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RASHELLE HOBBS  
Recorder, Salt Lake County, UT  
COTTONWOOD TITLE  
BY: eCASH, DEPUTY - EF 5 P.

Upon Recordation Return to:

Western Region Nonprofit Housing Corporation  
Attn: Marion Willey  
223 West 700 South, Suite 200  
Salt Lake City, UT 84101

109984-CAM

**FIRST AMENDMENT TO  
LOW-INCOME HOUSING  
DECLARATION OF RESTRICTIVE COVENANTS AND  
SUBORDINATION AGREEMENT**

TIN 10-00-253-011 in 10-00-253-012

This First Amendment to Low-Income Housing Declaration of Restrictive Covenants and Subordination Agreement (the "First Amendment") is made effective as of the 10<sup>th</sup> day of July, 2019, by and among Western Region Nonprofit Housing Corporation, as the successor to Bracken as identified below, and Western Region Nonprofit Housing Corporation, as the successor to Rocky Mountain Community Reinvestment Corporation ("RMCRC") (including any successors or assigns, "WRNPHC")

**Recitals**

Whereas, Bracken Properties, L.L.C., a Utah limited liability company ("Bracken") was provided certain housing credits for the construction, acquisition or rehabilitation of low-income housing units in accordance with federal and/or Utah law with respect to certain real property specifically described in Exhibit A attached hereto (the "Project").

Whereas, on approximately October 10, 2002, Bracken entered into that certain Loan Agreement with RMCRC (the "Loan Agreement"), which governs a loan from RMCRC to Bracken in the original principal amount of \$700,000.00 (the "Loan"), as amended by that Modification of Loan Agreement dated April 9, 2004. The Loan was also evidenced by that certain Promissory Note, dated as of June 15, 2004, executed by Bracken in favor of RMCRC (the "Note").

Whereas, the terms of the Loan Agreement and Note required, among other things, that (a) the Loan proceeds be used to purchase, construct and/or renovate the Project, and (b) a certain number or percentage of units in the Project be leased to families whose annual incomes are less the area median income for the area in which the Project is located, as determined by the U.S. Department of Housing and Urban Development ("HUD"), with adjustments based upon family size.

Whereas, Bracken's obligations to RMCRC under the Loan Agreement and Note were secured by that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated as of June 15, 2004, and recorded with the Salt Lake County Recorder's Office as

Entry No. 9102310, in Book 9006, beginning at page 362 (the “RMCRC Trust Deed”). The Loan Agreement, the Note, the RMCRC Trust Deed, and all other documents evidencing, guarantying or securing the Loan and Note are referred to collectively herein as the “Loan Documents.”

Whereas, in conjunction with the Loan, and pursuant to one or more agreements with Utah Housing Corporation (“UHC”), Bracken and UHC entered into a Low-Income Housing Credit Commitment Agreement and Declaration of Restrictive Covenants, dated as of September 18, 2002, and recorded with the Salt Lake County Recorder’s Office on September 26, 2002, as Entry No. 8366472 in Book 8654, beginning at Page 7020 (the “Original Declaration”), which established various restrictions for an extended use period for the Project.

Whereas, Bracken represented that the Project satisfied the requirements of Internal Revenue Code (“IRC”) § 42 and Utah Code §§ 59-7-607 and 59-10-129, as a qualified low-income housing project, and Bracken represented that it will continue to maintain the Project in conformity and continuous compliance with IRC § 42, Utah Code §§ 59-7-607 and 59-10-129, and applicable regulations thereunder, as the same may hereafter be amended, any other federal or Utah requirements applicable thereto and in conformity with this Agreement.

Whereas, on May 1, 2019, Bracken, RMCRC and WRNPHC entered into a Low-Income Housing Declaration of Restrictive Covenants and Subordination Agreement (herein the “May LURA”) which established restrictions for the use of the Project independent of the Original Declaration, which May LURA was recorded with the Salt Lake County Recorder’s Office on May 2, 2019, as Entry No. 12980401, in Book 10776, Beginning at Page 6415.

Whereas, on May 1, 2019, by Note Purchase Agreement, WRNPHC purchased the RMCRC Loan, together with other loans, and by endorsement received the Loan Documents and also received an Assignment of Trust Deed and Assignment of Assignment of Leases, Rents and Contracts, which was recorded May 2, 2019 in the official records of the Salt Lake County Recorder as Entry No. 12980396, in Book 10776, beginning at page 6392.

