

Jefferson Union High School District Educational Housing Corporation

REQUEST FOR PROPOSALS

PROPERTY MANAGEMENT SERVICES FOR JEFFERSON UNION HIGH SCHOOL DISTRICT FACULTY AND STAFF HOUSING

I. ANNOUNCEMENT OF REQUEST FOR BIDS

The Jefferson Union High School District Educational Housing Corporation (“EHC”) is seeking a property manager to manage the following property owned by the Jefferson Union High School District (“District”), and operated by the EHC:

Jefferson Union High School District Faculty and Staff Housing, a four-story, 122-unit apartment complex, with a puzzle-lift car barn and surface lot (a total of 128 parking spaces), which is currently under construction and located at the District’s Serramonte del Rey campus at 699 Serramonte Boulevard, in Daly City, California (“Property” or “Project”).

All units in the Project will be leased to District employees at a below market rental rate, as determined by the EHC Board of Directors. Twelve (12) of the Project’s units are required to comply with an Affordable Housing Agreement, and associated covenants, between the District and the City of Daly City.

II. ABOUT THE DISTRICT EMPLOYEE HOUSING PROGRAM

In response to regional housing costs that are among the highest in the country, the District began construction of the Project, which will result in rental housing units that will be available to District faculty and staff at rates substantially below market. Employees will be eligible to live in these units for multiple years, with a maximum number of years to be determined by the EHC Board of Trustees, and employees will be strongly encouraged to save funds from their reduced rent to apply toward a down payment to buy housing in the area. To lease a unit, an individual must be an employee of the District.

Completion of the Project is anticipated in late March 2022 and communication with District employees for pre-lease is planned for early 2022.

Aside from providing District employees with affordable rents, a priority of the Project is to select a Property Manager that, working in coordination with EHC, will help to foster a sense of community among the residents, the District and the property management team. Residents will be District employees and their family members and are an integral part of the District’s stakeholder team and this bond should be recognized and utilized in the general approach to operating the Property.

III. ABOUT THE EDUCATIONAL HOUSING CORPORATION (EHC)

The EHC is being formed as a California Nonprofit Public Benefit Corporation to serve the housing needs of the District’s Faculty and Staff. The EHC will administer and operate the Project, which is owned by the District. The EHC is governed by a Board of Directors, appointed by the District, for the purposes of general administration and policy development for the employee housing. Directors of the EHC are not compensated for their work. Additionally, the District assigns a senior-level administrator (a District Administrator; currently, the Director of Faculty and Staff Housing) to serve as the administrator of the employee housing program and to provide staff support for the EHC Board.

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IV. SCOPE OF SERVICES

The Property Manager will act as the EHC's agent to manage, operate, maintain, lease, and rent the Property on a day-to-day basis. The Property Manager will use its best efforts to furnish the services of its organization and exercise the highest degree of professional competence in managing the Property, consistent with the standards of the EHC.

The Property Manager will generally be expected to perform the following duties and will have the following responsibilities:

1. Leasing of Properties

As units become available, the EHC will provide the Property Manager with information for eligible employees to assign to vacant units; this will include name, contact information and household size. The Property Manager will coordinate the assembly of all leasing information and will undertake tenant screening pursuant to policies as determined by the EHC and will coordinate lease signing key distribution and other necessary unit leasing activities with the identified resident. Further, the Property Manager is responsible for preparing units for occupancy.

- a. No resident will be assigned to a unit by anyone other than the EHC.
- b. Resident leases shall be for periods as determined by EHC, with provisions for extensions, from time to time, for up to the maximum tenancy period authorized by the EHC. Leases will be managed to limit turnover to support the District's goals for stable and affordable faculty and staff housing.
- c. There will be a waiting list of District employees interested in securing units. That list is exclusively managed by the EHC and not the responsibility of the Property Manager.

2. Operations and Maintenance of Properties

The Property Manager will be responsible for the operation of the Property and associated grounds, including maintaining safe, clean and presentable buildings and common areas, ensuring the proper functioning of Property systems (including life safety systems and equipment, etc.), repairing units and common areas, and providing for the general upkeep, repair and maintenance of the Property.

- a. Property Manager will utilize its own network of contractors and suppliers to perform needed maintenance, repairs, and custodial work within the parameters set by the EHC (i.e., duly licensed and insured, avoiding conflicts of interests, cost constraints, etc.). EHC anticipates that under this contract, Property Manager will not be responsible for significant capital improvement projects or "public works" projects that must comply with state prevailing wage laws. (Labor Code, § 1720, et seq.) The EHC or the District may elect to perform such work under a separate contract to ensure compliance with all relevant laws and regulations.
- b. Property Manager will procure the supplies, equipment and services necessary for the operation and maintenance of the Property. However, no unbudgeted disbursement for this purpose shall be made in excess of \$3,000 without prior written authorization from the EHC, except as required due to an emergency necessitating immediate action to preserve life, health and safety of residents or maintain and preserve the Property.
- c. Property Manager will contract with and appropriately pay invoices for water, electricity, gas, fuel, telephone, rodent extermination, trash and debris hauling and other necessary utility or general services for the Property. Residents are responsible for establishing and/or paying for utilities,

including electricity, water and internet/telephone for their respective units. Tenant utility costs not directly billed and metered will be recovered by the Property Manager through its billback system.

- d. Property Manager will be aware of and take actions necessary to maintain compliance with all local, state and federal laws and regulations pertaining to the operation and occupancy of the Property.
- e. The Property will require onsite staffing, which Property Manager will provide. The Property Manager shall be responsible for recommending and maintaining appropriate staffing hours and levels, employing appropriately qualified staff, and budgeting for such.
- f. Property Manager shall maintain records of tenant rent defaults and material rule violations and include such in monthly reports to EHC. Property Manager shall be responsible for timely and amicable resolution of defaults and violations prior to initiating any eviction process. EHC must be notified before any eviction action or other legal action is initiated against a tenant.

3. Collection and Disbursement of Revenues

The Property Manager is responsible for collecting security deposits and other deposits, collecting rents, and paying bills for vendors and services.

- a. Upon leasing a unit, the Property Manager will collect a security deposit and other deposits as required for the unit and as set by the EHC, which shall be deposited in a separate FDIC-insured trust account per industry standard practice.
- b. Monthly rents and other income will be collected by the Property Manager and deposited into the Property's Operating Account. The Operating Account shall be a separate FDIC-insured trust account per industry standard practice.
- c. Property Manager shall pay from the Operating Account the expenses of the Property as they become due to ensure the proper management and operation of the Property in accordance with the agreement executed as a result of this RFP process. To ensure the orderly and timely payment of bills, the Property Manager shall maintain a cash reserve in the Operating Account in accordance with the Approved Annual Budget for the Property. After meeting the cash reserve, Manager shall transmit all other funds remaining in the Operating Account to the District within three days of request by EHC. If the Operating Account has insufficient funds to pay the Property's financial obligations, then the District will disburse funds to the Property Manager upon written request sufficient to cover such insufficiency and restore the cash reserve to the Reserve Amount in order for Property Management to be able to pay for management fees and for liabilities and obligations of operating the Property.
- d. Property Manager shall organize and maintain a system of benchmarking and controls designed to ensure the authenticity of bills for services provided for the Property and the fairness of the price charged.

4. Maintaining Financial Records and Reports

The Property Manager shall keep accurate, complete and separate records (from those of other properties managed by the Property Manager) in accordance with generally accepted accounting principles and any additional requirements established by the EHC, showing income and expenditures in connection with the operation of the Property, to the end that any accounts payable, other obligations, cash, accounts receivable and other assets pertaining thereto can be identified and the amount determined at all times.

The Property Manager shall cooperate with any EHC audits or other financial reviews the EHC might require.

