authority.

4.15 Subordination.

The Authority agrees to subordinate the Deed of Trust to mortgages, liens or other security ("Senior Lien") given in connection with the construction loan and/or permanent loan obtained by the Developer as part of the financing of the Project, including any refinancing thereof established and obtained pursuant to and in compliance with the provisions of this Agreement. The Executive Director of the Authority is hereby authorized and directed to execute such subordination agreements, intercreditor agreements, standstill agreements, tri-party agreements, modifications to this Agreement, the Deed of Trust, and/or other documents as may be reasonably requested by a senior lender. The execution of such agreements is subject to the requirement that such agreements contain written provisions which the Executive Director finds are consistent with the standard requirements imposed by the senior lender, the subordination requirements contained in this Agreement and that the Authority be given notice and be permitted an opportunity to cure any defaults under the Senior Lien within a reasonable time. The Parties acknowledge that the Deed of Trust shall not be subordinated to a position lower than third in lien priority. Authority shall be entitled to reimbursement from Developer for any costs associated with curing a default on a Senior Lien and for any costs in entering into the aforementioned agreements.

Developer acknowledges that the purpose of this Agreement and the Regulatory Agreement is to ensure that the Residential Units in the Project remain affordable to Qualified Tenants for the duration of the Regulatory Agreement, in accordance with the requirements of the Housing Authority Law. Developer further acknowledges that Authority would not have entered into this Agreement without the affordability covenants included in the Regulatory Agreement. Therefore, to the extent possible, the Regulatory Agreement shall remain prior to and shall not be subject or subordinate to any Senior Lien. To the extent possible, the Regulatory Agreement shall survive a foreclosure or other transfer in lieu of foreclosure of the Senior Lien and shall remain a restriction on the use and operation of the Property until its expiration or termination in accordance with its terms. The Senior Lien documents shall contain provisions to effectuate this Section, and Developer shall use its best efforts to save and protect the Authority’s rights under the Regulatory Agreement and the Deed of Trust in the event of foreclosure or financial distress.

Notwithstanding the foregoing paragraph, Authority acknowledges that due to market conditions, financing for the Project may require subordination of the Regulatory Agreement to the Senior Lien. If the Executive Director reasonably determines that financing for the Project is infeasible without subordinating the Regulatory Agreement, the Executive Director is hereby authorized and directed to execute such agreements or modifications as may be reasonably requested by a senior lender. The execution of such agreements is subject to the requirement that such agreements contain written provisions which the Executive Director finds are consistent with the standard requirements imposed by the senior lender, the subordination requirements contained in this Agreement and that the Authority be given notice and be permitted an opportunity to cure any defaults under the Senior Lien within a reasonable time. Such agreements shall endeavor to preserve the affordability covenants contained in the Regulatory Agreement at an affordability level that will comply with the Housing Authority Law. The Parties acknowledge that the Regulatory Agreement shall not be subordinated to a position lower than third in lien priority. Authority shall be entitled to
reimbursement from Developer for any costs associated with curing a default on a Senior Lien and for any costs in entering into the aforementioned agreements.

5. USES AND MAINTENANCE OF THE SITE

5.1 Uses of the Site.

The Developer covenants and agrees for itself, its successors and assigns, which covenants shall run with the land and bind every successor or assign in interest of Developer, that during development of the Site pursuant to this Agreement and thereafter, neither the Site nor the improvements, nor any portion thereof, shall be improved, used or occupied in violation of any applicable governmental restrictions or the restrictions of this Agreement. Furthermore, Developer and its successors and assigns shall not initiate, maintain, commit, or permit the maintenance or commission on the Site or in the improvements, or any portion thereof, of any nuisance, public or private, as now or hereafter defined by any statutory or decisional law applicable to the Site or the improvements, or any portion thereof. Developer further covenants and agrees on behalf of itself and its successors and assigns to devote, use, operate and maintain the Site in accordance with this Agreement, the Grant Deed, the Regulatory Agreement, and the other documents recorded against the Residential Units pursuant to the provisions of this Agreement.

Notwithstanding anything to the contrary or that appears to be to the contrary in this Agreement, Developer hereby covenants, on behalf of itself, and its successors and assigns, which covenants shall run with the land and bind every successor and assign in interest of Developer, that Developer and such successors and assigns shall use the Site solely for the purpose of constructing, maintaining and operating a project meeting the requirements and restrictions of this Agreement, including, without limitations, restriction of the rental and occupancy of the Residential Units only to Qualified Tenants for a rent not in excess of an Affordable Rent for the period specified herein.

5.2 Affordable Housing.

a. Construction of Affordable Housing.

The Developer covenants and agrees to construct a maximum of sixty (60) Residential Units, including one (1) Manager’s Unit, along with other mixed commercial and/or retail uses, in conformity with the Scope of Development. All of the Residential Units, other than the Manager’s Unit, shall be restricted to rental at an Affordable Rent to Low, Very Low, and Extremely Low Income Households. The location, size and specifications of the Residential Units, including affordability levels, shall be as set forth in the Scope of Development and as further designated by the Authority. All Residential Units, other than the Manager’s Unit, shall be subject to and shall be leased in compliance with the tenant selection criteria described in the Regulatory Agreement. Notwithstanding anything to the contrary set forth herein, in the event of a conflict between the total number of restricted affordable units set forth herein and the total number of restricted affordable units which the Authority may require by statute, Developer may elect to use the affordable unit restrictions established by the rules and regulations of the Strategic Growth Council and/or AHSC Program.

b. Residential Unit Requirements.
All Residential Units constructed pursuant to this Agreement shall be occupied at all times only by the household of the Qualified Tenant who has rented that Residential Unit. Developer covenants to cooperate with Authority in taking all steps necessary to implement this requirement with respect to all Qualified Tenants. The restrictions upon rental and use of each Residential Unit shall continue for a period of fifty-five (55) years from the close of Escrow for the initial rental of the Residential Unit by the Developer to a Qualified Tenant.

c. Leasing of Residences by Developer.

1. Marketing Program. Prior to the deadline specified in the Schedule of Performance, Developer shall prepare and obtain Authority’s approval (which shall not be unreasonably withheld) of a marketing and leasing program (“Approved Marketing Program”) for the selection of tenants for the Residential Units at the Project. The Residential Units shall thereafter be marketed in accordance with the Approved Marketing Program as the same may be amended by Developer from time to time with Authority’s prior written approval, which shall not be unreasonably withheld. Monthly during the initial lease-up period, and annually thereafter, Developer shall provide Authority with a report with respect to Residential Units under lease, leases in default, the status of implementation of the Approved Marketing Program, and such other information as Authority may reasonably request. Authority agrees to exercise reasonable efforts to assist Developer in connection with implementation of the Approved Marketing Program; provided, Authority shall not be under any obligation to incur any out-of-pocket expenses in connection therewith.

2. Restricted Residences. As set forth above, each of the Residential Units shall be rented to a Qualified Tenant for a rental rate that does not exceed an Affordable Rent for the applicable Residential Unit.

3. Annual Tenancy Report. Developer shall provide Authority annually, by January 31, with a report on Project occupancy for each Residential Unit, including information concerning the number of months during which each Residential Unit was occupied and the income category of each tenant household occupying a Residential Unit. The annual report and Developer’s records related to each tenancy shall be subject to inspection and audit upon Authority’s written request.

5.3 Obligation to Refrain from Discrimination.

There shall be no discrimination against, or segregation of, any persons, or group of persons, on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the rental, sale, lease, sublease, transfer, use, occupancy, or enjoyment of the Site, or any portion thereof, nor shall Developer, or any person claiming under or through Developer, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Site or any portion thereof (except as permitted by this Agreement). The nondiscrimination and nonsegregation covenants contained herein shall remain in effect in perpetuity.
5.4 Form of Nondiscrimination and Nonsegregation Clauses.

Subject to the tenancy/occupancy restrictions on the Residential Units not prohibited by federal law as embodied in this Agreement, which may modify the following nondiscrimination clauses, the following shall apply: Developer shall refrain from restricting the rental, sale, or lease of any portion of the Site on the basis of race, color, creed, religion, sex, marital status, ancestry or national origin of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

a. Deeds:

In Deeds the following language shall appear: “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee, or any persons claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land.”

b. Leases:

In Leases the following language shall appear: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased.”

c. Contracts:

Any contracts which Developer or Developer’s heirs, executors, administrators, or assigns propose to enter into for the sale, transfer, or leasing of the Site shall contain a nondiscrimination and nonsegregation clause substantially as set forth in Section 603 and in this Section. Such clause shall bind the contracting party and subcontracting party or transferee under the instrument.

5.5 Maintenance of Improvements.

Developer covenants and agrees for itself, its successors and assigns, and every successor in interest to the Site or any part thereof, that, after Authority’s issuance of its Release of Construction Covenants the Developer shall be responsible for maintenance of all improvements that may exist on the Site from time to time, including without limitation buildings, parking lots, lighting, signs, and walls, in good working condition and repair, and shall keep the Site free from any accumulation of
debris or waste materials. The Developer shall also maintain all landscaping required pursuant to Developer’s approved landscaping plan in a healthy condition, including replacement of any dead or diseased plants. The foregoing maintenance obligations shall run with the land in accordance with and for the term of the Regulatory Agreement. Developer’s further obligations to maintain the Site, and Authority’s remedies in the event of Developer’s default in performing such obligations, are set forth in the Regulatory Agreement. Developer hereby waives any notice, public hearing, and other requirements of the public nuisance laws and ordinances of the City that would otherwise apply, except as specified in said Regulatory Agreements. Upon the sale of any portion of the Site, Developer (but not Developer’s successor) shall be released from the requirements imposed by this Section 605, and the financial liability therefor, as to the portion of the Site conveyed.

5.6 **Effect of Covenants.**

Authority is deemed a beneficiary of the terms and provisions of this Agreement and of the restrictions and covenants running with the land, whether appearing in the Deed or the Regulatory Agreement, for and in its own right for the purposes of protecting the interests of the community in whose favor and for whose benefit the covenants running with the land have been provided. The covenants in favor of Authority shall run without regard to whether Authority has been, remains or is an owner of any land or interest therein in the Site, and shall be effective as both covenants and equitable servitudes against the Site. Authority shall have the right, if any of the covenants set forth in this Agreement which are provided for its benefit are breached, to exercise all rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it may be entitled. With the exception of the City, no other person or entity shall have any right to enforce the terms of this Agreement under a theory of third-party beneficiary or otherwise. The covenants running with the land and their duration are set forth in the Deed and the Regulatory Agreement.

6. **SPECIAL PROVISIONS**

6.1 **Amendments to this Agreement to Comply with Housing Program Fund Requirements.**

If reasonable changes to this Agreement are required by the entities providing Housing Program Funds pursuant to Section 3.1, the parties agree to effectuate such changes in order to be in compliance with the requirements. The Executive Director is authorized, without further approval of the Authority, to make changes to this Agreement and the Regulatory Agreement as required to satisfy the requirements described herein.

6.2 **Reserved.**

6.3 **Minor Amendments.**

Each party agrees to consider reasonable requests for amendments to this Agreement which may be made by the other party, lending institutions, or financial consultants. Any amendments to this Agreement must be in writing and signed by the appropriate authorities of the Authority and Developer. On behalf of the Authority, the Executive Director shall have the authority to make minor amendments to this Agreement, including, but not limited to, the granting of extensions of time to Developer, so long as such actions do not materially change the Agreement or make a
commitment of additional funds of the Authority. All other changes, modifications, and amendments shall require the prior approval of the Authority's governing board.

7. DEFAULTS, REMEDIES AND TERMINATION

7.1 Defaults, Right to Cure and Waivers.

Subject to any Enforced Delay, failure or delay by either party to timely perform any covenant of this Agreement constitutes a default under this Agreement, but only if the party who so fails or delays does not commence to cure, correct or remedy such failure or delay within thirty (30) days after receipt of a written notice specifying such failure or delay, and does not thereafter prosecute such cure, correction or remedy with diligence to completion.

The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Except as required to protect against further damages, the injured party may not institute proceedings against the party in default until thirty (30) days after giving such notice. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default.

Except as otherwise provided in this Agreement, waiver by either party of the performance of any covenant, condition or promise, shall not invalidate this Agreement, nor shall it be considered a waiver of any other covenant, condition, or promise. Waiver by either party of the time for performing any act shall not constitute a waiver of time for performing any other act or an identical act required to be performed at a later time. The delay or forbearance by either party in exercising any remedy or right as to any default shall not operate as a waiver of any default or of any rights or remedies or to deprive such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

7.2 Legal Actions.

a. Institution of Legal Actions.

In addition to any other rights or remedies, and subject to the requirements of Section 7.1, either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Legal actions must be instituted and maintained in the Superior Court of the County of Riverside, State of California, in any other appropriate court in that county, or in the Federal District Court in the Central District of California.

b. Applicable Law and Forum.

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

c. Acceptance of Service of Process.

In the event that any legal action is commenced by Developer against Authority, service of process on Authority shall be made by personal service upon the Executive Director or Secretary of Authority or in such other manner as may be provided by law.
In the event that any legal action is commenced by Authority against Developer, service of process on Developer shall be made in such manner as may be provided by law and shall be valid whether made within or outside of the State of California.

7.3 Rights and Remedies are Cumulative.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.4 Specific Performance.

In addition to any other remedies permitted by this Agreement, if either party defaults hereunder by failing to perform any of its obligations herein, each party agrees that the other shall be entitled to the judicial remedy of specific performance, and each party agrees (subject to its reserved right to contest whether in fact a default does exist) not to challenge or contest the appropriateness of such remedy. In this regard, Developer specifically acknowledges that Authority is entering into this Agreement for the purpose of assisting in the redevelopment of the Site and not for the purpose of enabling Developer to speculate with land.