Whereas, on May 27, 2019, Bracken and WRNPHC entered into a Deed in Lieu of Foreclosure Agreement which acknowledged Amberly’s inability to satisfy its obligations with respect to the RMCRC Loan and other obligations, and pursuant thereto, Bracken transferred and conveyed all of its interest in and to the Project to WRNPHC pursuant to that Special Warranty Deed dated May 28, 2019, and recorded June 4, 2019, in the official records of the Salt Lake County Recorder, as Entry No. 13002293, in Book 10788, beginning at Page 2379.

Whereas, by the express terms of the Original Declaration, the Original Declaration was terminated by the foreclosure of the RMCRC Loan, which by definition included a deed in lieu of foreclosure from Bracken.

Whereas, by its acceptance of title to the Project, WRNPHC did not and does not now intend that the May LURA merge with its title to the Project, but intends that the May LURA will continue according to the terms of the May LURA, subject to the modifications made by this First Amendment.

Whereas, WRNPHC has received an offer to purchase the Project and as a result thereof, WRNPHC as the successor owner to the Project Owner and as the successor owner and holder of the RMCRC Loan, desires to modify the May LURA, all as specified herein.

In consideration of the covenants and agreements set forth herein, including the mutual covenants and promises, and other valuable consideration, the sufficiency of which is hereby acknowledged, WRNPHC as the successor to Bracken and as the current holder of the RMCRC Loan, hereby declares and covenants for itself and all subsequent owners of the Project, and each portion thereof, for the term set forth herein as to the use, occupancy and transfer of the Project, as follows:

1. Set-Aside election. Section 2 of the May LURA is modified to provide as follows:

The Project Owner agrees and designates twenty percent (20%) of all current units (which means nine (9) Units) as both rent restricted (as defined in IRC § 42), and income restricted as set forth herein. The project Owner agrees that for each taxable year for a period of not less than thirty-two (32) years from the date of the Original Declaration, twenty percent (20%) of the units of the Project will be occupied by individuals whose income is fifty percent (50%) or less of the area median gross income, with respect to the county in which the Project is located, as determined annually and published by HUD.

2. Section 7 Amendment. Section 7 of the May LURA is amended to provide that the May LURA shall remain in effect for a period of not less than thirty-two (32) years after the date of the Original Declaration.

3. Subordination. WRNPHC, hereby consents and agrees that effective with the execution of this First Amendment, the May LURA shall become and shall hereafter remain subordinate to the lien of any first priority mortgage loan secured by the Project, as applicable, notwithstanding that such mortgage loan may be recorded subsequent to the date of this First Amendment.

4. Amendment to Notice Provisions. Subsequent to the date of this First Amendment, notices which would otherwise be given to RMCRC shall be sent to WRNPHC as the successor holder of the Loan. Notices to the Project Owner shall be to the owner of the Project, to the address of such owner as shown on the real property records of the Salt Lake County Assessor.

5. Restatement of May LURA. Except as modified by this First Amendment, the May LURA is ratified and confirmed by WRNPHC, as the successor Project Owner and the holder of the Loan, as if fully set forth hereat.

In Witness Whereof, WRNPHC has executed this First Amendment the day and year that immediately follows.

Dated this 10<sup>th</sup> day of July, 2019.

Western Region Nonprofit Housing Corporation,  
a Utah nonprofit corporation

BY:   
Marion Willey  
Director

STATE OF UTAH

COUNTY OF SALT LAKE

On the 10<sup>th</sup> day of July, 2019, personally appeared before me Marion Willey, who being by me duly sworn did say that he is the Director of Western Region Nonprofit Housing Corporation, a Utah nonprofit corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of a resolution of its Board of Directors, and said Marion Willey acknowledged to me that said corporation executed the same.

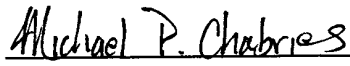
  
Notary Public



EXHIBIT "A"

(Legal Description)

Real property located in Salt Lake County, State of Utah, more particularly described as follows:

Parcel 1:

Commencing at the Northwest corner of Lot 4, Block 48, Plat "B", Salt Lake City Survey, and running thence East 330 feet; thence South 46.5 feet; thence West 330 feet; thence North 46.5 feet to the place of beginning.

Parcel No. 16-06-253-011

Parcel 2:

Commencing 72 feet North of the Southwest corner of Lot 4, Block 48, Plat "B", Salt Lake City Survey, and running thence North 46.5 feet; thence East 20 rods; thence South 46.5 feet; thence West 20 rods to the place of beginning.

Parcel No. 16-06-253-012