- a. The EHC shall have the right at any reasonable time to inspect any record of the Property Manager which, in its opinion, may verify the financial or monthly reports, including, but not limited to all checks, bills, vouchers, statements, cash receipts, correspondence and all other records in connection with the management of the Property.
- b. The EHC shall further have the right to cause an audit, at its expense, to be made of all account books and records connected with the management of the Property.
- c. Property Manager will establish and maintain required bank accounts as needed for appropriate accounting and segregation of funds.
- d. During the Term of the Agreement, Property Manager, at Property Manager's expense, shall carry and maintain liability insurance as required by the District and/or EHC, typically including: Commercial General Liability and Property Damage insurance including: (a) Bodily Injury Liability insurance which provides for injuries including accidental death, per any one occurrence in an amount not less than \$2,000,000 per occurrence and \$5,000,000 annual aggregate, and Property Damage insurance in an amount not less than \$2,000,000 per occurrence; (b) Business Automobile Liability insurance in an amount not less than \$2,000,000 including coverage for owned, non-owned and hired vehicles; (c) Umbrella liability in an amount not less than \$10,000,000 per occurrence and annual aggregate; (d) Professional Liability (Errors and Omissions) Insurance appropriate to Property Manager's profession, with limit no less than \$2,000,000 per occurrence or claim, \$5,000,000 aggregate; and (e) Workers' Compensation and Employer Liability Insurance providing full statutory coverage. District and EHC, including its Officers, Agents and Employees must be named by endorsement on Property Manager's Commercial General Liability and Property Damage Policies as co-insured or additional insured.
- e. Property Manager will prepare monthly and annual financial statements and present them to the EHC (or designee) and to the EHC and such reports shall be in such format as reasonably determined by the EHC. The prior month's financial statements shall be provided to EHC no later than the 20th day of each calendar month. The prior year's annual financial statements shall be provided to the EHC no later than the 45th day after the end of each Fiscal year.
- f. Property Manager, in collaboration with the EHC District Administrator, will prepare annual operating budgets for the Property and submit them for approval to the District Administrator no later than March 30th of each year.

5. Cultivating and Maintaining Operational Relationships with the EHC, District and Residents

The Property Manager is a contracted agent of the EHC and reports through the District Administrator to the EHC. The Property Manager will be expected to foster and maintain positive and cooperative relationships with the EHC Board, the District Administration and residents.

- a. Property Manager will be expected to receive and respond to residents' issues and concerns in a timely and professional manner, in accordance with the employee-resident collaborative approach referenced earlier. Property Manager will also support scheduling and reservations for activities planned by residents or the District for the Community Room or other common areas of the

Property.

- b. The District Administrator interacts with the Property Manager (and vice versa) on a routine basis to address operational and resident issues and to plan for future needs, activities and issues. The District

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Administrator and Property Manager meet at least on a monthly basis, and more frequently as needed.

- c. The EHC anticipates meeting on a monthly basis until the Property is fully operational, thereafter on a quarterly basis. The Property Manager is expected to prepare reports for and attend those EHC Board meetings.

V. COMPENSATION

For services rendered in the management of the Properties, the Property Manager will be compensated with a monthly fee plus reimbursement for direct onsite expenses for supplies and employees.

Unless otherwise mutually agreed, the Property Manager will not collect any additional compensation or charge any additional fees.

VI. TERM OF AGREEMENT

The EHC intends to award a 24-month agreement for services to a Property Manager, with the option for the EHC to extend the agreement for additional one-year terms. The EHC anticipates that the 24-month term of the agreement will commence at contract execution in late October 2021.

Pre-operations period: The first three months (approximately) of the contract are to be separately priced and budgeted in your Proposal. During this time the Property Manager will perform pre-operational consultation services, including assistance with preparation of preliminary budget, market rent determination, development of marketing materials (at Owner's cost) to inform District employees about the leasing opportunity, and advice on pre-occupancy needs.

Property operations period: The main, operational, term of the agreement will begin on or around February 1, 2022, in preparation for tenant move-ins beginning in April (though the date may be adjusted as needed). This operational phase should be separately priced and budgeted in your Proposal and will constitute the majority of the contract scope.

VII. RESPONDING TO REQUEST FOR PROPOSAL

For the EHC to consider a proposal, it must be clear, concise, complete, well organized and demonstrate the firm's ability to follow instructions. The quality of answers is important, not the length of the proposals or visual exhibits.

1. Contents of Proposal

The proposal shall be organized in the format listed below. Firms should read each item carefully and answer each of the following items accurately to ensure compliance with District requirements. Material deviations from these instructions may result in a proposal being deemed non-responsive.

All items listed below must be separated by section and clearly labeled with the corresponding

sub-section title. A firm's Proposal shall not exceed twenty (20) 8½ x 11-inch equivalent pages, excluding resumes, brochures, organization charts, and Attachments.

A. Cover Letter

Each proposal shall be accompanied by a cover letter addressed to the EHC containing the following:

- i. Identification (name, address and telephone number) of the firm;
- ii. Name, title, address, telephone number and email address of a contact person on behalf of the firm for the duration of the proposal and contracting process; and
- iii. Signature of a person authorized to bind the firm to the terms of a property management Agreement and make binding decisions in all matters relating to the Proposal and the Agreement.

The cover letter shall confirm that the proposal shall be valid for a 60-day period and that the firm is available to immediately provide the Services.

B. Firm Information

- i. Provide a brief synopsis of the firm's corporate structure and history. Identify legal form, ownership and senior officials/key staff members. Describe the number of years in business and types of business conducted. Provide the location of firm's headquarters, including the address and contact information for the closest office from which Services will be provided for the Property. Provide an overview of your firm's experience with, and ability to perform, the same or similar services.
- ii. Provide a statement of ALL claims filed against your firm in the past five (5) years; e.g. breach of contract claims, housing discrimination complaints, claims related to personal injuries to or death of any person, including Contractor or its employees/officers/agents and claims related to property damage. Briefly indicate the nature of the claim and the resolution, if any, of the claim(s). Describe any pending litigation or threatened litigation against the firm or its owners that may affect the firm's performance or completion of the services.
- iii. Provide at least three references for clients for whom you have provided property management services that the EHC can contact (relationship, phone and e-mail).
- iv. Note that prior to a contract signing, your firm must provide banking references that EHC can contact. These references may also be provided with your Proposal.

C. Past Experience / References

Identify all similar or analogous services to those sought through this RFP that your firm has provided within the past five (5) years. Limit response to no more than the ten (10) most recent

clients/facility owners. Include the following information for each client:

- i. Name and location of the client
- ii. Description of the specific services provided
- iii. Dates/time period when Firm provided those services
- iv. List of proposed key personnel who provided the services, and
- v. Contact person's name, email and telephone number.

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- a. Discuss in detail your firm's experience providing the services sought through this RFP, including, without limitation, your firm's experience with residential property management, including the provision of such services in the context of non-profit, below-market, and/or employee housing if any. Please provide at least two (2) case studies that demonstrate your firm's ability to perform the property management services described in this RFP. Please explain the relevance of your case studies to the EHC. Include copies of typical monthly/annual reports as examples.

D. Project Team

Please provide the names and resumes of key staff who would be working with the EHC and identify individuals by responsibility. Please indicate who the primary contact will be and who will be responsible for the day-to-day work with the EHC. The EHC expects that the firm's key personnel will remain consistent throughout the term of any agreement for the provision of the services to the EHC. Also provide a description of proposed onsite staffing and qualifications of onsite personnel.

E. Property Tours

Hard hat tours of the Property will be arranged for mutually convenient times to be announced during the Proposal period. Each proposer must participate in such a tour to be eligible to submit a proposal.