7.5 Right of Reverter.

The Authority shall have the right, at its option, upon one hundred twenty (120) days prior written notice, to reenter and take possession of the Site or any portion thereof with all improvements thereon and to terminate and re-vest in the Authority the fee title conveyed to the Developer, including Parcels 2, 3, and 4, if after conveyance of the estate and prior to the recordation of the Release of Construction Covenants, the Developer (or his successors in interest) shall:

- Fail to be awarded Housing Program Funds through the AHSC Program.

- Fail to commence construction of the improvements as required by this Agreement, if such failure is in violation of the Schedule of Performance, for a period of ninety (90) days after issuance of a building permit, provided that the Developer shall not have obtained an extension or postponement to which the Developer may be entitled pursuant to this Agreement; or

- Abandon or substantially suspend construction of the improvements (other than as caused by force majeure or an Enforced Delay) for a period of one hundred twenty (120) days after written notice of such abandonment or suspension from the Authority, provided that the Developer shall not have obtained an extension of time to which the Developer may be entitled pursuant to this Agreement; or

- Assign or attempt to assign this Agreement, or any rights herein, or transfer, or suffer any involuntary Transfer of, the Site, or any part thereof, in violation of this Agreement, and such violation shall not be cured within one hundred twenty (120) days after the date of receipt of written notice thereof by the Authority to the Developer.
The right to re-enter, repossess, terminate, and re-vest shall be subject to and be limited by and shall not defeat, render invalid, or limit:

a. Any mortgage, deed of trust, or other security interests permitted by this Agreement; or

b. Any rights or interests provided in this Agreement for the protection of the holders of such mortgages, deeds of trust, or other security interests.

Upon the re-vesting in Authority of possession of the Site, or any part thereof, as provided in this Section, Authority shall, pursuant to its responsibilities under state law, use its best efforts to release, or resell or re-grant the Site, as necessary and legally permitted, as the case may be, or any part thereof, as soon and in such manner as Authority shall find feasible and consistent with the objectives of such law to a qualified and responsible party or parties (as determined by the Authority), who will assume the obligation of making or completing the improvements, or such other improvements in their stead, as shall be satisfactory to the Authority and in accordance with the uses specified for the Site.

In the event of a resale, the proceeds thereof shall be applied as follows:

a. First, to reimburse the Authority on its own behalf or on behalf of the City for all costs and expenses incurred by the Authority, including but not limited to, salaries to personnel, legal costs and attorneys' fees, and all other contractual expenses in connection with the recapture, management, and resale of the Site (but less any income derived by the Authority from the Site or part thereof in connection with such management); all taxes, assessments and water and sewer charges with respect to the Site (or, in the event the Site is exempt from taxation or assessment or such charges during the period of ownership, then such taxes, assessments, or charges, as determined by the City, as would have been payable if the Site were not so exempt); any payments made or necessary to be made to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations incurred with respect to the making or completion of the agreed improvements or any part thereof on the Site or part thereof; and amounts otherwise owing the Authority by the Developer, its successors, or transferees; and

b. Second, to reimburse the Developer, its successor or transferee, up to the amount equal to (i) the costs incurred for the development of the Site and for the agreed development expenses and improvements existing on the Site at the time of the re-entry and repossession, less (ii) any gains or income withdrawn or made by the Developer from the Site or the improvements thereon.

c. Any balance remaining after such reimbursements shall be retained by the Authority as its property.

To the extent that the right established in this Section involves a forfeiture, it must be strictly interpreted against the Authority, the party for whose benefit it is created. The rights established in this Section are to be interpreted in light of the fact that the Authority will sell the Site to the Developer for development, and not for speculation in undeveloped land.
7.6 **Attorneys’ Fees.**

If either party to this Agreement is required to initiate or defend any action or proceeding in any way arising out of the parties’ agreement to, or performance of, this Agreement, or is made a party to any such action or proceeding by the Escrow Agent or other third party, such that the parties hereto are adversarial, the prevailing party, as between the Developer and Authority only, in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney’s fees from the other. As used herein, the “prevailing party” shall be the party determined as such by a court of law, pursuant to the definition Code of Civil Procedure Section 1032(a)(4), as it may be subsequently amended. Attorneys’ fees shall include attorneys’ fees on any appeal, and in addition a party entitled to attorneys’ fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

8. **GENERAL PROVISIONS**

8.1 **Notices, Demands and Communications Between the Parties.**

Except as expressly provided to the contrary herein, any notice, consent, report, demand, document or other such item to be given, delivered, furnished or received hereunder shall be deemed given, delivered, furnished, and received when given in writing and personally delivered to an authorized agent of the applicable party, or upon delivery by the United States Postal Service, first-class registered or certified mail, postage prepaid, return receipt requested, or by a national “overnight courier” such as Federal Express, at the time of delivery shown upon such receipt; or by facsimile, if such facsimile is followed by a notice sent out the same day by mail; in any case, delivered to the address, addresses and persons as each party may from time to time by written notice designate to the other and who initially are:

**Authority:**          Perris Housing Authority  
101 North “D” Street  
Perris, CA 92570  
Attn: Executive Director  

**Copy to:**          Aleshire & Wynder, LLP  
18881 Von Karman Avenue, Suite 1700  
Irvine, CA 92612  
Attn: Eric L. Dunn, Esq.  

**Developer:**          AMCAL Multi-Housing, Inc.  
30141 Agoura Road #100  
Agoura Hills, CA 91301  
Attn: Arjun Nagarkatti  

**Copy to:**          Bocarsly Emden Cowan Esmail & Arndt LLP  
633 West Fifth Street, Suite 7000
8.2 Nonliability of City and Authority Officials and Employees; Conflicts of Interest; Commissions.

a. Personal Liability.

No member, official, employee, agent or contractor of City or Authority shall be personally liable to Developer in the event of any default or breach by Authority or for any amount which may become due to Developer or on any obligations under the terms of the Agreement; provided, it is understood that nothing in this Section is intended to limit Authority’s liability.

b. Financial Interest.

No member, official, employee or agent of City or Authority shall have any financial interest, direct or indirect, in this Agreement, nor participate in any decision relating to this Agreement which is prohibited by law.

c. Commissions.

Neither the Authority nor the Developer has retained any broker or finder or has paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement. No party shall be liable for any real estate commissions, brokerage fees or finders fees which may arise from this Agreement, and each party agrees to hold the other harmless from any claim by any broker, agent, or finder retained by such party.

8.3 Enforced Delay: Extension of Times of Performance.

Time is of the essence in the performance of this Agreement.

Notwithstanding the foregoing, in addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; supernatural causes; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; subsurface conditions on the Site and unknown soils conditions; governmental restrictions or priority litigation; unusually severe weather; acts of the other party; acts or the failure to act of a public or governmental agency or entity (except that acts or the failure to act of Authority or City shall not excuse performance by Authority unless the act or failure is caused by the acts or omissions of Developer); or any other causes beyond the reasonable control or without the fault of the party claiming an extension of time to perform. In the event of such a delay (herein “Enforced Delay”), the party delayed shall continue to exercise reasonable diligence to minimize the period of the delay. An extension of time for any such cause shall be limited to the period of the Enforced Delay, and shall commence to run from the time of the commencement of the cause, provided notice by the party claiming such extension is sent to the other party within ten (10) days of the commencement of the cause.
The following shall not be considered as events or causes beyond the control of Developer, and shall not entitle Developer to an extension of time to perform: (i) Developer’s failure to obtain financing for the Project (except as provided in Section 3.1), and (ii) Developer’s failure to negotiate agreements with prospective users for the Project or the alleged absence of favorable market conditions for such uses.

Times of performance under this Agreement may also be extended by mutual written agreement by Authority and Developer. The Executive Director of Authority shall have the authority on behalf of Authority to approve extensions of time not to exceed a cumulative total of one hundred eighty (180) days with respect to the development of the Site.

8.4 Books and Records.

a. Developer to Keep Records.

Developer shall prepare and maintain all books, records and reports necessary to substantiate Developer’s compliance with the terms of this Agreement or reasonably required by the Authority.

b. Right to Inspect.

Either party shall have the right, upon not less than seventy-two (72) hours prior written notice, during normal business hours, to inspect the books and records of the other party pertaining to the Site as pertinent to the purposes of this Agreement.

c. Ownership of Documents.

Subject to the rights and consents of the authors, copies of all material drawings, specifications, reports, records, documents and other materials prepared by Developer, its employees, agents and subcontractors, in the performance of this Agreement, which documents are in the possession of Developer and are not proprietary, privileged or confidential shall be delivered to Authority upon request in the event of a termination of this Agreement however, Developer shall be entitled to reimbursement from Authority for the cost to prepare any drawings, specifications, reports, records, documents and other materials prepared by Developer’s subcontractors as a result of the exercise by Authority of its rights hereunder. Any drawings, specifications, reports, records, documents and other materials prepared by Developer or Developer’s subcontractors and/or consultants shall be delivered without representation or warranty by Developer. The Authority shall have an unrestricted right to use such documents and materials as if it were in all respects the owner of the same. Developer makes no warranty or representation regarding the accuracy or sufficiency of such documents for any future use by Authority, and Developer shall have no liability therefor.

8.5 Assurances to Act in Good Faith.

Authority and Developer agree to execute all documents and instruments and to take all action, including making a deposit of funds in addition to such funds as may be specifically provided for herein, and as may be required in order to consummate conveyance and development of the Site as herein contemplated, and shall use their best efforts, to accomplish the closing and subsequent development of the Site in accordance with the provisions hereof. Authority and Developer shall
each diligently and in good faith pursue the satisfaction of any conditions or contingencies subject to their approval.

8.6 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. The Section headings are for purposes of convenience only, and shall not be construed to limit or extend the meaning of this Agreement. This Agreement includes all attachments attached hereto, which are by this reference incorporated in this Agreement in their entirety.

8.7 Entire Agreement, Waivers and Amendments.

This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and this Agreement supersedes all negotiations and previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement, unless specified otherwise herein, must be in writing and signed by the appropriate authorities of Authority or Developer, as applicable, and all amendments hereto must be in writing and signed by the appropriate authorities of Authority and Developer.

8.8 Severability.

In the event any term, covenant, condition, provision or agreement contained herein is held to be invalid, void or otherwise unenforceable, by any court of competent jurisdiction, such holding shall in no way affect the validity or enforceability of any term, covenant, condition, provision or agreement contained herein.

8.9 Reserved.

8.10 Time for Acceptance of Agreement by Authority.

This Agreement, when executed by Developer and delivered to Authority, must be authorized, executed and delivered by Authority, after consideration at a public hearing. After execution by Developer, this Agreement shall be considered an irrevocable offer until such time as Authority is authorized to execute and deliver the Agreement.

8.11 Execution.

a. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

b. Authority represents and warrants that: (i) it is a Housing Authority duly organized and existing under the laws of the State of California; (ii) by proper action of Authority, Authority has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers; and (iii) the entering into this Agreement by Authority does not violate any provision of any other agreement to which Authority is a party.
c. Developer represents and warrants that: (i) it is duly organized and existing under the laws of the State of California; (ii) by proper action of Developer, Developer has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers; and (iii) the entering into this Agreement by Developer does not violate any provision of any other agreement to which Developer is a party.

[Signatures on next page.]
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date of execution by the Authority.

“AUTHORITY”

PERRIS HOUSING AUTHORITY,
a public body corporate and politic

Date ____________________

________________________
Daryl R. Busch, Chairman

ATTEST:

________________________
Judy L. Haughney, Authority Secretary

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

________________________
Eric L. Dunn, Authority Counsel

“DEVELOPER”

AMCAL MULTI-HOUSING, INC.,
a California corporation

By: ______________________
Arjun Nagarkatti, President

[End of Signatures]
AMCAL DDA
ATTACHMENT NO. 1
SITE MAP

[See following page]
AMCAL DDA

ATTACHMENT NO. 2
LEGAL DESCRIPTION OF THE SITE

[See following page]
## AMCAL DDA

### ATTACHMENT NO. 3

**SCHEDULE OF PERFORMANCE**

<table>
<thead>
<tr>
<th>Milestones</th>
<th>Completion date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Execution of the DDA</td>
<td>Aug. 2016</td>
</tr>
<tr>
<td>Entitlements approved</td>
<td>Jan. 2017</td>
</tr>
<tr>
<td>Submittal of AHSC Program Concept Proposal</td>
<td>Mar. 2017</td>
</tr>
<tr>
<td>Submittal of AHSC Program Application, if selected</td>
<td>Jun. 2017</td>
</tr>
<tr>
<td>Award of AHSC Program Funding</td>
<td>Sept. 2017</td>
</tr>
<tr>
<td>Submittal of construction plans</td>
<td>Nov. 2017</td>
</tr>
<tr>
<td>Close of construction financing (180 day test)</td>
<td>Mar. 2018</td>
</tr>
<tr>
<td>Issuance of building permits</td>
<td>Mar. 2018</td>
</tr>
<tr>
<td>Start of construction</td>
<td>Apr. 2018</td>
</tr>
<tr>
<td>Construction completed, Certificate of Occupancy issuance (14 months)</td>
<td>Jul. 2018</td>
</tr>
<tr>
<td>Occupancy</td>
<td>Aug. 2018</td>
</tr>
<tr>
<td>Stabilized occupancy (3 months)</td>
<td>Nov. 2018</td>
</tr>
<tr>
<td>Close of permanent financing</td>
<td>Dec. 2018</td>
</tr>
</tbody>
</table>
AMCAL DDA
ATTACHMENT NO. 4
SCOPE OF DEVELOPMENT

PROJECT CONCEPT

The Project is a mixed use concept located within a transit oriented development project area consisting of up to sixty (60) residential apartments, a leasing office, a community room, and commercial and/or retail uses. The residential units will be restricted for use by extremely low, very low, and low-income households, other than the one (1) unit restricted for rent to a Qualified Manager.