F. Compensation Proposal

Based on the compensation description in Section V, responding firms must provide a fee schedule delineating all compensation including fees, personnel expense and direct expense, so that EHC can determine exactly what the entire cost for the Property Management contract will be.

G. Agreement: Pre-Operations Phase

In addition to the property management services described above to be provided after the Project opens to tenants, the EHC intends to retain the selected Property Manager in an advisory capacity for a pre-operations phase. This is a new property that is under construction, and EHC will need the Property Manager's assistance to establish a budget based on estimated market rate expenses for the Property in its actual configuration at its actual location. In addition, Property Manager will be expected to assist with researching and establishing market rate rents on a per-unit basis. EHC will use these rents as benchmarks for consultation with Property Manager on the establishment of guidelines for below market rate rents for each unit. All proposers must provide a fee proposal for these pre-operational services that is separate from the fee proposed for services provided after the Property opens to tenants. The pre-operations phase of the contract is expected to begin at contract execution in late October 2021 and end at the time the operations phase of the contract begins.

H. Agreement: Operations Phase

The operations phase of the agreement is expected to start no later than February 1, 2022, by which time the Property Manager will have identified its onsite staff and received approval from EHC for its draft budget for the year. A final budget will be established and approved by the EHC board no later than April 30, 2022 and April 30 each year thereafter. The District's fiscal year runs from July 1 through June 30.

I. Contract

The successful proposer will be expected to execute an agreement with the EHC substantially in the form attached to this RFP. Proposers shall identify in their proposals any provisions of the form of

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agreement that the proposer does not agree with.

2. Proposal Deadline

Written proposals must be received by 5:00 p.m. on September 24, 2021, via email to the individuals set forth below. Proposals received after that time may be rejected as untimely. Each proposer is solely responsible for ensuring the timely transmittal and delivery of the proposal and the EHC and District have no responsibility for any delays in transmittal or delivery of proposals owing to connectivity or other technical issues.

Austin Worden
Jefferson Union High School District
aworden@jeffersonunion.net

With a copy to:

Jim Mueller
Brookwood Advisors
jmueller@brookwoodgroup.com

3. Requests for Information

Any Request for Information or questions about this request for proposal process shall be emailed to Jim Mueller at jmueller@brookwoodgroup.com.

4. Interviews

At the EHC's option, firms that submit a complete Proposal document deemed by the EHC to be responsive and qualified may be invited for an interview with an EHC selection committee. The EHC anticipates inviting no more than three (3) firms to interview. By end of day on September 30, 2021, the Bid Review Committee will issue the list of firms invited to be interviewed. It is anticipated that interviews will be held on October 5th and 6th, 2021. In addition to interviews the EHC may request a tour of one or more of each firm's managed properties

5. Selection

Final selection of the firm to be hired will be based on relevant experience of the firm and team members and the selection committee's determination of which firm will best serve the EHC's needs. The selection process and choice to negotiate and award a Contract is at EHC's sole discretion.

Final selection of the firm to be hired will be based on relevant experience of the firm and its team members and the selection committee's determination of which firm will best serve the EHC's needs. Significant weight will be given to the qualifications of each firm's personnel, both at the management level and at the property level, as well as the firm's systems, operating history, reputation, financial stability, and ability to deliver best value to EHC. The selection process and choice to negotiate and award a contract is at EHC's sole discretion.

Proposers shall bear all costs related to preparing responses to this RFP and this RFP process does not commit the EHC to award a contract for property management services. The EHC reserves the right to accept all or part of any proposal or to cancel in part or in its entirety this Request for Proposal and/or to

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reject all proposals. The EHC further reserves the right to accept the Proposal that it considers to be in the best interest of the EHC.

6. Protest

Protests that do not comply with the protest procedures outlined below will be

rejected. **A. Protest Eligibility, Format, and Address**

- i. Protests or objections may be filed regarding the procurement process, the content of the RFP or any addenda, or contract award.
- ii. The EHC will only review protests submitted by an interested party, defined as an actual or prospective proposer whose direct economic interest could be affected by the EHC's conduct of the solicitation. Subcontractors do not qualify as interested parties.

Submit protests by e-mail to Austin Worden at aworden@jeffersonunion.net

B. Protest Deadlines

Submit protests with any supplemental materials by 5 p.m. PST, as appropriate, on the deadlines set forth below. The date of filing is the date the EHC receives the protest, unless received after 5 p.m. PST, or on other than a Business Day, in which case the date of filing will be the next Business Day. Failure to file by the relevant deadline constitutes a waiver of any protest on those grounds. Supplemental materials filed after the relevant deadline may be rejected by the EHC.

- i. If relating to the content of the RFP or to an addendum, file within five Business Days after the date the EHC releases the solicitation or addendum.
- ii. If relating to any notice of non-responsiveness or non-responsibility, file within five Business Days after the EHC issues such notice.
- iii. If relating to intent to award, file within five Business Days after the EHC issues notice of Intent to Award. No protests will be accepted once actual award has been made.

C. Protest Contents

- i. The letter of protest must include all of the following elements:
 - a. Detailed grounds for the protest, fully supported with technical data, test results, documentary evidence, names of witnesses, and other pertinent information related to the subject being protested; and
 - b. The law, rule, regulation, ordinance, provision or policy upon which the protest is based, with an explanation of the violation.
- ii. Protests that simply disagree with decisions of the EHC will be rejected.

D. Reply to Protest

The EHC will send a written response to the protestor and to any other party named in the protest.

E. No Stay of Procurement Action during Protest

Nothing in these protest requirements will prevent the EHC from proceeding with negotiations or awarding a purchase order or contract while a protest is pending.

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ATTACHMENT A
Form of Management Agreement

Jefferson Union High School District Educational Housing Corporation

MANAGEMENT AGREEMENT

BETWEEN

**Jefferson Union High School District Educational Housing Corporation
as Owner's Agent**

and

As Manager

Dated: _____, 2021

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MANAGEMENT AGREEMENT

This Management Agreement ("**Agreement**") is dated for reference purposes as of _____, 2021 (**Effective Date**), between Jefferson Union Educational Housing Corporation (**Owner's Agent**), and _____ (**Manager**).

RECITAL

Owner's Agent is the Agent for the Jefferson Union High School District (**District or Owner**), which is fee owner of the Property commonly known as "Jefferson Union High School District Faculty and Staff Housing," which is located at the District's Serramonte del Rey campus at 699 Serramonte Boulevard, in Daly City, California and legally described on Exhibit A attached hereto and incorporated herein by this reference (the **Property or Project**). The Owner and Owner's Agent have entered into an agreement pursuant to which Owner's Agent manages the Property for and on behalf of the Owner.

AGREEMENT

In consideration of the premises and the mutual promises and covenants in this Agreement, Owner's

Agent and Manager agree as follows:

- 1. DEFINITIONS.** In addition to terms defined in other provisions of this Agreement, the following terms shall have the following meanings when used in this Agreement:
 - 1.1 Budget.** A composite of (a) an "Operations Budget" which shall be an estimate of receipts and expenditures for the operation of the Project during a Fiscal Year, including a schedule of projected vacancies in the Project (a statement of security deposits balances shall be included) for the Fiscal Year, and (b) a "Capital Budget" which shall be an estimate of capital replacements, substitutions and additions for the Project (other than routine repairs and maintenance) for the Fiscal Year.
 - 1.2 Business Day.** Any day other than a Saturday or a Sunday on which United States national banks are required to be open for business to the general public but the term "business day" shall not include the day after Thanksgiving.
 - 1.3 Depository Account(s).** Trust account(s) opened and maintained by Manager in Owner's name with an FDIC-insured bank designated by Manager and approved by Owner into which deposits and from which disbursements are made pursuant to this Agreement.
 - 1.4 Final Accounting.** The Final Accounting shall include the following: (a) final financial statements, (b) written summary of all outstanding accounts payable and copies of all outstanding invoices, (c) final bank statements following the close of the Depository Account(s) and (d) Form 1099 information upon request.
 - 1.5 Fiscal Year.** The Fiscal Year shall be a twelve-month period commencing July 1 and ending June 30 of the following calendar year.
 - 1.6 Gross Rental Receipts.** The entire amount of all receipts, determined on a cash basis, from tenant rentals and other sums collected pursuant to tenant leases (excluding security deposits) and all other income from the operation of the Project, including proceeds from rental loss or business interruption insurance and any sums and charges collected in connection with termination of the tenant leases or settlement of rent claims. Gross Rental Receipts do not include the proceeds of (a) any sale, exchange, refinancing, condemnation or other disposition of all or any part of the Project, (b) any loans to Owner, whether or not secured by all or any part of the Project, (c) any capital contributions to Owner, (d) any insurance proceeds (other than rental loss or proceeds from business interruption insurance) maintained with regard to the Project, (e) security deposits or other amounts refundable to tenants of the Project (until applied to obligations that constitute Gross Rental Receipts), or (f) interest income.
 - 1.7 Leasing Guidelines.** The Leasing Guidelines for the Project are set forth on Exhibit C, as may be amended by Owner from time to time.
 - 1.8 Management Fee.** The fee payable to Manager pursuant to Section 3.1 and Exhibit D of this Agreement.
 - 1.9 Project Employees.** Those persons employed by Manager to serve on-site at the Project (e.g., senior manager, manager, assistant managers, leasing consultants and maintenance employees), including any employees who work at the Project on a part-time or temporary basis and any employees from other sites who may work at the Project to cover time-off or other special needs at the Project, but only to the extent of the time they are actually present at the Project site.
 - 1.10 Project Close Date.** The last day of each calendar month, which shall be the financial cut-off

date for each reporting month during the Fiscal Year.

1.11 Term. The term of this Agreement shall begin on the Effective Date and shall, subject to the other provisions in this Agreement, expire on the second (2nd) anniversary of the Effective Date. The Term may be extended for successive one-year periods at the election of the Owner's Agent, provided that the Owner's Agent provides Manager with written notice of such extension at least ninety (90) days prior to the end of the then current Term of the Agreement.

(a) The Pre Operations Consulting Period shall begin on the Effective Date and continue until the beginning of the Operations period.

(b) The Operations Period shall begin on February 1, 2022 in preparation for move-ins upon Owner's receipt of the Certificate of Occupancy for the Property, expected in March 2022.

1.12 Working Capital Reserve. A cash reserve in an amount to be determined by Owner's Agent, but equal to not less than one (1) month of projected Project operating expenses plus expected monthly cash outflows.

2. APPOINTMENT OF MANAGER; DUTIES OF MANAGER

2.1 Appointment of Manager. Owner hereby appoints Manager as the exclusive property manager of the Project to rent, lease, operate and manage the Project and to perform all other duties as set forth in this Agreement, and Manager agrees, for and in consideration of the compensation provided in this Agreement, that during the Term of this Agreement Manager will supervise and direct the management and operation of the Project and perform all duties set forth in this Agreement. Manager will perform all services under this Agreement as agent for Owner's Agent and Manager shall have the right to execute and deliver documents on behalf of Owner and Owner's Agent and to otherwise bind Owner and Owner's Agent as expressly provided in this Agreement. Subject to the prior written approval of Owner's Agent,

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which approval shall be at the sole discretion of the Owner's Agent, Manager may install one or more signs on or about the Project stating that the Project is under management of Manager.

2.2 Rental Activities. Manager shall render the following services and perform the following duties for Owner's Agent:

(c) Use commercially reasonable efforts to collect all monthly rentals due from tenants in the name of Owner's Agent and, with the prior consent of Owner's Agent at the expense of Owner, institute legal action to evict tenants delinquent in payment of monthly rental or other charges as more particularly described in Section 2.9 below (provided, however, that Owner and Owner's Agent shall retain discretion to undertake actions to evict tenants, including the filing of unlawful detainer actions, without involvement of the Manager;

(d) Notify Owner and Owner's Agent of units that are projected to become vacant within the next 90 days so Owner can select and refer a qualified replacement tenant from its waitlist. Such notice shall be as promptly as reasonably possible but in any event within seven business days of Manager becoming aware of the vacancy.

(e) Use commercially reasonable efforts to minimize turnover time for vacant units in the Project.

2.3 Budget.

- (a) Manager shall submit a proposed Budget for a Fiscal Year to Owner's Agent for review by Owner's Agent no later than ninety (90) days prior to the beginning of such Fiscal Year; provided that the proposed Budget for the first Fiscal Year shall cover the portion of such Fiscal Year beginning on the Operations period start Date. If Owner's Agent disapproves a proposed Budget, in whole or in part, Owner's Agent and Manager shall jointly prepare the Budget as soon as may be reasonably practicable. Until a Budget is approved, Manager shall operate on the Budget for the prior Fiscal Year adjusted to reflect changes in the Consumer Price Index - All Urban Consumers, most recently published by the United States Department of Labor, Bureau for Labor Statistics, for the _____ metropolitan area. It is hereby expressly acknowledged by the parties that the Budgets are intended as projections only and Manager shall have no responsibility for any shortfall or other loss because the Project operations do not achieve the results projected in any Budget.
- (b) The Budget shall constitute a major control under which Manager shall operate the Project and there shall be no substantial variances therefrom except as permitted by other provisions of this Agreement or as approved by Owner in advance and in writing. Consequently, except as permitted by other provisions of this Agreement, without the prior written consent of Owner, no expenses may be incurred or commitments made by Manager in connection with the maintenance and operation of the Project which exceed the amounts allocated to the corresponding summary accounts in the Budget for the period in question by more than the lesser of (i) \$3,000.00, or (ii) five percent (5%) of the amounts allocated to the corresponding summary accounts in the Budget for the period in question; provided that the foregoing limitation shall not apply to the Management Fee (which will be determined as provided in this Agreement), or to expenses for taxes,

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insurance, utilities or other non-controllable expenses, or to expenditures required due to emergencies that threaten life, injury or property or could result in civil or criminal liability for Owner, Owner's Agent and/or Manager. Agreement by Owner's Agent to pay any fee or cost as evidenced by the inclusion of any item in an approved Budget shall have the same binding effect as if such agreement to pay was expressly set forth in this Agreement.

- (c) If there is a variance in any summary accounts between the results of operations for any month and the estimated results of operations for such month (as set forth in the corresponding summary account contained in the Budget) in excess of five percent (5%), Manager shall furnish to Owner's Agent, within twenty (20) days after the last day of such month, a written explanation as to why the variance occurred. If substantial variances have occurred or are anticipated by Manager during the remainder of any Fiscal Year, Manager shall prepare and submit to Owner's Agent, for review and approval by Owner's Agent, a revised forecast covering the remainder of the Fiscal Year with an explanation for the revision.

2.4 Manager and Other Employees.

- (a) Manager shall hire, train, instruct, pay, promote, supervise and discharge the work of the Project Employees in accordance with Manager's policies and procedures. Prior to hiring any individual, Manager shall conduct a background check on such individual including credit and criminal history and, at Manager's discretion (or if specifically requested by Owner's Agent), drug screening. The Project Employees shall be employees of Manager

and not of Owner or Owner's Agent. Manager shall be solely responsible for legal compliance concerning the foregoing activities and Manager shall indemnify and hold harmless Owner and Owner's Agent, and defend Owner and Owner's Agent, with counsel reasonably satisfactory to Owner and Owner's Agent, against any and all liabilities, claims, causes of action, losses, demands, judgments, settlements and costs and expenses (including reasonable attorneys' fees and court costs) arising out of or in connection with violations of employment-related laws by Manager with respect to any Project Employee.