PROJECT DESIGN

1. Design Process

The Developer and its representatives, including its architect and engineer, shall work with City and Authority staff to develop and execute the architectural concept, architectural drawings, site plan, grading plan, off-site improvement plans, landscaping plan and related drawings and documents consistent with City of Perris Planning Commission and Authority direction pursuant to the Perris Municipal Code.

2. Architectural Concept

The improvements to be constructed on the Site shall be of high architectural quality, shall be well landscaped, and shall be effectively and aesthetically designed. The shape, scale of volume, exterior design, and exterior finish of each structure and all other improvements must be consistent with, visually related to, physically related to, and an enhancement to each other and, to the extent reasonably practicable, to adjacent improvements existing or planned within the Project Area. The Developer’s plans, drawings, and proposals submitted to the Authority for approval shall describe in reasonable detail the architectural character intended for the Project. The open spaces on the Site, where they exist, shall be designed, landscaped and developed with the same degree of excellence.

3. Site Work

The Project shall substantially conform to the site and building plans and landscaping plans approved pursuant to the Project Concept and with the Site Map attached to the Agreement as Attachment No. 1. It shall be the responsibility of the Developer, the architect and the contractor to develop the Project consistent with the aforementioned plans. Any substantial modification to the approved site or building plans, as determined by the Director of Community Development, shall be referred to the City’s Planning Commission for review and approval through a conformity report. The Developer shall be responsible for the construction and installation of all improvements to be constructed or installed on the Site, including but not limited to the following:

a. Residential Units
Developer shall construct a building not to exceed three stories, containing a maximum of sixty (60) Residential Units.

b. Commercial and/or Retail Uses

All commercial and/or retail units shall be designed and constructed in accordance with all applicable laws, and all uses shall be approved by the City prior to commencement.

c. Parking

The design, construction, and number of parking spaces shall be in accordance with Chapter 19.69 of the Perris Municipal Code. Construction of the parking areas shall include installation of necessary drainage systems, paving, required landscaping and irrigation, striping and labeling, all in accordance with the Perris Municipal Code and approved plans.

d. Landscaping

Developer shall install and maintain on-site landscaping and automatic irrigation pursuant to approved plans consistent with its conditions of approval for the Project and the Perris Municipal Code.

e. Lighting

Developer shall install and maintain on-site lighting in a manner consistent the approved lighting and electrical plans. The design of light standards and fixtures shall be subject to the approval of the Director of Community Development.

f. Trash Storage

Trash storage areas shall be provided of sufficient size to ensure containment of all solid waste materials generated from the Site in trash disposal and recycling bins. Adequate access shall be provided to the enclosures for refuse pickup.

g. Signs

A sign program shall be submitted to the City for approval. Building and, where necessary, electrical permits shall be obtained prior to installation, painting or erection of signs. Signs shall be designed, installed, and maintained in a manner consistent with the approved Site Plan and sign program.

4. Undergrounding Utilities

All new utility service connections servicing the Site shall be installed underground, including connections to facilities within the public right-of-way.

5. Mechanical Equipment

On-site mechanical equipment, whether roof or ground mounted, shall be completely screened from public view. Screening material shall be constructed of materials that coordinate with
the overall architectural theme. Where public visibility will be minimal, the Director of Community Development may permit use of landscaping to screen ground mounted equipment.

6. Applicable Codes

All improvements shall be constructed in accordance with the California Building Code (with Perris modifications), the County of Riverside Fire Code (with Perris modifications), the Perris Municipal Code, and all other current City standards.

7. Offsite Improvements

Pursuant to the Agreement, Authority and Developer shall perform, or cause to be performed, all offsite improvements required by law or as a condition to any governmental or local approval or permit.
EXHIBIT "A" TO ATTACHMENT NO. 4 - SCOPE OF DEVELOPMENT

PROJECT BUDGET

[See following pages]
RELEASE OF CONSTRUCTION COVENANTS

WHEREAS, by a Disposition and Development Agreement ("Agreement") dated , 2016 between and among the PERRIS HOUSING AUTHORITY ("Authority") and AMCAL MULTI-HOUSING, INC., a California corporation ("Developer"), Developer has agreed to develop a low income housing and mixed use development ("Project") on the Site (as such term is defined in the Agreement); and

WHEREAS, as referenced in the Agreement, Authority shall furnish Developer with a Release of Construction Covenants upon completion of construction and development, which release shall be in such form as to permit it to be recorded in the Riverside Official Records of the County Clerk of the County of Riverside, California; and

WHEREAS, Developer has requested that Authority furnish Developer with the Release of Construction Covenants for the Site more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Site"); and

WHEREAS, the Agreement provided for certain covenants to run with the land, which covenants were incorporated in the Regulatory Agreement, as those terms are defined in the Agreement; and

WHEREAS, such Release of Construction Covenants shall constitute a conclusive determination by Authority of the satisfactory completion by Developer of the construction and development required by the Agreement and of Developer's full compliance with the terms of the Agreement, with respect to such construction and development, but not of the Regulatory Agreement or with respect to the loaning or expenditure of any funds, the provisions of which shall continue to run with the land pursuant to their terms; and

WHEREAS, Authority has conclusively determined that the construction and development on the Site required by the Agreement has been satisfactorily completed by Developer in full compliance with the terms of the Agreement.

NOW, THEREFORE,

1. The improvements required to be constructed have been satisfactorily completed in accordance with the provisions of said Agreement.
2. This Release shall constitute a conclusive determination of satisfaction of the agreements and covenants contained in the Agreement with respect to the obligations of the Developer, and its successors and assigns, to construct the improvements and the dates for the beginning and completion thereof.

3. This Release shall not constitute evidence of Developer's compliance with the Regulatory Agreement or the conditions of the loaning of any funds, the provisions of which shall continue to run with the land.

4. This Release shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of a mortgage or any insurer of a mortgage, securing money loaned to finance the improvements or any part thereof.

5. This Release is not a Notice of Completion as referred to in California Civil Code Section 3093.

6. Except as stated herein, nothing contained in this instrument shall modify in any way any other provisions of the Agreement or any other provisions of the documents incorporated therein.

IN WITNESS WHEREOF, the Authority has executed this Release of Construction Covenants this ____ day of _________________, ____.

PERRIS HOUSING AUTHORITY, a public body, corporate and politic

By _______________________
    Executive Director
INSERT NOTARY
EXHIBIT "A" TO ATTACHMENT NO. 5 – RELEASE OF CONSTRUCTION COVENANTS

DESCRIPTION OF SITE

That certain real property located in the City of Perris, County of Riverside, State of California, more particularly described as:

[See following page]
AMCAL DDA
ATTACHMENT NO. 6

RECORDING REQUESTED BY AND
AFTER RECORDATION RETURN TO:

AMCAL Multi-Housing, Inc.
2041 Agoura Road - #100
Agoura Hills, CA 91301
Attn: Arjun Nagarkatti

(Space Above This Line For Recorder's Office Use Only)

GRANT DEED

For valuable consideration, the receipt of which is hereby acknowledged,

THE PERRIS HOUSING AUTHORITY, a public body, corporate and politic, of the State of California ("Grantor"), acting to carry out its functions under Health & Safety Code Section 34200 et seq., hereby grants to AMCAL MULTI-HOUSING, INC., a California corporation ("Grantee"), the real property ("Site") legally described in Exhibit "A" attached hereto and incorporated herein by this reference.

As conditions of this conveyance, the Grantee covenants by and for itself and any successors in interest for the benefit of the Grantee and the City of Perris ("City"), as follows:

1. Governing Documents. The Site is conveyed pursuant to a Disposition and Development Agreement ("DDA") entered into between and among Grantor and Grantee dated ____________ __, 2016. Grantee covenants and agrees for itself and its successors and assigns to use, operate and maintain the Site in accordance with the DDA and this Deed. In the event of any conflict between this Grant Deed and the DDA, the provisions of the DDA shall control.

2. Regulatory Agreement. Grantee covenants and agrees for itself and its successors and assigns to its interest in the Site that it shall abide by all of the terms listed in the Regulatory Agreement attached to the DDA as Attachment No. 7.

3. Use of Site. The Grantee covenants that Grantee may only use the buildings to be constructed on the Site for residential, commercial, retail and other incidental purposes as consistent with the time period and other terms, covenants and conditions set forth in the DDA and the Regulatory Agreement, by which Grantee has agreed to be bound. Grantee shall have no right to subdivide, separate, or partition the Site. Breach of the terms, covenants, conditions, and provisions of the DDA or Regulatory Agreement shall be a material breach of this conveyance.

4. Encumbrances Prohibited. Prior to issuance of the Release of Construction Covenants by the Grantor as provided in the DDA, the Grantee shall not place or suffer to be placed
on the Site any lien or encumbrance other than mortgages, deeds of trust, sales and leases back or any other form of conveyance required for financing the construction of improvements on the Site and any other expenditures necessary and appropriate to develop the Site, except as specifically provided in the DDA and attachments thereto.

5. **Right of Reverter.** The Authority shall have the right, at its option, upon one hundred twenty (120) days prior written notice, to reenter and take possession of the Site or any portion thereof with all improvements thereon and to terminate and re-vest in the Authority the fee title conveyed to the Developer, if after conveyance of the estate and prior to the recordation of the Release of Construction Covenants, the Developer (or his successors in interest) shall:

- Fail to be awarded Housing Program Funds through the AHSC Program.
- Fail to commence construction of the improvements as required by the DDA, if such failure is in violation of the Schedule of Performance, for a period of ninety (90) days after issuance of a building permit, provided that the Developer shall not have obtained an extension or postponement to which the Developer may be entitled pursuant to the DDA; or
- Abandon or substantially suspend construction of the improvements (other than as caused by force majeure or an Enforced Delay) for a period of one hundred twenty (120) days after written notice of such abandonment or suspension from the Authority, provided that the Developer shall not have obtained an extension of time to which the Developer may be entitled pursuant to the DDA; or
- Assign or attempt to assign the DDA, or any rights herein, or transfer, or suffer any involuntary transfer of, the Site, or any part thereof, in violation of the DDA, and such violation shall not be cured within one hundred twenty (120) days after the date of receipt of written notice thereof by the Authority to the Developer.

The right to re-enter, repossess, terminate, and re-vest shall be subject to and be limited by and shall not defeat, render invalid, or limit:

- Any mortgage, deed of trust, or other security interests permitted by this Agreement; or
- Any rights or interests provided in this Agreement for the protection of the holders of such mortgages, deeds of trust, or other security interests.

6. **Non-Discrimination.** The Grantee covenants that there shall be no discrimination against, or segregation of, any persons, or group of persons, on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the rental, sale, lease, sublease, transfer, use, occupancy, or enjoyment of the Site, or any portion thereof, nor shall Grantee, or any person claiming under or through Grantee, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Site or any portion thereof. The
nondiscrimination and nonsegregation covenants contained herein shall remain in effect in perpetuity.

7. **Form of Nondiscrimination Clauses in Agreements.** Grantee shall refrain from restricting the rental, sale, or lease of any portion of the Site on the basis of race, color, creed, religion, sex, marital status, age, physical or mental disability, ancestry, or national origin of any person. All such deeds, leases, or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

   a. **Deeds:** In deeds the following language shall appear: "The grantee herein covenants by and for itself, its heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, physical or mental disability, ancestry, or national origin in the sale, lease, rental, sublease, transfer, use, occupancy, tenure, or enjoyment of the land herein conveyed, nor shall the grantee itself, or any persons claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

   b. **Leases:** In leases the following language shall appear: "The lessee herein covenants by and for itself, its heirs, executors, administrators, successors, and assigns, and all persons claiming under or through them, and this lease is made and accepted upon and subject to the following conditions:

   "That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, physical or mental disability, ancestry, or national origin in the leasing, subleasing, renting, transferring, use, occupancy, tenure, or enjoyment of the land herein leased nor shall the lessee itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the land herein leased."

   c. **Contracts:** In contracts the following language shall appear: "There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, physical or mental disability, ancestry, or national origin in the sale, lease, rental, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the land."

The foregoing covenants shall remain in effect in perpetuity.
8. **Mortgage Protection.** No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument permitted by the DDA; provided, however, that any successor of Grantee to the Site shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such successor’s title was acquired by foreclosure, deed in lieu of foreclosure, trustee’s sale or otherwise, except as provided in the DDA.

9. **Covenants to Run With the Land.** The covenants contained in this Grant Deed shall be construed as covenants running with the land and not as conditions which might result in forfeiture of title, and shall be binding upon Grantee, its heirs, successors and assigns to the Site, whether their interest shall be fee, easement, leasehold, beneficial or otherwise.

10. **Counterparts.** This Grant Deed may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this instrument to be executed on their behalf by their respective officers thereunto duly authorized, this ____ day of ____________, ______.

"GRANTOR"
PERRIS HOUSING AUTHORITY,
a public body, corporate and politic

Date ________________

Chair

ATTEST:

________________________
Authority Secretary

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

________________________
Eric L. Dunn, Authority Counsel
By its acceptance of this Grant Deed, Grantee hereby agrees as follows:

1. Grantee expressly understands and agrees that the terms of the Grant Deed shall be deemed to be covenants running with the land and shall apply to all of the Grantee’s successors and assigns.

2. The provisions of this Grant Deed are hereby approved and accepted.

"GRANTEE"
AMCAL MULTI-HOUSING, INC.,
a California corporation

By: __________________________
Arjun Nagarkatti, President
EXHIBIT "A" TO ATTACHMENT NO. 6 – GRANT DEED

LEGAL DESCRIPTION OF SITE

[See following page]
AMCAL DDA

ATTACHMENT NO. 7

FREE RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

PERRIS HOUSING AUTHORITY
101 North “D” Street
Perris, CA 92570
Attn: Executive Director

REGULATORY AGREEMENT AND
DECLARATION OF COVENANTS AND RESTRICTIONS

THIS REGULATORY AGREEMENT AND DECLARATION OF COVENANTS AND RESTRICTIONS (“Agreement”) is made and entered into this ___ day of __________, _____, by and among the PERRIS HOUSING AUTHORITY, a public body, corporate and politic (“Authority”), the CITY OF PERRIS, a municipal corporation (“City”), and AMCAL MULTI-
HOUSING, INC., a California corporation (“Owner”).

RECITALS:

A. Pursuant to a Disposition and Development Agreement by and between Authority and Owner dated __________ __, 2016 (“DDA”), Authority has provided to Owner financial assistance in the form of a grant and conveyance of property to the Owner in the amount of SEVEN HUNDRED FIFTY-FIVE THOUSAND DOLLARS ($775,000.00) (collectively the “Authority Assistance”), all for the purpose of assisting Owner in the acquisition of real property and the development of a low income housing mixed use project, as further described herein on that certain real property located in the City of Perris, County of Riverside, State of California, more particularly described in Exhibit “A” attached hereto and incorporated herein by reference (“Site”).

B. Pursuant to the DDA, Owner has agreed to develop, construct, and maintain a mixed use project consisting of a maximum of sixty (60) residential units (“Residential Units”), including one (1) resident manager’s unit, and commercial and/or retail uses (hereinafter referred to collectively as the “Project”) on the Site. All of the Residential Units shall be Restricted Residential Units for Low, Very Low, and Extremely Low Income Tenants.

C. The Authority and the City have fee or easement interests in various streets, sidewalks and other property within the City and are responsible for the planning and development of land within the City in such a manner so as to provide for the health, safety and welfare of the residents of the City.
D. Authority, City, and Owner now desire to place restrictions upon the use and operation of the Project to ensure that the Residential Units within the Project are leased continuously during the term of this Agreement.

E. It is the intent of the parties that the title vested in Owner by the Grant Deed for the Site dated _______________ __, 2016 ("Grant Deed"), recorded concurrently herewith in Office of the County Recorder for the County of Riverside be subject to this Regulatory Agreement, and that the terms hereof shall be binding on the Owner and its successors in interest in the Site for so long as this Regulatory Agreement shall remain in effect.

AGREEMENT:

NOW, THEREFORE, the Owner, City, and Authority declare, covenant and agree, by and for themselves, their heirs, executors, administrators and assigns, and all persons claiming under or through them, that the Site shall be held, transferred, encumbered, used, sold, conveyed, leased and occupied, subject to the covenants and restrictions hereinafter set forth, all of which are declared to be in furtherance of a common plan for the improvement and sale of the Site, and are established expressly and exclusively for the use and benefit of the Authority, the residents of the City, and every person renting a Residential Unit on the Site.

A. DEFINITIONS.

The following terms as used in this Agreement shall have the meanings given unless expressly provided to the contrary:

1. Affordable Extremely Low Income Rent. The term "Affordable Extremely Low Income Rent" shall mean annual rentals whose amount does not exceed the maximum percentage of income that can be devoted to rent as set forth by Health & Safety Code Section 50053, or its successor, which is currently thirty percent (30%) times thirty percent (30%) of the Riverside County Median Income adjusted for the family size appropriate for the Residential Unit.

2. Affordable Low Income Rent. The term "Affordable Low Income Rent" shall mean annual rentals whose amount does not exceed the maximum percentage of income that can be devoted to rent as set forth by Health & Safety Code Section 50053, or its successor, which is currently thirty percent (30%) times sixty percent (60%) of the Riverside County Median Income adjusted for the family size appropriate for the Residential Unit.

3. Affordable Rent. The term "Affordable Rent" shall refer collectively to Affordable Low Income Rent, Affordable Very Low Income Rent, and Affordable Extremely Low Income Rent.

4. Affordable Very Low Income Rent. The term "Affordable Very Low Income Rent" shall mean annual rentals whose amount does not exceed the maximum percentage of income that can be devoted to rent as set forth by Health & Safety Code Section 50053, or its successor, which is currently thirty percent (30%) of fifty percent (50%) of the Riverside County Median Income adjusted for the family size appropriate for the Residential Unit.
5. **Eligible Tenant.** The term “Eligible Tenant” shall refer to a tenant who is a member of a Low, Very Low, or Extremely Low Income Household.

6. **Extremely Low Income Tenant.** The term “Extremely Low Income Tenant” shall mean those tenants whose income does not exceed thirty percent (30%) of the area median income for Riverside County, adjusted for applicable household size.

7. **Low Income Tenant.** The term “Low Income Tenant” shall mean those tenants whose income does not exceed eighty percent (80%) of the Riverside County Median Income, adjusted for applicable household size.

8. **Project Manager.** As used in this Agreement, the term “Project Manager” shall refer to that entity, to be designated by Owner and approved by Authority, who shall be responsible for operating and maintaining the Project in accordance with the terms of this Agreement. The Authority has approved Authority’s Executive Director as the Project Manager.

9. **Resident Manager.** The term “Resident Manager” shall refer to that individual (or those individuals) who may reside in the Project and who are responsible for day-to-day management of the Project.

10. **Restricted Unit.** The term “Restricted Unit” shall refer to all of the Residential Units which shall be reserved for Eligible Tenants or the Resident Manager.

11. **Riverside County Median Income.** The term “Riverside County Median Income” shall be determined by reference to the regulations published by the California Department of Housing and Community Development pursuant to Health and Safety Code Section 50093, or its successor.

12. **Residential Unit.** The term “Residential Unit” shall refer to any of the residential units in the Project and one (1) unrestricted residential unit.

13. **Very Low Income Tenant.** The term “Very Low Income Tenant” shall mean those tenants whose income does not exceed fifty percent (50%) of the Riverside County Median Income, adjusted for applicable household size.

B. **RESIDENTIAL RENTAL PROPERTY – 55 YEARS.** The Owner hereby agrees that the Project is to be owned, managed, and operated as a project for Low, Very Low, and Extremely Low Income residential rental purposes (and ancillary commercial and child-care purposes) for a term equal to fifty-five (55) years, commencing upon the date of the recordation of the Release of Construction Covenants for the Site in accordance with the DDA (“Term”). To that end, and for the term of this Agreement, the Owner hereby represents, covenants, warrants and agrees as follows:

1. **Purpose.** The Site is being acquired and the Project constructed for the purpose of providing low, very low, and extremely low income rental housing and commercial and/or retail purposes, and the Owner shall own, manage, and operate the
Project as a project to provide low, very low, and extremely low income rental housing, together with any functionally related and subordinate facilities.

2. Residential Use. None of the Residential Units in the Project will at any time be utilized on a transient basis or used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, or trailer court or park without the Authority’s prior consent which consent may be given or withheld in its sole and absolute discretion.

3. Conversion of Project. No part of the Project will at any time be owned by a cooperative housing corporation, nor shall the Owner take any steps in connection with the conversion to such ownership or uses to condominiums, or to any other form of ownership, without the prior written approval of Authority which approval may be given or withheld in its sole and absolute discretion.

4. Preference to Eligible Tenants. All of the Residential Units will be available for rental in accordance with the terms of this Agreement, and the Owner shall not give preference to any particular class or group in renting the Residential Units in the Project, except to the extent that the Residential Units are required to be leased or rented to Eligible Tenants and except as provided in Section C.6 below.

5. Resident Manager. Up to one Unit in the Project may be occupied by a Resident Manager.

6. Liability of Owner. Owner and Resident Manager shall not incur any liability under this Agreement as a result of fraud or intentional misrepresentation by a tenant.

C. OCCUPANCY OF PROJECT BY ELIGIBLE TENANTS. Owner hereby represents, warrants, and covenants as follows:

1. Occupancy. Except as expressly provided herein, throughout the term of this Agreement the occupancy of all of the Residential Units in the Project (excluding the Resident Manager Unit) shall be restricted to Eligible Tenants and qualified members of the Eligible Tenant’s household.

2. Occupancy by Eligible Tenants. In addition to the occupancy restrictions in Section C.1, all of the Residential Units in the Project shall be restricted to Low, Very Low, and Extremely Low Income Tenants and qualified members of their households. Notwithstanding anything to the contrary set forth herein, in the event of a conflict between the total number of restricted affordable units set forth herein and the total number of restricted affordable units which the Authority may require by statute, Developer may elect to use the affordable unit restrictions established by the rules and regulations of the AHSC Program and/or California Strategic Growth Council.

3. Expiration of Occupancy and Rent Restrictions. The Residential Units shall be subject to the restrictions contained in this Section C for the Term of this Agreement. All tenants residing in the Residential Units during the final two (2) years of the
Term shall be given notice of the expiration of the Term at least once every six (6) months during the final two years. After the expiration of the Term, the rents payable on the Residential Units may be raised to market rates.

4. **Rental Rates.** Owner hereby agrees to rent the Residential Units as follows: (i) units occupied by Low Income Tenants shall be charged no more than Affordable Low Income Rent; (ii) units occupied by Very Low Income Tenants shall be charged no more than Affordable Very Low Income Rent; and (iii) units occupied by Extremely Low Income Tenants shall be charged no more than Affordable Extremely Low Income Rent. Notwithstanding anything to the contrary set forth herein, in the event of a conflict between the Affordable Rent set forth herein and the rent which the Developer may charge for a tenant of the same percentage of area median income pursuant to the rules and regulations of the AHSC Program, the Developer may elect to use the rents established by the AHSC Program.

5. **Occupancy By Eligible Tenant Until Recertification.** A Residential Unit occupied by an Eligible Tenant shall be treated as occupied by an Eligible Tenant until a recertification of such tenant’s income in accordance with Section C.9 below demonstrates that such tenant no longer qualifies as an Eligible Tenant.

6. **Income Computation Certificate.** Immediately prior to an Eligible Tenant’s occupancy of a Residential Unit, Owner shall obtain and maintain on file an Income Computation and Certification form (which form shall be approved in advance by the Authority) from each such Eligible Tenant dated immediately prior to the date of initial occupancy in the Project by such Eligible Tenant. In addition, the Owner will provide such further information as may be required in the future by the Authority. Owner shall use its best efforts to verify that the income provided by an applicant is accurate by taking the following steps as a part of the verification process: (i) obtain three (3) pay stubs for the most recent pay periods; (ii) obtain a written verification of income and employment from applicant’s current employer; (iii) obtain an income verification form from the Social Security Administration and/or California Department of Social Services if the applicant receives assistance from either agency; (iv) if an applicant is unemployed or did not file a tax return for the previous calendar year, obtain other verification of such applicant’s income as is satisfactory to the Authority; or (v) such other information as may be reasonably requested by the Authority. A copy of each such Income Computation and Certification shall be filed with the Authority prior to the occupancy of a Residential Unit by an Eligible Tenant whenever possible, but in no event more than thirty (30) days after initial occupancy by said tenant.

7. **Rental Priority.** During the term of this Agreement, and to the extent allowed under applicable Housing Program Fund restrictions and affordable housing restrictions, Owner shall use its best efforts to lease vacant Residential Units reserved for Eligible Tenants in the following order of priority: (i) displaced persons entitled to a preference pursuant to California Health and Safety Code Section 33411.3 or successor statute, with highest priority in this category to residents of Perris; (ii) residents of the City of Perris; and (iii) other persons meeting the eligibility requirements of this Agreement. Owner shall and Authority may maintain a list (the “Housing List”) of persons who have filed a
complete application with Owner to rent a Residential Unit in the Project and who have
incomes which would qualify them as an Eligible Tenant, and Owner shall offer to rent
Residential Units on the above-referenced priority basis. Should multiple tenants be equally
eligible and qualified to rent a Residential Unit, Owner shall rent available Residential Units
to Eligible Tenants on a first-come, first-served basis.

8. Renting Vacant Units. When a Residential Unit becomes available as a
result of a tenant vacation, Owner shall rent the Residential Unit to an Eligible Tenant in
accordance with the order of priority set forth in Section C.7.

9. Income Recertification. Immediately prior to the first anniversary date of
the occupancy of a Residential Unit by an Eligible Tenant and on each anniversary date
thereafter, Owner shall recertify the income of such Eligible Tenant by obtaining a
completed Income Computation and Certification based upon the current income of each
occupant of the Residential Unit. In the event the recertification demonstrates that such
household’s income exceeds the income at which such household would qualify as an
Eligible Tenant, such household will no longer qualify as an Eligible Tenant. If the
occupant, upon recertification, does not qualify as an Eligible Tenant, the occupant’s lease
shall be terminated in accordance with Section C.10. Owner shall provide the Authority with
a copy of each such recertification with the next submission of Certificate of Continuing
Program Compliance pursuant to Section C.11.

10. Termination of Ineligible Tenant. Upon recertification, if an Eligible Tenant
has become financially ineligible, Developer shall allow such ineligible tenant to occupy the
Restricted Unit for a period of twenty-four (24) months (“Grace Period”). During the Grace
Period the rent shall not increase except to the extent of increases in the amount of the
Affordable Rent. If the ineligible tenant becomes an Eligible Tenant upon recertification
during the Grace Period, Developer shall continue to rent the Restricted Unit to the Eligible
Tenant at the Affordable Rent. If after the Grace Period the tenant remains financially
ineligible, the ineligible tenant’s lease shall not be renewed and such tenant shall be required
to vacate the Restricted Unit.