- (b) Notwithstanding any of the other provisions of this Agreement, the Project Employees shall include all of Manager's site based property management employees who are devoted to the operation and management of the Project. Owner recognizes that the Project may be operated in conjunction with other projects managed by Manager in an effort to provide for more efficient and less expensive methods of operation. Owner agrees that costs for Employees assigned less than 100% to the Project may be reasonably allocated or shared between the Project and such other projects.
- (c) Manager shall comply with all laws related to its employment of Project Employees, including by preparing (or causing to be prepared) and submitting all forms, reports and returns required by all federal, state or local laws in connection with unemployment insurance, workers' compensation insurance, disability benefits, social security and other payroll taxes and other similar taxes now in effect or hereafter imposed with respect to Project Employees.
- (d) Owner's Agent shall cause Owner to reimburse Manager, each two weeks for the aggregate compensation, including salary and fringe benefits, as approved by Owner's

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Agent in the Budget, payable with respect to Project Employees for such two week period. No Project Employee shall be considered an employee of Owner or Owner's Agent and neither Owner nor Owner's Agent shall directly compensate any Project Employee without the prior consent of Manager.

2.5 Contracts and Supplies. Manager shall, in the name of and on behalf of Owner and at Owner's expense, consummate arrangements with third party concessionaires, licensees and suppliers for services and supplies for the Project, including telephone, cleaning, furnace and air conditioning maintenance, pest control, landscaping and other similar items that are customarily provided in accordance with standards comparable to those prevailing in other comparable projects in the geographic area in which the Project is located. Manager shall have the right to establish and verify certain compliance criteria for any third party concessionaires, licensees and suppliers, including but not limited to licensing, credit, insurance, criminal history and inclusion on any government watch-lists. Owner's Agent recognizes that Manager may provide services and supplies for the Project in conjunction with providing services and supplies for other projects in an effort to provide for more efficient and less expensive methods of operation and Owner's Agent agrees that costs for such shared activities may be allocated or shared between the Project and such other projects, on an appropriate pro-rata basis.

2.6 Alterations, Repairs and Maintenance.

- (a) Manager shall use commercially reasonable efforts, at Owner's expense, to maintain the Project in good repair and condition. Manager shall hire and discharge independent contractors for the repair and maintenance of the Project to the extent involvement of outside parties is necessary for completion of such work and Manager shall be entitled

to reimbursement for the expenses related to such repair and maintenance as and to the extent set forth in Section 3.3 of this Agreement. Expenditures for maintenance and repair are subject to the Budget-related limitations of this Agreement, except in the case of emergency repairs necessary to prevent injury to residents or others on or about the Project or damage to the Project or property of others located on or about the Project, in which case expenditures may be made by Manager, at Owner's expense, without prior approval and irrespective of the cost limitations imposed by this Agreement, but Owner's Agent shall be notified as soon as practicable of such circumstances requiring emergency repairs. Except as otherwise permitted by this Agreement, any expense over \$3,000.00 must be approved by Owner's Agent prior to Manager incurring such expense. Specific designation of such expense in the Budget approved by Owner's Agent shall constitute approval of the expenditure unless Owner's Agent specifically reserves the right to approve the particular expenditure in question (e.g., if the Budget provides for a \$20,000.00 roof repair, such expenditure is deemed approved unless the Owner's Agent specifically reserves, at the time the Budget is approved, the right to approve the award of a contract providing for such expenditure).

- (b) Manager shall, upon request of Owner's Agent, implement capital replacements, substitutions and additions for the Project that are provided for in the Capital Budget. Owner shall be responsible for all costs of such capital replacements, substitutions and additions for the Project and Owner's Agent shall cause Owner to pay all such costs directly and reimburse Manager for any such costs incurred by Manager; provided, however, Manager shall not exceed the amount allowed by the Capital Budget for such

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capital replacement, substitution and addition without obtaining prior written consent of Owner's Agent.

2.7 Licenses and Permits. Manager shall, in a timely manner, apply for, obtain and maintain all licenses and permits (including deposits and bonds) required for Manager in connection with the management and operation of the Project. Owner's Agent agrees to execute and deliver any and all applications and other documents and to otherwise cooperate as reasonably requested by Manager in applying for, obtaining and maintaining such licenses and permits. Owner's Agent will be responsible for all licenses and permits required for the Project and Manager will have no obligation to obtain any of such licenses and permits. However, Manager agrees to cooperate with Owner's Agent in gathering data for processing applications for permits and licenses that Owner's Agent pursues for the Project.

2.8 Compliance with Laws. Manager shall comply with all laws applicable to it in the performance of its duties hereunder, including laws prohibiting discrimination in housing, employment laws (including those related to unfair labor practices), laws regarding depositing tenant security deposits and laws regarding the storage, release and disposal of hazardous materials and toxic substances by Project Employees, including without limitation, asbestos, petroleum and petroleum products. Manager shall not be responsible for compliance with laws relating to the condition of the Project, including building, zoning, subdivision, fire and other codes or laws and laws regulating hazardous materials or toxic substances (except for materials released by Project Employees), but Manager shall notify Owner's Agent of any violation of any such laws of which Manager becomes actually aware. Owner's Agent shall comply with all applicable laws with respect to the condition of the Project and the operation of the Project. Manager and Owner's Agent each shall notify the other of any notice of violation of law with respect to the Project that it receives from any governmental authority or any notice of violation or required corrective action that it receives from any board of fire

underwriters or similar agency.

2.9 Legal Proceedings. Manager shall institute, only upon prior written approval of Owner's agent, in the name and at the expense of Owner and/or Owner's Agent, legal actions to collect charges, rent or other income from the Project, or to dispossess tenants or other persons in possession who default, or to cancel or terminate any lease, license or concession agreement for the breach thereof. Manager is authorized to institute and defend all legal actions related to Manager's authority and performance under this Agreement. It is expressly acknowledged by Owner's Agent that Manager shall not be responsible for providing legal advice, tax advice or other counsel to Owner's Agent with respect to any Project related matters and any recommendations or advice given by Manager shall not be relied upon as legal advice.

2.10 Project Defects. Notwithstanding anything to the contrary in this Agreement, Manager is not responsible for parts of the Project during its construction or rehabilitation, and Manager's responsibility for any units will not begin until Manager, Owners Agent and Owner's contractor agree that such unit is complete (subject to minor punch list items) and ready for occupancy. In no event shall Manager be responsible for uncovering violations of building, zoning, subdivision, fire or other codes or other laws and regulations (including laws relating to accessibility) or for defects or other shortcomings in the Project or its construction. Manager hereby expressly disclaims any expertise with respect to compliance with accessibility laws, environmental and other similar laws and regulations which may govern

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the Project and the Project. Manager's responsibility as to such matters will be limited to advising Owner's Agent of problems that come to the attention of Manager and implementing, at Owner's cost, remedial steps directed by Owner's Agent on terms consistent with this Agreement.

2.11 Not Used.

2.12 Disbursements. Manager is hereby expressly authorized to disburse funds each month during the term of this Agreement to the following parties in the order set forth below:

- (a) Amounts equal to all taxes, special assessments and insurance premiums with respect to the Project (which sums shall be paid prior to delinquency);
- (b) to the Manager for monies, if any, advanced by the Manager to pay operating expenses of the Project on behalf of the Owner's Agent;
- (c) amounts otherwise due and payable as operating expenses of the Project authorized to be incurred under the other terms of this Agreement, including Manager's compensation; and
- (d) after disbursements as specified in (a) through (c) above and after establishing reasonable cash reserves to pay other costs and expenses incidental to the operation of the Project, including non-recurring emergency repairs, any balance remaining during the term of this Agreement shall be disbursed to Owner within three (3) days of written demand by Owner's Agent or on a schedule as directed by Owner's Agent.