11. Certificate of Continuing Program Compliance. Upon the issuance of the
Release of Construction Covenants and annually by January 31 of each year, or at any time
upon the written request of Authority, Owner shall advise the Authority of the occupancy of
the Project by delivering a Certificate of Continuing Program Compliance in the form
attached hereto as Exhibit “B,” certifying: (i) the number of Residential Units of the Project
which were occupied or deemed occupied pursuant to Section C.1 by an Eligible Tenant or
Qualified Permanent Resident during such period, and (ii) to the knowledge of Owner either
(a) no unremedied default has occurred under this Agreement, or (b) a default has occurred,
in which event the Certificate shall describe the nature of the default and set forth the
measures being taken by the Owner to remedy such default. Owner agrees to pay Authority
a reasonable fee pursuant to Health and Safety Code Section 33418(c) to offset Authority’s
cost of monitoring the affordable housing at the Site.

12. Maintenance of Records. Owner shall maintain materially complete and
accurate records pertaining to the Residential Units, and shall permit any duly authorized
representative of the Authority to inspect the books and records of Owner pertaining to the Project including, but not limited to, those records pertaining to the occupancy of the Residential Units.

13. Reliance on Tenant Representations. Each lease shall contain a provision to the effect that Owner has relied on the income certification and supporting information supplied by the tenant in determining qualification for occupancy of the Residential Unit, and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease.

14. Conflicts. The provisions set forth in Section C.7, C.9, C.10 and C.13 shall apply only in the event, and to the extent, such provisions are not in conflict with Internal Revenue Code provisions. IRS regulations or applicable fair housing laws.

15. Authority Remedy For Excessive Rent Charge.

a. It shall constitute a default for Owner to charge or accept for a Residential Unit rent amounts in excess of the amount provided for in Section C.4 of this Agreement. In the event that Owner charges or receives such higher rental amounts, in addition to any other remedy Authority shall have for such default, Owner shall be required to pay to Authority the entire amount of rent received in excess of the amount permitted pursuant to this Agreement.

b. It shall constitute a default for Owner to knowingly rent any Residential Unit to a tenant who is not an Eligible Tenant for the particular Residential Unit pursuant to the rental rate requirements set forth in Section C.4 of this Agreement. In the event Owner knowingly rents a Residential Unit to an ineligible tenant, in addition to any other equitable remedy Authority shall have for such default, Owner, for each separate violation shall be required to pay to Authority an amount equal to (i) two times the greater of (A) the total rent Owner received from such ineligible tenant during the period of the violation or (B) the total rent Owner was entitled to receive for renting that Residential Unit during the period of the violation, plus (ii) any relocation expenses incurred by Authority or City as a result of Owner having rented to such ineligible person.

c. It shall constitute a default for Owner to knowingly rent any of the Residential Units in violation of the leasing preference requirements of Sections C.7 of this Agreement. In the event Owner rents a Residential Unit in violation of the leasing preference requirements and such violation has not been cured after notice and the applicable cure period set forth in Section 801 of the DDA, in addition to any other equitable remedy Authority shall have for such default, Owner, for each separate violation shall be required to pay Authority an amount equal to two (2) months of rental charges for the Residential Unit with the highest rent. The terms of this Section C.15 shall not apply if Owner rents to an ineligible person as a result of such person’s fraud or misrepresentation.

THE PARTIES HERETO AGREE THAT THE AMOUNTS SET FORTH IN SUBPARAGRAPHS (a) THROUGH (c) OF THIS SECTION C.15 (THE “DAMAGE AMOUNTS”) CONSTITUTE A REASONABLE APPROXIMATION OF THE ACTUAL
DAMAGES THAT AUTHORITY WOULD SUFFER DUE TO THE DEFAULTS BY
OWNER SET FORTH IN SUBPARAGRAPHS (a) THROUGH (c), CONSIDERING ALL
OF THE CIRCUMSTANCES EXISTING ON THE EFFECTIVE DATE OF THIS
AGREEMENT, INCLUDING THE RELATIONSHIP OF THE DAMAGE AMOUNTS TO
THE RANGE OF HARM TO AUTHORITY AND ACCOMPLISHMENT OF
AUTHORITY’S PURPOSE OF ASSISTING IN THE PROVISION OF AFFORDABLE
HOUSING TO ELIGIBLE TENANTS THAT REASONABLY COULD BE
ANTICIPATED AND THE ANTICIPATION THAT PROOF OF ACTUAL DAMAGES
WOULD BE COSTLY OR INCONVENIENT. THE AMOUNTS SET FORTH IN THIS
SECTION C.15 SHALL BE THE SOLE MONETARY DAMAGES REMEDY FOR THE
DEFAULTS SET FORTH IN THIS SECTION C.15, BUT NOTHING IN THIS SECTION
C.15 SHALL BE INTERPRETED TO LIMIT AUTHORITY’S REMEDY FOR SUCH
DEFAULT TO SUCH A DAMAGES REMEDY. IN PLACING ITS INITIAL AT THE
PLACES PROVIDED HEREINBELOW, EACH PARTY SPECIFICALLY CONFIRMS
THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT
EACH PARTY HAS BEEN REPRESENTED BY COUNSEL WHO HAS EXPLAINED
THE CONSEQUENCES OF THE LIQUIDATED DAMAGES PROVISION AT OR PRIOR
TO THE TIME EACH EXECUTED THIS AGREEMENT.

OWNER’S INITIALS: _____ AUTHORITY’S INITIALS: _____

16. Section 8 Tenants. Owner shall accept as tenants on the same basis as all
other Eligible Tenants, persons who are recipients of federal certificates for rent subsidies
pursuant to the existing program under Section 8 of the United States Housing Act of 1937,
or its successor. Owner shall not apply selection criteria to Section 8 certificate holders that
are more burdensome than criteria applied to all other Eligible Tenants.

D. MAINTENANCE.

1. Maintenance Obligation. Owner, for itself and its successors and assigns,
hereby covenants and agrees to maintain and repair or cause to be maintained and repaired
the Site and all related on-site improvements and landscaping thereon, including, without
limitation, buildings, parking areas, lighting, signs and walls in good condition and repair,
free of rubbish, debris and other hazards to persons using the same, and in accordance with
all applicable laws, rules, ordinances and regulations of all federal, state, and local bodies
and agencies having jurisdiction, at Owner’s sole cost and expense. Such maintenance and
repair shall include, but not be limited to, the following: (i) sweeping and trash removal; (ii)
the care and replacement of all shrubbery, plantings, and other landscaping in a healthy
condition; and (iii) the repair, replacement and restriping of asphalt or concrete paving using
the same type of material originally installed, to the end that such pavings at all times be kept
in a level and smooth condition. In addition, Owner shall be required to maintain the Site in
such a manner as to avoid the reasonable determination of a duly authorized official of the
City that a public nuisance has been created by the absence of adequate maintenance such as
to be detrimental to the public health, safety or general welfare or that such a condition of
deterioration or disrepair causes appreciable harm or is materially detrimental to property or
improvements within one thousand (1,000) feet of such portion of the Site.
2. **Parking and Driveways.** The driveways and traffic aisles on the Site shall be kept clear and unobstructed at all times. No vehicles or other obstruction shall project into any of such driveways or traffic aisles. Vehicles associated with the operation of the Site, including delivery vehicles, vehicles of employees and vehicles of persons with business on the Site shall park solely on the Site.

3. **Tenant Compliance.** Owner shall provide any proposed tenants of any portion of the Site with a copy of this Agreement (or an accurate summery of the terms of this Agreement) and shall, prior to entering into any lease agreement, have the proposed tenant execute an affidavit agreeing to comply with the provisions of this Agreement. All lease agreements shall be in writing and shall contain provisions that make compliance with the conditions of this Agreement express covenants of the lease.

4. **Right of Entry.** In the event Owner fails to maintain the Site in the above-mentioned condition, and satisfactory progress is not made in correcting the condition within thirty (30) days from the date of written notice from Authority, or if Owner and Authority agree such condition cannot reasonably be cured within such 30-day period, Owner shall have such time as Owner and Authority mutually agree may be reasonably necessary to correct the condition provided that Owner is diligent in pursuit of the cure, City or Authority may, at their option, and without further notice to Owner, declare the unperformed maintenance to constitute a public nuisance. Thereafter, either Authority or City, their employees, contractors or agents, may cure Owner’s default by entering upon the Site and performing the necessary landscaping and/or maintenance. The Authority or City shall give Owner, its representative or the residential manager reasonable notice of the time and manner of entry, and entry shall only be at such times and in such manner as is reasonably necessary to carry out this Regulatory Agreement. Owner shall pay such costs as are reasonably incurred by Authority or City for such maintenance, including reasonable attorneys’ fees and costs. Authority shall conduct itself on the Site in such a manner so as not to interfere with, delay, or impede the operation of the Project and Authority shall indemnify and hold Owner free and harmless from any and all damages it sustains during its presence at the Site except if such damages are caused by the Owner’s negligence or willful misconduct.

5. **Lien.** If such costs are not reimbursed within thirty (30) days after Owners’ receipt of notice thereof, the same shall be deemed delinquent, and the amount thereof shall bear interest thereafter at a rate of the lower of ten percent (10%) per annum or the legal maximum until paid. Any and all delinquent amounts, together with said interest, costs and reasonable attorneys’ fees, shall be a personal obligation of Owner as well as a lien and charge, with power of sale, upon the property interests of Owner, and the rents, issues and profits of such property. City and/or Authority may bring an action at law against Owner obligated to pay any such sums or foreclose the lien against Owner’s property interests. Any such lien may be enforced by sale by the City or Authority following recordation of a Notice of Default of Sale given in the manner and time required by law as in the case of a deed of trust; such sale to be conducted in accordance with the provisions of Section 2924, _et seq._, of the California Civil Code, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law.
Any monetary lien provided for herein shall be subordinate to any bona fide mortgage or deed of trust covering an ownership interest or leasehold or subleasehold estate in and to any Site approved by Authority pursuant to the DDA, and any purchaser at any foreclosure or trustee’s sale (as well as any deed or assignment in lieu of foreclosure or trustee’s sale) under any such mortgage or deed of trust shall take title free from any such monetary lien, but otherwise subject to the provisions hereof; provided that, after the foreclosure of any such mortgage and/or deed of trust, all other assessments provided for herein to the extent they relate to the expenses incurred subsequent to such foreclosure, assessed hereunder to the purchaser at the foreclosure sale, as owner of the subject Site after the date of such foreclosure sale, shall become a lien upon such Site upon recordation of a Notice of Assessment or Notice of Claim of Lien as herein provided.

E. MANAGEMENT.

1. Approval of Project Manager; Designation of Resident Manager. Subject to the terms and conditions contained hereinbelow, Owner shall at all times during the operation of the Project pursuant to this Agreement retain an entity to perform the management and/or supervisory functions ("Project Manager") with respect to the operation of residential portion of the Project including day-to-day administration, maintenance and repair. Owner shall, before execution or any subsequent amendment or replacement thereof, submit and obtain Authority’s written approval, which shall not be unreasonably withheld, conditioned or delayed, of a management contract ("Management Contract") entered into between Owner and a Project Manager reasonably acceptable to Authority. Subject to any regulatory or licensing requirements of any other applicable governmental agency, the Management Contract may be for a term of up to fifteen (15) years and may be renewed for successive terms in accordance with its terms, but may not be amended or modified without the written consent of Authority. The Management Contract shall also provide that the Project Manager shall be subject to termination for failure to meet project maintenance and operational standards set forth herein or in other agreements between Owner and Authority. Owner shall promptly terminate any Project Manager that commits or allows such failure, unless the failure is cured within a reasonable period, in no event exceeding 60 days, from Project Manager’s receipt of notice of the failure from Owner or Authority. Owner’s obligation to retain a Project Manager shall remain in force and effect for the same duration as the use covenants set forth in Section B of this Agreement. Notwithstanding anything to the contrary in this Section, the Project may be self-managed by Owner with the prior approval of the Authority’s Executive Director.

In addition to the Project Manager, one Resident Manager shall be designated as necessary by Owner or Project Manager, with written notice to Authority of the Resident Manager’s name, address and telephone number. The Project Manager and the Resident Manager may be the same person.

2. Serious Mismanagement. In the event of “Serious Mismanagement” (as that term is defined below) of the Project, Authority shall have the authority to require that such Serious Mismanagement cease immediately and, further, to require the immediate replacement of the Project Manager or Resident Managers. For purposes of this Agreement the term “Serious Mismanagement” shall mean management of the Project in a manner
which violates the terms and/or intent of this Agreement and/or the obligation to operate an affordable housing building of the highest standard, and shall include, but is not limited to, the following:

a. Knowingly leasing a Residential Unit to ineligible tenants or tenants whose income exceeds the prescribed levels;

b. Knowingly allowing the tenants of a Residential Unit to exceed the prescribed occupancy levels without taking immediate steps to stop such overcrowding;

c. Repeatedly failing to timely maintain the Project and the Site in the manner required by this Agreement (including applicable cure periods);

d. Repeatedly failing to timely submit the reports required by this Agreement or failing to submit materially complete reports (including applicable cure periods);

e. Fraud in connection with any document or representation relating to this Agreement or embezzlement of Project monies; and

f. Failing to fully cooperate with the City’s Police Department in maintaining a crime-free environment on the Site.

F. COMPLIANCE WITH LAWS.

1. State and Local Laws. Owner shall comply with all ordinances, regulations and standards of the City and Authority applicable to the Site. Owner shall comply with all rules and regulations of any assessment district of the City with jurisdiction over the Site.

2. Lease Approval. Authority shall have the right, but is not required to, approve any lease forms, revisions, amendments or modification made to same, used by the Project Manager or Resident Managers for leasing Residential Units within the Site.

G. INSURANCE.

1. Duty to Procure Insurance. [Subject to Review by City’s Risk Manager] Owner covenants and agrees for itself, and its assigns and successors-in-interest in the Site that from completion of the Project as evidenced by City’s issuance of a certificate of occupancy, and continuing thereafter until the expiration of the Term of this Agreement, Owner or such successors and assigns shall procure and keep in full force and effect, or cause to be procured and kept in full force and effect for the mutual benefit of Owner and Authority, and shall provide Authority with evidence reasonably acceptable to Executive Director, insurance policies meeting the minimum requirements set forth below:

a. Commercial General Liability insurance with respect to the Site and the operations of or on behalf of Owner, in an amount not less than TWO MILLION DOLLARS ($2,000,000.00) per occurrence combined single limit including products, completed operations, incidental, contractual, bodily injury, personal injury, death and property damage liability per occurrence, subject to such increases in amount as Authority may reasonably
require from time to time. The insurance to be provided by Owner may provide for a deductible or self-insured retention of not more than TWENTY-FIVE THOUSAND DOLLARS ($25,000.00), with such maximum amount to increase at the same rate as the periodic increases in the minimum amount of total insurance coverage set forth above.

b. With respect to the improvements and any fixtures and furnishings to be owned by Owner on the Site, All Risk Property insurance against fire, extended coverage, vandalism, and malicious mischief, and such other additional perils, hazards, and risks as now are or may be included in the standard “all risk” form in general use in Riverside County, California, with the standard form fire insurance coverage in an amount equal to full actual replacement cost thereof, as the same may change from time to time. The above insurance policy or policies shall include coverage for earthquake to the extent generally and commercially available at commercially reasonable rates, as determined by Owner. Authority shall be a loss payee under such policy or policies and such insurance shall contain a replacement cost endorsement.

c. All policies of insurance required to be carried by Owner shall be written by responsible and solvent insurance companies licensed or authorized to do business in the State of California and having a policy-holder’s rating of A or better, in the most recent addition of “Best’s Key Rating Guide -- Property and Casualty.” A copy of each paid-up policy evidencing such insurance (appropriately authenticated by the insurer) or a certificate of the insurer, certifying that such policy has been issued, providing the coverage required herein, and containing the provisions specified herein, shall be delivered to Authority prior to its issuance of the Release of Construction Covenants for the Project and thereafter, upon renewals, not less than thirty (30) days prior to the expiration of coverage. Authority may, at any time, and from time to time, inspect and/or copy any and all insurance policies required to be procured by Owner hereunder. In no event shall the limits of any policy be considered as limiting the liability of Owner hereunder.

d. Each insurance policy required to be carried by Owner pursuant to this Agreement shall contain the following endorsements, provisions or clauses:

1. The insurer will not cancel or materially alter the coverage provided by such policy in a manner adverse to the interest of the insured without first giving Developer a minimum of ten (10) days prior written notice.

2. A waiver by the insurer of any right to subrogation against Authority, its agents, employees, or representatives, which arises or might arise by reason of any payment under such policy or policies or by reason of any act or omission of Authority, its agents, officers, members, officials, employees, or representatives.

3. The City, Authority, their respective agents, officers, members, officials, employees, volunteers, and representatives shall be additional insureds on the Commercial General Liability policies.

4. The City and Authority shall be loss payees on the All Risk Property insurance policies.
(5) Coverage provided by these policies shall be primary and non-contributory to any insurance carried by the City, Authority, their officers, officials, employees, volunteers, agents, or representatives.

(6) Failure to comply with reporting provisions shall not affect coverage provided to City, Authority, their officers, employees, volunteers, agents, or representatives.

e. Authority’s Executive Director may require an increase in the minimum limits of the insurance policies required by this Section as such increases are reasonably determined necessary to provide for changes in cost of living, liability exposure, the market for insurance, or the use of the Site. Such increases in insurance coverage shall be effective upon receipt of written notice from the Executive Director, provided that Owner shall have the right to appeal a determination of increased coverage by the Executive Director to the Authority Board of Directors within 30 days of receipt of notice from the Executive Director.

f. Authority’s Executive Director may waive or modify the insurance requirements set forth herein if such insurance is determined by the Executive Director not to be commercially available. Owner shall submit such evidence of commercial availability as is reasonably required by the Executive Director. At least annually, Owner shall review the availability of any insurance requirement waived or modified pursuant to this Section, and shall meet any such insurance requirement as such insurance becomes commercially available.

2. Failure to Procure Insurance. If Owner fails to procure and maintain the above-required insurance despite its commercial availability, then Authority, in addition to any other remedy which Authority may have hereunder for Owner’s failure to procure, maintain, and/or pay for the insurance required herein, may (but without any obligation to do so) at any time or from time to time, after thirty (30) days written notice to Owner, procure such insurance and pay the premiums therefor, in which event Owner shall immediately repay Authority all sums so paid by Authority together with interest thereon at the maximum legal rate.

H. OBLIGATION TO REPAIR.

1. Obligation to Repair and Restore Damage Due to Casualty Covered by Insurance. Subject to Section H.3 below, if the Project shall be totally or partially destroyed or rendered wholly or partly uninhabitable by fire or other casualty required to be insured against by Owner, Owner shall promptly proceed to obtain insurance proceeds and take all steps necessary to begin reconstruction and, immediately upon receipt of insurance proceeds, to promptly and diligently commence the repair or replacement of the Project to substantially the same condition as the Project is required to be maintained in pursuant to this Agreement, whether or not the insurance proceeds are sufficient to cover the actual cost of repair, replacement, or restoration, and Owner shall complete the same as soon as possible thereafter so that the Project can continue to be operated and occupied as an affordable housing project in accordance with this Agreement. Subject to extensions of time for “force majeure” events described in the DDA, in no event shall the repair, replacement, or restoration period exceed
sixteen (16) months from the date Owner obtains insurance proceeds unless Authority’s Executive Director, in his or her sole and absolute discretion, approves a longer period of time. Authority shall cooperate with Owner, at no expense to Authority, in obtaining any governmental permits required for the repair, replacement, or restoration. If, however, the then-existing laws of any other governmental agencies with jurisdiction over the Property or any Project lenders do not permit the repair, replacement, or restoration, Owner may elect not to repair, replace, or restore the Project by giving notice to Authority (in which event Owner shall be entitled to all insurance proceeds but Owner shall be required to remove all debris from the Site) or Owner may reconstruct such other improvements on the Site as are consistent with applicable land use regulations and approved by the City, Authority, and the other governmental agency or agencies with jurisdiction.

If Owner fails to obtain insurance as required by the DDA or this Agreement (and Authority has not procured such insurance and charged Owner for the cost), Owner shall be obligated to reconstruct and repair any partial or total damage to the Project and improvements located on the site in accordance with this Section H.1.

2. **Continued Operations.** During any period of repair, Owner shall continue, or cause the continuation of, the operation of the Project to the extent reasonably practicable from the standpoint of prudent business management.

3. **Damage or Destruction Due to Cause Not Required to be Covered by Insurance.** If the improvements comprising the Project are completely destroyed or substantially damaged by a casualty for which Owner is not required to (and has not) insured against, Owner shall not be required to repair, replace, or restore such improvements and may elect not to do so by providing Authority with written notice of election not to repair, replace, or restore within one hundred eighty (180) days after such substantial damage or destruction. In such event, Owner shall remove all debris from the Property. As used in this Section H.3, “substantial damage” caused by a casualty not required to be (and not) covered by insurance shall mean damage or destruction which is ten percent (10%) or more of the replacement cost of the improvements comprising the Project. In the event Owner does not timely elect not to repair, replace, or restore the improvements as set forth in the first sentence of this Section H.3, Owner shall be conclusively deemed to have waived its right not to repair, replace, or restore the improvements and thereafter Owner shall promptly commence and complete the repair, replacement, or restoration of the damaged or destroyed improvements in accordance with Section H.1 above and continue operation of the apartment complex during the period of repair (if practicable) in accordance with Section H.2 above.

I. **LIMITATION ON TRANSFERS.**

The Owner covenants that Owner shall not transfer the Site or any of its interests therein except as provided in this Section.

1. **Transfer Defined.** As used in this Section, the term “Transfer” shall include any assignment, hypothecation, mortgage, pledge, conveyance, or encumbrance of this Agreement, the Site, or the improvements thereon. A Transfer shall also include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%)
(in the aggregate) of the present ownership and/or control of any person or entity constituting Owner or its general partners, taking all transfers into account on a cumulative basis, except transfers of such ownership or control of interest between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries are limited to members of the transferor’s immediate family, or among the entities constituting Owner or its general partners or their respective shareholders. In the event any entity constituting Owner, its successor or the constituent partners of Owner or any successor of Owner, is a corporation or trust, such transfer shall refer to the transfer of the issued and outstanding capital stock of such corporation, of beneficial interests of such trust. In the event that any entity constituting Owner, its successor or the constituent partners of Owner or any successor of Owner is a limited or general partnership, such transfer shall refer to the transfer of more than twenty-five percent (25%) of such limited or general partnership interest. In the event that any entity constituting Owner, its successor or the constituent partners of Owner or any successor of Owner is a joint venture, such transfer shall refer to the transfer of more than twenty-five percent (25%) of the ownership and/or control of any such joint venture partner, taking all transfers into account on a cumulative basis.

2. Authority Approval of Transfer Required. Owner shall not Transfer the Site or any of Owner’s rights hereunder, or any interest in the Site or in the improvements thereon, directly or indirectly, voluntarily or by operation of law, except as provided below, without the prior written approval of Authority, which shall not be unreasonably withheld, and if so purported to be Transferred, the same shall be null and void. In considering whether it will grant approval of any Transfer by Owner of its interest in the Site, Authority shall consider factors such as (i) whether the completion of the Project is jeopardized; (ii) the financial credit, strength, and capability of the proposed transferee to perform Authority’s obligations hereunder; and (iii) the proposed transferee’s experience and expertise in the planning, financing, development, ownership, and operation of similar projects.

In the absence of specific written agreement by Authority, no transfer by Owner of all or any portion of its interest in the Site (including without limitation a transfer not requiring Authority approval hereunder) shall be deemed to relieve it or any successor party from the obligation to complete the Project or any other obligations under this Regulatory Agreement. In addition, no attempted transfer of any of Owner’s obligations hereunder shall be effective unless and until the successor party executes and delivers to Authority an assumption agreement in a form approved by the Authority assuming such obligations.

3. Exceptions. The foregoing prohibition shall not apply to any of the following:

(a) Any mortgage, deed of trust, sale/lease-back, or other form of conveyance for financing, but Owner shall notify Authority in advance of any such mortgage, deed of trust, or other form of conveyance for financing pertaining to the Site.

(b) Any mortgage, deed of trust, sale/lease-back, or other form of conveyance for restructuring or refinancing of any amount of indebtedness described in subsection (a) above, provided that the amount of indebtedness incurred in the restructuring or refinancing does not exceed the outstanding balance on the debt incurred to finance the acquisition of the Site.
and construction of improvements on the Site, including any additional costs for completion of construction, whether direct or indirect, based upon the estimates of architects and/or contractors.

(c) After recordation of the Release of Construction Covenants, any mortgage, deed of trust, sale/lease-back, or other form of conveyance for financing provided that the principal amount of the loan does not exceed ninety percent (90%) of the value of the land and improvements thereon.

(d) The granting of easements or licenses to any appropriate governmental agency or utility to facilitate the development and/or operation of the Site.

(e) A sale or transfer resulting from or in connection with a reorganization as contemplated by the provisions of the Internal Revenue Code of 1986, as amended or otherwise, in which the ownership interests of a corporation are assigned directly or by operation of law to a person or persons, firm or corporation which acquires the control of the voting capital stock of such corporation or all or substantially all of the assets of such corporation.

(f) A transfer of forty-nine percent (49%) or more ownership interest to a member of the transferor’s immediate family, a trust, testamentary or otherwise, in which immediate family members of the transferor are the sole beneficiaries, or a corporation or partnership in which the immediate family members or shareholders of the transferor have controlling majority interest of more than fifty percent (50%).

(g) A change in the respective percentage ownership interests exclusively of the present owners of Owner (as of the date of this Agreement), but this shall not authorize the transfer of any interest to any person or entity who is not a present owner of Owner.

(h) A sale or Transfer to a California limited partnership in which the Owner, or an affiliate of the Owner, is a general partner.

(i) The admission of a California nonprofit corporation as a managing general partner of Owner.

J. **ENFORCEMENT.** In the event Owner defaults in the performance or observance of any covenant, agreement or obligation of Owner pursuant to this Agreement, and if such default remains uncured for a period of thirty (30) days after written notice thereof shall have been given by Authority, or, in the event said default cannot be cured within said time period, Owner has failed to commence to cure such default within said thirty (30) days and thereafter fails to diligently prosecute said cure to completion, then Authority shall declare an “Event of Default” to have occurred hereunder, and, at its option, may take one or more of the following steps:

1. By mandamus or other suit, action or proceeding at law or in equity, require Owner to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of this Agreement; or
2. Take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of Owner hereunder; or

3. Enter the Site and cure the Event of Default as provided in Section E hereof.

4. Impose, upon thirty (30) days prior notice to Owner, through Authority’s Executive Director, an administrative fine for each day the violation continues. The amount of the fine shall be TWENTY-FIVE DOLLARS ($25.00) per day (commencing after the expiration of any applicable cure period), unless the violation is deemed a major violation, in which case the fine shall be SEVENTY-FIVE DOLLARS ($75.00) per day. The amounts of the foregoing fines shall be automatically increased by FIVE DOLLARS ($5.00) every five (5) years during the Term of this Agreement. A “major” violation shall be one which affects adjacent property or the health and safety of persons. Owner may appeal the assessment of any fine to the City Council who may reverse, modify or uphold the decision of the Executive Director. In making this decision, the City Council shall determine whether the violation exists and whether the amount of the fine is appropriate under the circumstances.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by any party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by another party.