Notwithstanding anything contained in this Agreement to the contrary, Manager shall have no liability for the failure to make payments required under this section if Owner has failed to provide sufficient funds to make such payments on the date due.

3. MANAGEMENT FEES; PAYMENTS TO MANAGER

3.1 Management Fee. Commencing on the Effective Date, Owner's Agent shall cause Owner to

pay to Manager, as compensation for its services, a Management Fee equal to the amount set forth in Exhibit D. The Management Fee for any partial month will be pro-rated based on the number of days during the month that are within the Term. The Management Fee shall be payable for each month by the 10th day of the month for which such compensation is due, by Manager deducting the Management Fee from the Gross Receipts; provided, however, if the Gross Receipts are not sufficient to pay the full amount of the Management Fee, the portion of the Management Fee not deducted from Gross Receipts shall be due and payable within ten (10) business days after the submission of an invoice to Owner's Agent.

3.2 Intentionally Omitted.

3.3 Reimbursement of Expenses. Owner, as represented by Owner's Agent, shall be liable for the costs and expenses of maintaining and operating the Project, and except as otherwise specifically provided in this Agreement, Owner shall pay, or shall reimburse Manager for, all costs and expenses incurred by Manager in connection with the maintenance or operation of the Project or the performance by Manager of its duties under this Agreement. Purchases of, or contracts for, materials or services may be made in bulk by Manager in connection with its operation of other projects managed by Manager and Owner's Agent agrees that the pro rata portion of the net costs of such materials or service used in connection with, or for the benefit

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of, the Project shall be allowed as a reimbursable cost hereunder. Owner shall not be obligated to reimburse Manager for expenses for office equipment or office supplies of Manager (unless incurred for the Project), for any overhead expenses of Manager incurred with respect to its general offices, for costs relating to accounting services performed hereunder, or for any salaries of off-site supervisory employees of Manager, unless otherwise agreed in writing and in advance by Owner's Agent. With prior written approval of Owner's Agent, or inclusion in the approved Budget, Owner's Agent shall cause Owner to reimburse Manager on a time and materials basis for non-property management services provided to the Project including, without limitation, services related to marketing, maintenance, inspections, construction, management and information technology. Manager shall not be obligated to make any advance to or for the account of Owner or Owner's Agent or to pay any sums except out of funds in the Depository Account, and Owner, as represented by Owner's Agent shall be liable for all expenses of maintaining and operating the Project to the extent that such expenses exceed receipts from the Project available in the Depository Account. Manager will be excused from performance of its responsibilities under this Agreement to the extent that funds are not available in the Depository Account to pay related expenses (other than expenses for which Manager is not entitled to reimbursement under the terms of this Agreement), and Owner's Agent does not cause Owner to provide funds within ten (10) business days after the written request of Manager.

3.4 Compensation for Other Services.

- a. Manager, at the prior written request of Owner's Agent, may oversee or arrange for alteration or remodeling of any portion of the Project and oversee capital improvements or extraordinary repairs to the Project. Manager will not be entitled to a fee if the cost of the alteration, remodeling, improvements or repairs will be less than \$5,000.00. For capital projects in excess of \$5,000.00 Manager shall be paid a fee as stated in Exhibit D to this Agreement. Any amounts paid pursuant to this section of this Agreement shall be paid only on contracts that have been approved in advance by Owner's Agent. Amounts due and payable to Manager pursuant to this Agreement shall be paid within ten (10) business days after the submission of an invoice to Owner's Agent and such supporting information as

Owner's Agent may reasonably request. Manager will not be responsible for capital improvement projects or "public works" projects that must comply with state prevailing wage laws. (Labor Code, § 1720, et seq.) The Owner's Agent may elect to perform such work under a separate contract to ensure compliance with all relevant laws and regulations.

- (b) Manager shall, at the request of Owner's Agent, perform other tasks beyond the scope of those set forth above or elsewhere in this Agreement. Subject to prior written approval of Owner's Agent, if Manager expends time or incurs expense on tasks beyond those set forth in this Agreement, Owner's Agent shall cause Owner to compensate Manager in the full amount of such expense and at the then standard hourly rate as defined on Exhibit D, attached hereto and incorporated herein by this reference, of the management staff member providing the service for such time. Such extraordinary expenditure of time includes, by way of illustration but not of limitation, a refinancing effort, an audit of Owner wherein Manager's records must be reviewed, coordination and assistance related to a sale or potential sale and serving as a witness or otherwise assisting in litigation involving the Project or any tenant of the Project.

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3.5 Payment Obligations Survive Termination. Upon any termination of this Agreement, Owner shall pay Manager all undisputed amounts due with respect to the period prior to such termination (including all expenses that are reimbursable in accordance with the terms of this Agreement and the Management Fee for the period ending on the date of termination) and all costs and expenses properly incurred by Manager in terminating its involvement with the Project.

4. PROCEDURE FOR HANDLING RECEIPTS AND OPERATING CAPITAL

4.1 Bank Deposits. Owner's Agent hereby expressly authorizes Manager to open and operate the Depository Account(s), and Owner's Agent shall promptly deliver to Manager any documentation reasonably requested by the depository institution which is necessary to establish the Depository Account(s). All monies received by Manager for, or on behalf of, Owner or Owner's Agent shall be deposited by Manager in the Depository Account. All monies of Owner or Owner's Agent held by Manager pursuant to the terms of this Agreement shall be held by Manager in trust for the benefit of Owner to be disbursed as provided in this Agreement and/or a Budget, and such funds shall not, under any circumstance, be commingled with the funds of any other project, entity, or person, including Manager, its employees or affiliates.

4.2 Security Deposit Account. Manager shall comply with all applicable laws with respect to security deposits received from tenants in respect of the Project. All security deposit funds held by Manager shall at all times be the property of Owner, subject to all applicable laws with respect thereto.

4.3 Disbursement of Deposits. Manager shall disburse funds in the Depository Account on behalf of Owner and Owner's Agent for payment of Project expenses incurred by Manager in the performance of its duties hereunder and other Project expenses identified to Manager by Owner's Agent. Owner's Agent specifically authorizes Manager to expend funds in the Depository Account as contemplated by other provisions of this Agreement. Manager is expressly authorized to pay or to reimburse Manager for all budgeted fees (including the Management Fee) and expenses and for all other sums due Manager under this Agreement from funds in the Depository Account.

4.4 Working Capital Reserve. Prior to the beginning of the operations period, Owner's Agent shall cause Owner to deposit the Working Capital Reserve into the Depository Account. Owner's

Agent also shall cause Owner to deposit in the Depository Account funds sufficient to pay the expenses of the Project to the extent that such expenses are reasonably expected to exceed funds derived from the operation of the Project. Owner's Agent shall cause Owner to replenish any depletion in the Working Capital Reserve within ten (10) business days after receiving a written request from Manager. If Owner does not replenish any such depletion within ten (10) business days, Manager may replenish any such depletion in the Working Capital Reserve on behalf of Owner with funds from the operation of the Project (in addition to any other remedies Manager may have pursuant to this Agreement).

4.5 Excess Funds. After payment of Project expenses as provided in Section 4.3 above, any funds in the Depository Account in excess of the Working Capital Reserve shall be transferred from time to time, at the written request of Owner's Agent, to an account of Owner within three (3) business days of Manager's receipt of such request.

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4.6 General Provisions.