K. NONDISCRIMINATION. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, or any part thereof, nor shall Owner, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublettees or vendees of the Site, or any part thereof (except as permitted by this Agreement).

L. COVENANTS TO RUN WITH THE LAND. Owner hereby subjects the Site to the covenants, reservations, and restrictions set forth in this Agreement. Authority and Owner hereby declare their express intent that all such covenants, reservations, and restrictions shall be deemed covenants running with the land and shall pass to and be binding upon the Owner’s successors in title to the Site; provided, however, that on the termination of this Agreement, which term shall be for fifty-five (55) years, said covenants, reservations and restrictions shall expire. All covenants without regard to technical classification or designation shall be binding for the benefit of the Authority, and such covenants shall run in favor of the Authority for the entire term of this Agreement, without regard to whether the Authority is or remains an owner of any land or interest therein to which such covenants relate. Each and every contract, deed or other instrument hereafter executed covering or conveying the Site or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations, and restrictions, regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed or other instrument.

Authority and Owner hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land in that Owner’s legal interest in the Site is
rendered less valuable thereby. Authority and Owner hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by Eligible Tenants, the intended beneficiaries of such covenants, reservations, and restrictions, and by furthering the public purposes for which the Authority was formed.

Owner, in exchange for the Authority entering into the DDA, hereby agrees to hold, sell, and convey the Site subject to the terms of this Agreement. Owner also grants to the Authority and the City the right and power to enforce the terms of this Agreement against the Owner and all persons having any right, title or interest in the Site or any part thereof, their heirs, successive owners and assigns.

M. INDEMNIFICATION. Owner agrees for itself and its successors and assigns to indemnify, defend, and hold harmless Authority, City, and their respective officers, members, officials, employees, agents, volunteers, and representatives from and against any loss, liability, claim, or judgment relating in any manner to the Project excepting only any such loss, liability, claim, or judgment arising out of the intentional wrongdoing or gross negligence of Authority, City, or their respective officers, officials, employees, members, agents, volunteers, or representatives. Owner, while in possession of the Site, and each successor or assign of Owner while in possession of the Site, shall remain fully obligated for the payment of property taxes and assessments in connection with the Site. The foregoing indemnification, defense, and hold harmless agreement shall only be applicable to and binding upon the party then owning the Site or applicable portion thereof. This indemnification provision is not intended to and does not limit, negate, modify, nullify, or change the nonrecourse provisions of this Agreement or any other agreement, document, instrument, certificate or covenant executed by Owner.

N. ATTORNEYS’ FEES. In the event that a party to this Agreement brings an action against the other party hereto by reason of the breach of any condition, covenant, representation or warranty in this Agreement, or otherwise arising out of this Agreement, the prevailing party in such action shall be entitled to recover from the other reasonable expert witness fees, and its reasonable attorney’s fees and costs. Attorneys’ fees shall include attorneys’ fees on any appeal, and in addition a party entitled to attorneys’ fees shall be entitled to all other reasonable costs for investigating such action, including the conducting of discovery.

O. AMENDMENTS. This Agreement shall be amended only by a written instrument executed by the parties hereto, or their successors in title, and duly recorded in the real property records of the County of Riverside.

P. NOTICE. Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties hereto:

Authority:  Perris Housing Authority
            101 North “D” Street
            Perris, California 92570
            Attn: Executive Director

01006.00113/206082.1  18  Attachment 7 – Regulatory Agreement
Q. SEVERABILITY/WAIVER/INTEGRATION.

1. Severability. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

2. Waiver. A waiver by either party of the performance of any covenant or condition herein shall not invalidate this Agreement nor shall it be considered a waiver of any other covenants or conditions, nor shall the delay or forbearance by either party in exercising any remedy or right be considered a waiver of, or an estoppel against, the later exercise of such remedy or right.

3. Integration. This Agreement contains the entire Agreement between the parties and neither party relies on any warranty or representation not contained in this Agreement.

R. FUTURE ENFORCEMENT. The parties hereby agree that should the Authority cease to exist as an entity at any time during the term of this Agreement, the City of Perris shall have the right to enforce all of the terms and conditions herein, unless the Authority had previously specified another entity to enforce this Agreement.

S. GOVERNING LAW. This Agreement shall be governed by the laws of the State of California.

U. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall constitute one original and all of which shall be one and the same instrument.

[Signatures on following page]
IN WITNESS WHEREOF, the Authority, City, and Owner have executed this Regulatory Agreement and Declaration of Covenants and Restrictions by duly authorized representatives on the date first written hereinabove.

“CITY"
CITY OF PERRIS

Date: ____________________________

By: ____________________________
Mayor

ATTEST:

______________________________
City Clerk

“AUTHORITY“
PERRIS HOUSING AUTHORITY

Date: ____________________________

By: ____________________________
Chair

ATTEST:

____________________________________________________________________
Authority Secretary

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

____________________________________________________________________
Eric L. Dunn, City Attorney/Authority Counsel

“OWNER“
AMCAL MULTI-HOUSING, INC.,
a California corporation

Date: ____________________________

By: ____________________________
Arjun Nagarkatti, President
INSERT NOTARY LANGUAGE
EXHIBIT “A” TO ATTACHMENT NO. 7 – REGULATORY AGREEMENT

LEGAL DESCRIPTION OF SITE

That certain real property located in the City of Perris, County of Riverside, State of California, more particularly described as:

[On following page]
EXHIBIT “B” TO ATTACHMENT NO. 7 – REGULATORY AGREEMENT

Period Covered __________

CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

PERRIS HOUSING AUTHORITY

CITY OF PERRIS, CALIFORNIA

The undersigned, AMCAL MULTI-HOUSING, INC., a California corporation ("Owner"), has read and is thoroughly familiar with the provisions of the Disposition and Development Agreement ("DDA") and documents referred to therein executed by Owner and Perris Housing Authority ("Authority") including, but not limited to, the "Regulatory Agreement", as such term is defined in the DDA.

As of the date of this Certificate, the following Residential Units in the Project are: (i) occupied by Eligible Tenants or Qualified Permanent Residents (as defined in the Regulatory Agreement), or (ii) currently vacant and being held available for such occupancy and have been so held continuously since the date an Eligible Tenant vacated such Residential Unit:

<table>
<thead>
<tr>
<th>Occupied</th>
<th>Vacant</th>
</tr>
</thead>
</table>

Eligible Tenants/Qualified Permanent Residents: _______ _______

As of the date of this Certificate, the following are numbers of Low, Very Low, and Extremely Low Income Tenants who commenced occupancy of Residential Units during the preceding year:

<table>
<thead>
<tr>
<th>Low Income Tenants</th>
<th>Very Low Income Tenants</th>
<th>Extremely Low Income Tenants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit Nos. _______</td>
<td>Unit Nos. _______</td>
<td>Unit Nos. _______</td>
</tr>
</tbody>
</table>

Attached is a separate sheet ("Occupancy Summary") listing, among other items, the following information for each Residential Unit: the number of each Residential Unit, the occupants of each Residential Unit, the rental paid for each Residential Unit, and the size and number of bedrooms of each Residential Unit. The Owner certifies that the information contained in the Occupancy Summary is true and accurate.

The undersigned hereby certifies that (1) a review of the activities of the Owner during such period and of the Owner’s performance under the DDA and the documents referred to therein has been made under the supervision of the undersigned, and (2) to the best knowledge of the undersigned, based on the review described in clause (1) hereof, the Owner is not in default under any of the terms and provisions of the above documents (or describe the nature of any detail and set forth the measures being taken to remedy such defaults).

AMCAL MULTI-HOUSING, INC.,
a California corporation

By: ____________________________
    Arjun Nagarkatti, President

[END OF SIGNATURES]
AMCAL DDA

ATTACHMENT NO. 8
DEED OF TRUST

[see following pages]
DEED OF TRUST WITH ASSIGNMENT OF RENTS AND RIDER ATTACHED HERETO CONTAINING TERMS INCLUDING SECURITY AGREEMENT AND FIXTURE FILING

NOTE: RIDER ATTACHED TO THIS DEED OF TRUST CONTAINING TERMS INCLUDING SECURITY AGREEMENT AND FIXTURE FILING.

This DEED OF TRUST WITH ASSIGNMENT OF RENTS AND RIDER ATTACHED HERETO ("Deed of Trust"), is made __________, 20__, between AMCAL MULTI-HOUSING, INC., a California corporation, herein called TRUSTOR, whose address is 30141 Agoura Road - #100, Agoura Hills, CA 91301, Lawyers Title Insurance Corporation, herein called TRUSTEE, and THE PERRIS HOUSING AUTHORITY, a public body, corporate and politic, herein called BENEFICIARY.

WITNESSETH: That Trustor grants to Trustee in trust, with power of sale, Trustor’s estate, dated on or about the date hereof, in that property in the City of Perris, County of Riverside, State of California, described as:

SEE EXHIBIT “A” ATTACHED HERETO [APPEARS FOLLOWING RIDER]

together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits for the purpose of securing (1) its interest, according to the terms of a Disposition and Development Agreement (DDA) of even date herewith made by Trustor, a Regulatory Agreement dated __________ __, ____ by and between Trustor and Beneficiary ("Regulatory Agreement") payable to order of Beneficiary, and extensions or renewals thereof; (2) the Grant Deed dated __________ __, ____ ("Grant Deed") (3) the performance of each agreement of Trustor incorporated by reference or contained herein and; and (4) payment of additional sums and interest thereon which may hereafter be granted to Trustor, or its successors or assigns, when evidenced by an amendment to the DDA reciting that they are secured by this Deed of Trust.

To protect the security of this Deed of Trust, and with respect to the Property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform
and be bound by each and all of the terms and provisions set forth in subdivision A, and it is mutually agreed that each and all of the terms and provisions set forth in subdivision B of the fictitious deed of trust recorded in Orange County August 17, 1964, and in all other counties August 18, 1964, in the book and at the page of Official Records in the office of the county recorder of the county where said property is located, noted below opposite the name of such county, namely:

<table>
<thead>
<tr>
<th>COUNTY</th>
<th>BOOK</th>
<th>PAGE</th>
<th>COUNTY</th>
<th>BOOK</th>
<th>PAGE</th>
<th>COUNTY</th>
<th>BOOK</th>
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<th>COUNTY</th>
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<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
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shall inure to and bind the parties hereto, with respect to the property above described. Said agreements, terms and provisions contained in said subdivisions A and B (identical in all counties, and printed on pages 3 and 4 hereof) are by the within reference thereto, incorporated herein and made a part of this Deed of Trust for all purposes as fully as if set forth at length herein, and Beneficiary may charge for a statement regarding the obligation secured hereby, provided the charge therefor does not exceed the maximum allowed by law.

The undersigned Trustor, requests that a copy of any notice of default and any notice of sale hereunder be mailed to him at his address hereinbefore set forth.

SEE RIDER ATTACHED TO THIS DEED OF TRUST

Signature of Trustor:

AMCAL MULTI-HOUSING,
a California corporation

By: ____________________
Arjun Nagarkatti, President

[ACKNOWLEDGMENT FORMS AT END OF RIDER]
DO NOT RECORD

The following is a copy of Subdivisions A and B of the fictitious Deed of Trust recorded in each county in California as stated in the foregoing Deed of Trust and incorporated by reference in said Deed of Trust as being a part thereof as if set forth at length therein.

A. To protect the security of this Deed of Trust, Trustor agrees:

1) To keep said property in good condition and repair, not to remove or demolish any building thereon; to complete or restore promptly and in a good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor, to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

2) To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. Subject to the rights of any senior lender, the amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at the option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

4) To pay: at least ten (10) days before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary of Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

5) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from the date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation
secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

B. It is mutually agreed:

1) That any award in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary, subject to the rights of any senior lender, who may apply or release such moneys received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

2) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

3) That at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon, or join in any extension agreement or any agreement subordinating the lien or charge hereof.

4) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

5) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in the performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or be a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collecting of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

6) That upon default by Trustor in payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice
Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

7) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.

8) That this Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledges, whether or not named as Beneficiary herein. In this Deed, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

9) That Trustee accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.
REQUEST FOR FULL RECONVEYANCE

TO ___________________________, TRUSTEE:

The undersigned is the legal owner and holder of the note or notes and of all indebtedness secured by the foregoing Deed of Trust. Said note or notes, together with all other indebtedness secured by said Deed of Trust, have been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Deed of Trust, to cancel said note or notes above mentioned, an all other evidences of indebtedness secured by said Deed of Trust delivered to you herewith, together with the said Deed of Trust, and to reconvey, without warranty, to the parties designated by the terms of said Deed of Trust, all the estate now held by you under the same.