- (a) Persons designated by Manager, subject to acceptance by Owner's Agent, from time to time shall be authorized signatories on all bank accounts established by Manager hereunder and shall have authority to make disbursements from such accounts. To the extent necessary, Owner's Agent shall make arrangements with the related depository institution to authorize such action by those persons. Owner's Agent shall not be a signatory on any account established hereunder and may not withdraw funds from any account except in the case of Manager's default hereunder that would allow Owner's Agent to exercise its rights to terminate this Agreement and in all cases subject to the notice and cure period set forth in Section 7.1 of this Agreement. All persons designated by Manager as authorized signatories or who otherwise handle funds for the Project shall be covered by employee crime and dishonesty insurance, or fidelity bond, maintained by Manager with coverage in an amount not less than \$750,000. Any expense relating to such insurance or bond shall be borne by Manager.
- (b) Except in the event of negligence or misconduct by Manager, its employees, or any other agents of Manager, Manager shall have no liability to Owner or Owner's Agent or any third party for loss of funds (including in instances of theft or fraud), even if the amount of funds maintained exceeds the available federal or other deposit insurance and Owner hereby assumes all risk of loss with respect to funds.
- (c) Manager shall not be responsible for preparing or filing tax returns or related filings for Owner or Owner's Agent or otherwise with respect to the Project; provided, however, that Manager will cooperate with Owner and Owner's Agent in gathering data for such filings in accordance with Manager's duties set forth in this Agreement.

5. ACCOUNTING

5.1 Books and Records. Manager shall keep, or shall supervise and direct the keeping of, a comprehensive system of office records, books and accounts pertaining to the Project. Unless otherwise directed by Owner's Agent, such accounts shall be maintained using the cash method of accounting in accordance with federal tax or generally accepted accounting principles (GAAP). Such records shall be subject to examination at the office where they are maintained by Owner's Agent and Owner or their respective authorized agents, attorneys and accountants at reasonable hours on reasonable advance notice. All records not required of Manager by California State law are the property of Owner. Manager shall keep all records for a period of not less seven (7) years.

5.2 Periodic Statements.

- (a) Within twenty (20) days following each Project Close Date, Manager shall electronically deliver, or cause to be electronically delivered, to Owner's Agent (i) an income and expense statement showing the results of operation of the Project for the preceding operating month and the Fiscal Year to date; (ii) a comparison of actual income and expenses with the income and expenses projected in the Budget; (iii) a statement of cash balances for the Depository Account and any security deposit accounts as of the last day of such month; (iv) a bank reconciliation; (v) a written discussion of variance between budgeted and actual results; and (vi) a current rent roll for the Project in a form acceptable to Owner.

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- (b) Within 45(45) days after the final Project Close Date of each Fiscal Year, Manager shall deliver, or cause to be delivered, to Owner's Agent an income and expense statement showing results of operation of the Project for the Fiscal Year. If requested by Owner's agent, Manager will cooperate with Owner's agent in an audit of such Fiscal Year financial statement by an independent certified public accountant selected and paid for by Owner.
- (c) Owner's Agent may request, and Manager shall provide within a commercially reasonable period after such request, such additional leasing and management reports that relate to the operations of the Project as are customary for other similar properties.
- (d) Owner's Agent may request, and Manager shall provide within a commercially reasonable period after such request, assistance with draw requests, ad hoc reports and special accounting projects at a reasonable cost to be pre-approved by Owner's Agent.

5.3 Expenses. All costs and expenses incurred in connection with the preparation of any statements, Budgets, schedules, computations and other reports required under this Agreement shall be the responsibility of Manager and shall be reflected in the Management Fee. Notwithstanding the foregoing, the cost of any replacement reserve study or construction management services related to the Manager's preparation of a Capital Budget shall be the responsibility of the Owner if requested or approved by Owner's agent.

6. GENERAL COVENANTS OF OWNER AND MANAGER

6.1 Owner's Right of Inspection and Review. Owner, Owner's Agent and their respective accountants, attorneys and agents shall have the right to enter upon any part of the Project at any reasonable time during the Term of this Agreement for the purpose of examining or inspecting the Project, but any inspection shall be done with as little disruption to the business of the Project as possible and subject to the terms of any tenant leases and the rights of tenants to limit or prohibit access to space in their possession.

6.2 Indemnification.

- (a) Manager shall indemnify, defend (with counsel reasonably acceptable to Owner and Owner's Agent) and hold harmless Owner, Owner's Agent, and their respective officers, directors, shareholders, agents, employees, parents, subsidiaries and affiliates of such party and such owners (collectively, "Owner Indemnitees"):
 - (i) from any and all loss, damage, claims, proceedings or liabilities asserted or brought by Manager employees and all costs and expenses thereof (including, but not limited to, fines, penalties and reasonable attorneys' fees) arising out of any claims made or a legal determination of an actual violation by Manager of labor, employment or discrimination laws.
 - (ii) from and against: (a) any claims for leasing commissions, compensation or brokerage

fees or other charges made against Owner, other than those approved and agreed to by Owner, and provided that the claim is made by a broker, agent, finder or other party who was hired by Manager in connection with the leasing of the Project; (b) any claim made against Owner to the extent caused by the negligence or intentional misconduct of Manager or its agents or employees in performing under this Agreement; (c) any claims made against Owner for the failure of Manager to abide by fair housing statutes, rules or regulations which pertain to the leasing or renting of

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apartment units (if any) of the Project; or (d) failure to properly maintain trust accounts or other accounts for the Project (provided Manager accepts no responsibility for any financial institution maintaining such accounts); provided however, this indemnification shall not be applicable where Manager has followed the written instructions of Owner and in following such instructions, Manager is alleged to have violated any fair housing or other applicable statute, rule, regulation or standard or otherwise violated Manager's obligations under this Agreement.

- (b) The Owner shall give the Manager prompt written notice of a claim, shall permit the Manager to conduct the defense and settlement of the claim as long as the Manager confirms without reservation that the claim is within the Manager's indemnification obligations and shall provide, at the Manager's sole expense, reasonable cooperation in the defense of the claim; provided that the Owner shall have the right to participate in the defense of the claim with counsel of its own choosing and at its own expense. The Manager may not settle any Claim against the Owner on terms that (i) provide for a criminal sanction or fine against the Owner, (ii) admit to criminal liability on the part of the Owner or (iii) provide for injunctive relief against the Owner.
- (c) All Owner Indemnitee parties are third-party beneficiaries of this Agreement to the extent of their indemnity, defense and similar rights under the related provision and may enforce that provision against Manager.
- (d) The indemnity obligations of this Agreement shall survive expiration or earlier termination of the Term of this Agreement.

7. DEFAULT; TERMINATION RIGHTS; END OF TERM

7.1 Default by Manager. Manager shall be deemed to be in default under this Agreement under any of the following circumstances:

- (a) Manager fails to make any payment due from Manager under this Agreement (provided that Owner has provided all necessary funds pursuant to this Agreement) and such failure is not cured within five (5) business days after written notice is given to Manager by Owner's Agent.
- (b) Manager fails to perform any of its other obligations under this Agreement and such failure is not cured within fourteen (14) business days after written notice thereof by Owner to Manager or, if such default cannot reasonably be cured within fourteen (14) business days, then within such additional period as shall be reasonably necessary to effect a cure so long as Manager commences efforts to cure within the original fourteen (14) business day period and thereafter diligently pursues the cure.
- (c) A receiver, liquidator or trustee of Manager (or its managing member) shall be appointed by court order if a petition shall be filed against Manager under any bankruptcy, reorganization or insolvency laws and such petition shall not have been vacated within

thirty (30) days of the date of filing or in the event Manager shall make an assignment for the benefit of creditors or be adjudicated a bankrupt under the federal bankruptcy laws.