Dated ________________

________________________________________

________________________________________

Please mail Deed of Trust, and Reconveyance to ______________________________________

RIDER TO DEED OF TRUST WITH ASSIGNMENT OF RENTS

THIS RIDER TO DEED OF TRUST WITH ASSIGNMENT OF RENTS ("Rider") is executed this _______ day of ________, 20___, by AMCAL MULTI-HOUSING, INC., a California corporation, herein "Trustor," in favor of the PERRIS HOUSING AUTHORITY, a public body, corporate and politic, ("Beneficiary,"”) the same parties to that certain form Deed of Trust With Assignment of Rents, of even date hereto, to which this Rider is attached. This Rider is made a part of and is incorporated into said Deed of Trust. This Rider shall supersede any conflicting term or provision of the form Deed of Trust to which it is attached.
Reference is made to the following agreements and documents: (i) Disposition and Development Agreement by and between Trustor and Beneficiary, dated March __, 2013, providing for Trustor's acquisition and development of the Property ("DDA"); (ii) Regulatory Agreement and Declaration of Covenants, Conditions and Restrictions, dated __________ __, ______, by and between Trustor and Beneficiary, providing for the use, operation, and maintenance of the Property ("Regulatory Agreement") and (iii) the Grant Deed, dated __________ __, ______, by the Beneficiary to Trustor.

The parties hereto agree:

1. **Property.** The estate subject to this Rider is Trustor's fee estate in the real property legally described in the Deed of Trust ("Property"). In addition, Trustor grants to beneficiary a security interest in all of Trustor's rights, title, and interest in and to the following:

   (a) All present and future inventory and equipment, as those terms are defined in the California Commercial Code, and all other present and future personal property of any kind or nature whatsoever, now or hereafter located at, upon or about the Property or used or to be used in connection with or relating or arising with respect to the Property and/or the use thereof or any improvements thereto, including without limitation all present and future furniture, furnishings, fixtures, goods, tools, machinery, plumbing and plumbing material and supplies, concrete, lumber, hardware, electrical wiring and electrical material and supplies, heating and air conditioning material and supplies, roofing material and supplies, window material and supplies, doors, paint, drywall, insulation, cabinets, ceramic material and supplies, flooring, carpeting, appliances, fencing, landscaping and all other materials, supplies and property of every kind and nature.

   (b) All present and future accounts, general intangibles, chattel, paper, contract rights, deposit accounts, instruments and documents as those terms are defined in the California Commercial Code, now or hereafter relating or arising with respect to the Property and/or the use thereof or any improvements thereto, including without limitation: (i) all rights to the payment of money, including escrow proceeds arising out of the sale or other disposition of all or any portion of the Property; (ii) all architectural, engineering, design and other plans, specifications and drawings relating to the development of the Property and/or any construction thereon; (iii) all use permits, occupancy permits, construction and building permits, and all other permits and approvals required by any governmental or quasi-governmental authority in connection with the development, construction, use, occupancy or operation of the Property; (iv) any and all agreements relating to the development, construction, use, occupancy and/or operation of the Property between Trustor and any contractor, subcontractor, project manager or supervisor, architect, engineer, laborer or supplier of materials; (v) all lease, rental or occupancy agreements and payments received thereunder; (vi) all names under which the Property is now or hereafter known and all rights to carry on business under any such names or any variant thereof; (vii) all trademarks relating to the Property and/or the development, construction, use, occupancy or operation thereof; (viii) all goodwill relating to the Property and/or the development, construction, use, occupancy or operation thereof; (ix) all insurance proceeds and condemnation awards arising out of or incidental to the ownership, development, construction, use, occupancy or operation of the Property; (x) all reserves, deferred payments, deposits, refunds, cost savings, bonds,
insurance policies and payments of any kind relating to the Property; (xi) all loan commitments issued to Trustor in connection with any sale or financing of the Property; (xii) all water stock, if any, relating to any Property and all shares of stock or other evidence of ownership of any part of or interest in any Property that is owned by Trustor in common with others; and (xiii) all supplements, modifications and amendments to the foregoing.

(c) All fixtures located upon or within the Property or now or hereafter attached to, installed in, or used or intended for use in connection with the Property, including without limitation any and all partitions, generators, screens, awnings, boilers, furnaces, pipes, plumbing, elevators, cleaning, call and sprinkler systems, fire extinguishing apparatus and equipment, water tanks, heating ventilating, air conditioning and air cooling equipment, and gas and electric machinery and equipment.

(d) All present and future accessories, additions, attachments, replacements and substitutions of or to any or all of the foregoing.

(e) All cash and noncash proceeds and products of any and all of the foregoing, including without limitation all monies, deposit accounts, insurance proceeds and other tangible or intangible property received upon a sale or other disposition of any of the foregoing.

2. **Obligations Secured.** Trustor makes this grant and assignment for the purpose of securing the following obligations ("Secured Obligations"):  

(a) Payment and performance of all obligations of Trustor under this Deed of Trust, the DDA, and the Regulatory Agreement;

(b) Payment and performance of all future advances and other obligations of Trustor or any other person, firm, or entity with the approval of Trustor, may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Beneficiary, when the obligation is evidenced by a writing which recites that it is secured by the Deed of Trust and this Rider; and

(c) All modifications, extensions and renewals of any of the obligations secured hereby, however evidenced.

3. **Obligations.** The term "obligations" is used herein in its broadest and most comprehensive sense and shall be deemed to include, without limitation, all interest and charges, prepayment charges, late charges and fees at any time accruing or assessed on any of the Secured Obligations.

4. **Incorporation.** All terms of the Secured Obligations are incorporated herein by this reference. All persons who may have or acquire an interest in the Property shall be deemed to have notice of the terms of all of the foregoing documents.

5. **Mortgagee-in-Possession.** Neither the assignment of rents set forth in the Deed of Trust nor the exercise by Beneficiary of any of its rights or remedies hereunder shall be deemed to make Beneficiary a "mortgagee-in-possession" or otherwise liable in any manner with respect to the
Property, unless Beneficiary, in person or by agent, assumes actual possession thereof. Nor shall appointment of a receiver for the Property by any court at the request of Beneficiary or by agreement with Trustor, or the entering into possession of the Property by such receiver, be deemed to make Beneficiary a “mortgagee-in-possession” or otherwise liable in any manner with respect to the Property.

6. **No Cure.** In the event Beneficiary collects and receives any rents under the Deed of Trust upon any default hereof, such collection or receipt shall in no way constitute a curing of the default.

7. **Opportunity to Cure.** Trustor’s failure or delay to perform any term or provision of this Rider constitutes a default under this Rider; however, Trustor shall not be deemed to be in default if (i) Trustor cures, corrects, or remedies such default within thirty (30) days after receipt of a notice specifying such failure or delay, or (ii) for such defaults that cannot reasonably be cured, corrected, or remedied within thirty (30) days, if Trustor commences to cure, correct, or remedy such failure or delay within thirty (30) days after receipt of a written notice specifying such failure or delay, and diligently prosecutes such cure, correction or remedy to completion.

Beneficiary shall give written notice of default to Trustor, specifying the default complained of by Trustor. Copies of any notice of default given to Trustor shall also be delivered to any permitted lender. Beneficiary may not institute proceedings against Trustor until thirty (30) days after giving such notice or such longer period of time as may be provided herein. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within forty (40) days after the first notice of default is given.

Except as otherwise expressly provided in this Rider, any failure or delay in giving such notice or in asserting any of its rights and remedies as to any default shall not constitute a waiver of any default, nor shall it change the time of default, nor shall it deprive either party of its rights to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

In the event of any inconsistency in the terms of this Rider and the provisions set forth in the standard deed of trust recorded in the Recorder’s Office of the County of Riverside, the terms of this Rider shall control.

8. **Possession Upon Default.** Subject to Section 7 above, upon the occurrence of a default, and after delivery of notice and the expiration of all applicable cure periods, Beneficiary may, at its option, without any action on its part being required and without in any way waiving such default, take possession of the Property and have, hold, manage, lease and operate the same on such terms and for such period of time as Beneficiary may deem proper, and may collect and receive all rents and profits, with full power to make, from time to time, all alterations, renovations, repairs or replacements thereto as may seem proper to Beneficiary, and to apply such rents and profits to the payment of (a) the cost of all such alterations, renovations, repairs and replacements, and all costs and expenses incident to taking and retaining possession of the Property, and the management and operation thereof, and keeping the same properly insured; (b) all taxes, charges, claims, assessments, and any other liens, and premiums for insurance, with interest on all such items; and (c) the
indebtedness secured hereby, together with all costs and attorneys' fees, in such order or priority as to any of such items as Beneficiary, in its sole discretion, may determine, any statute, law, custom or use to the contrary notwithstanding. Any amounts received by Beneficiary or its agents in the performance of any acts prohibited by the terms of this assignment, including, but not limited to, any amounts received in connection with any cancellation, modification or amendment of any lease prohibited by the terms of this assignment and any rents and profits received by Trustor after the occurrence of a default shall be held by Trustor as trustee for Beneficiary and all such amounts shall be accounted for to Beneficiary and shall not be commingled with other funds of the Trustor. Any person receiving any portion of such trust funds shall receive the same in trust for Beneficiary as if such person had actual or constructive notice that such funds were impressed with a trust in accordance therewith.

9. **Receiver.** In addition to any and all other remedies of Beneficiary set forth under this Rider or permitted at law or in equity, if a default shall have occurred, Beneficiary, to the extent permitted by law and without regard to the value, adequacy or occupancy of the security for sums secured hereby, shall be entitled as a matter of right if it so elects to the appointment of a receiver to enter upon and take possession of the Property and to collect all rents and profits and apply the same as the court may direct, and such receiver may be appointed by any court of competent jurisdiction by ex parte application and without notice, notice of hearing being hereby expressly waived. The expenses, including receiver’s fees, attorneys’ fees, costs and agent’s compensation, incurred pursuant to the power herein contained shall be secured by this Rider.

10. **Security Agreement.** The Deed of Trust and this Rider also constitute a Security Agreement with respect to all personal property in which Beneficiary is granted a security interest hereunder, and Beneficiary shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as enacted in California ("California Uniform Commercial Code") as well as all other rights and remedies available at law or in equity. Trustor hereby agrees to execute and deliver on demand and hereby irrevocably constitutes and appoints Beneficiary the attorney-in-fact of Trustor, to execute, deliver and, if appropriate, to file with the appropriate filing officer or office such security agreements, financing statements, continuation statements or other instruments as Beneficiary may request or require in order to impose, perfect or continue the perfection of, the lien or security interest created hereby. Trustor and Beneficiary agree that the filing of a financing statement in the record normally having to do with personal property shall never be construed as in any way derogating from or impairing the lien of the Deed of Trust and this Rider and the intention of Trustor and Beneficiary that everything used in connection with the operation or occupancy of the Property is and at all times and for all purposes and in all proceedings, both legal and equitable, shall be regarded as real property or goods which are or are to become fixtures, irrespective of whether (i) any such item is physically attached to the buildings and improvements on the Property; (ii) serial numbers are used for the better identification of certain equipment items capable of being filed by the Beneficiary; or (iii) any such item is referred to or reflected in any such financing statement so filed at any time. Such mention in the financing statements is declared to be for the protection of the Beneficiary in the event any court or judge shall at any time hold that notice of Beneficiary’s priority of interest must be filed in the California Commercial Code records to be effective against a particular class of persons, including, but not limited to, the federal government and any subdivision or entity of the federal government. Trustor covenants and agrees to reimburse Beneficiary for any costs incurred in filing such financing statement and any continuation statements.
Upon the occurrence of default hereunder, and after delivery of notice and the expiration of all applicable cure periods, Beneficiary shall have the right to cause any of the Property which is personal property and subject to the security interest of Beneficiary hereunder to be sold at any one or more public or private sales as permitted by applicable law, and Beneficiary shall further have all other rights and remedies, whether at law, in equity, or by statute, as are available to secured creditors under applicable law, specifically including without limitation the right to proceed as to both the real property and the personal property contained within the Property as permitted by Uniform Commercial Code Section 9501(4), including conducting a unified sale thereof. Any such disposition may be conducted by an employee or agent of Beneficiary or Trustee. Any person, including both Trustee and Beneficiary, shall be eligible to purchase any part or all of such property at any such disposition.

This Rider constitutes a fixture filing under Sections 9313 and 9402(6) of the California Uniform Commercial Code, as amended or recodified from time to time.

11. Notices, Demands, and Communications. Formal notices, demands, and communications between Trustor and Beneficiary shall be given either by (i) personal service, (ii) delivery by reputable document delivery service such as Federal Express that provides a receipt showing date and time of delivery, or (iii) mailing in the United States mail, certified mail, postage prepaid, return receipt requested, addressed to:

To Beneficiary: Perris Housing Authority
101 North “D” Street
Perris, California 92570
Attn: Executive Director

With a copy to: Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, California 92612
Attn: Eric L. Dunn, Esq.

To Trustor: AMCAL Multi-Housing, Inc.
30141 Agoura Road - #100
Agoura Hills, CA 91301
Attn: Arjun Nagarkatti

With copies to: Bocarsly Emden Cowan Esmail & Arndt LLP
633 West Fifth Street, Suite 7000
Los Angeles, CA 90071
Attn: Kyle Arndt

Notices personally delivered or delivered by document delivery service shall be deemed effective upon receipt. Notices mailed shall be deemed effective on the second business day following deposit in the United States mail. Such written notices, demands, and communications shall be sent in the same manner to such other addresses as either party may from time to time designate by mail.
12. **Non-recourse.** The obligations are non-recourse and Beneficiary’s sole remedy shall be foreclosure under the Deed of Trust. Neither Trustor nor its partners shall be liable for any deficiency.

[Signatures to Follow]
IN WITNESS WHEREOF, Trustor has executed this Rider on the date of Trustor’s acknowledgment hereinbelow, to be effective for all purposes as of the day and year first set forth above.

TRUSTOR:
AMCAL MULTI-HOUSING,
a California corporation

By: _______________________
Arjun Nagarkatti, President
EXHIBIT "A" TO ATTACHMENT NO. 8 – DEED OF TRUST

LEGAL DESCRIPTION

Real property located in the City of Perris, County of Riverside, State of California, legally described as:

[see following page]