7.2 Remedies of Owner. Upon the occurrence of an event of default by Manager as specified in Section 7.1 of this Agreement, Owner's Agent shall have the right to terminate this Agreement for cause by written notice given to Manager. Such termination shall not affect the right of

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Owner's Agent to recover from Manager damages that Owner or Owner's Agent has suffered due to Manager's default.

7.3 Default by Owner's Agent. Owner's Agent shall be deemed to be in default under this Agreement under any of the following circumstances:

- (a) Owner's Agent fails to cause Owner to make any payment due from Owner under this Agreement and such failure is not cured within fourteen (14) business days after written notice is given to Owner's Agent by Manager.
- (b) Owner's Agent fails to perform any of its other obligations under this Agreement and such failure is not cured within fourteen (14) business days after written notice thereof by Manager to Owner's Agent or, if such default cannot reasonably be cured within fourteen (14) business days, then within such additional period as shall be reasonably necessary to effect a cure so long as Owner's Agent commences efforts to cure within the original fourteen (14) business day period and thereafter diligently pursues the cure.
- (c) A receiver, liquidator or trustee of Owner's Agent shall be appointed by court order if a petition shall be filed against Owner's Agent under any bankruptcy, reorganization or insolvency laws and such petition shall not have been vacated within thirty (30) days of the date of filing or in the event Owner's Agent shall make an assignment for the benefit of creditors or be adjudicated a bankrupt under the federal bankruptcy laws.

7.4 Remedies of Manager. Upon the occurrence of an event of default by Owner's Agent as specified in Section 7.3 of this Agreement, Manager shall have the right to terminate this Agreement by written notice given to Owner's Agent. Such termination shall not affect Manager's right to recover from Owner's Agent damages that Manager has suffered due to default by Owner's Agent.

7.5 Sale of Project. If Owner's Agent, on behalf of Owner, sells or otherwise conveys the Project, either party may terminate this Agreement by giving notice to the other party within sixty (60) days after the date of the sale..

7.6 Termination for Convenience. Notwithstanding anything to the contrary in this Agreement, Owner's agent may terminate the Term of this Agreement for any reason, including its convenience or in the event of casualty, by giving at least ninety (90) days prior written notice of termination and specifying the date of termination in said written notice.

7.7 Not Used.

7.8 End of Term. After the expiration or earlier termination of the Term of this Agreement, Manager shall deliver to Owner or Owner's Agent (a) Within three (3) days, all funds (including tenant security deposits) after deducting therefrom such sums as are then due and owing to Manager hereunder. (b) Within 30 days all books and records of Owner or Owner's Agent then in possession or control of Manager, and the Final Accounting with respect to the operations of the Project, Manager will reasonably cooperate in the transition of financial and accounting information to the Project's new management company. Manager shall have the right to retain and remove from the Project all of its operational manuals and business records (which are not

manuals or records of the Project) and any equipment owned by Manager.

8. INSURANCE

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8.1 Owner's Insurance. Owner is a public high school district formed and existing under the laws of the State of California and Owner and Owner's Agent are covered by property, liability and workers compensation insurance secured through the San Mateo County Schools Insurance Group and joint powers authority formed and existing under the laws of the State of California.

8.2 Manager's Insurance.

- (a) During the Term of this Agreement, Manager, at Manager's expense, shall carry and maintain Commercial General Liability and Property Damage insurance including: (a) Bodily Injury Liability insurance which provides for injuries including accidental death, per any one occurrence in an amount not less than \$2,000,000 per occurrence and \$5,000,000 annual aggregate, and Property Damage insurance in an amount not less than \$5,000,000 per occurrence; (b) Business Automobile Liability insurance in an amount not less than \$2,000,000 including coverage for owned, non-owned and hired vehicles; (c) Umbrella liability in an amount not less than \$10,000,000 per occurrence and annual aggregate; (d) Professional Liability (Errors and Omissions) Insurance appropriate to Manager's profession, with limit no less than \$2,000,000 per occurrence or claim, \$5,000,000 aggregate and (e) Workers' Compensation and Employer Liability Insurance providing full statutory coverage. District and EHC, including its Officers, Agents and Employees must be named by endorsement on Property Manager's Commercial General Liability and Property Damage Policies as co-insured or additional insured.
- (b) The carrier for the Manager's liability insurance shall have an A.M. Best Rating of A-/VII or higher. Manager shall provide to Owner a written certificate from the carrier reflecting that Manager's liability insurance is effective in accordance with this Section 8.2 and that Manager's liability insurance will not be canceled or modified without at least five (5) days prior written notice to Owner.
- (c) Manager shall carry and maintain the crime and dishonesty insurance described in Section 4.6(a) of this Agreement.
- (d) Owner acknowledges that Manager and its affiliates maintain certain insurance programs on an enterprise basis, such as health insurance and workers' compensation insurance, for the benefit of all of its employees, including Project Employees. Manager will include the costs of such employee insurance programs as line item expenses in the Budget, and upon approval of the Budget, Owner will be deemed to have expressly approved such allocated insurance expenses.

8.3 Waiver of Subrogation; Insurance As First Source of Recovery.

- (a) Each property insurance policy maintained by Manager with respect to the Project shall contain a waiver of subrogation and similar rights, so that the insurer shall have no claim over or against Owner, Owner's Agent or their respective Indemnitees, by way of subrogation or otherwise, with respect to any claims that are insured under such policy.

8.4 Handling Claims. Manager shall promptly report to Owner's Agent, after Manager becomes actually aware of the same, all accidents occurring on or about the Project and any insured damage or destruction to the Project. Manager shall not be responsible for processing or settlement of claims against Owner's or Owner's Agent's insurers.

9. MISCELLANEOUS PROVISIONS

9.1 Confidentiality; Non-Solicitation. Each party hereby agrees to protect the financial and other confidential and/or proprietary information provided by the other party from any use, distribution or disclosure except as permitted herein, subject to any obligations of the Owner and Owner’s Agent under the California Public Records Act and other laws. Each party shall use the same standard of care to protect said information as is used to protect its own confidential and proprietary information, but under no circumstance shall either party use less than a reasonable standard of care. During the term of this Agreement Owner’s agent shall not solicit any employee of Manager for employment.

9.2 Notice. All notices shall be personally delivered, sent via facsimile or via electronic mail, sent via a nationally recognized overnight courier service (such as Federal Express, UPS or DHL) or sent by certified United States mail (return receipt requested). Notices sent via personal delivery, overnight courier service, electronic mail and facsimile will be effective upon receipt and notices sent by mail will be effective three (3) business days after being deposited with the United States Post Office, postage prepaid. A courtesy copy of any notice given by facsimile or electronic mail also shall be mailed to the party receiving the notice. The addresses to be used in connection with such correspondence and notices are the following, or such other address as a party shall from time to time direct in writing by notice given pursuant to this Section 9.2, but any such notice of a new address shall not be effective until actually received by the other party:

Manager: _____

Owner’s Agent:

Jefferson Union High School District Educational Housing Corporation

Austin Worden, CEO

aworden@jeffersonunion.net

699 Serramonte Blvd

#100

Daly City, CA 94015

With a copy to:

San Mateo County Counsel

John D. Nibbelin, Chief Deputy Counsel

jnibbelin@smcgov.org

400 County Center

6th floor

Redwood City, CA 94063

9.3 Severability. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to a person or circumstance other than those as to which it is held invalid or unenforceable, shall not be affected thereby. Each term, covenant or condition of this Agreement shall be enforced to the fullest extent permitted by law.

9.4 No Joint Venture or Partnership. Notwithstanding anything to the contrary in this Agreement, Owner's Agent and Manager hereby agree that nothing contained herein shall be construed as making Manager and Owner's Agent joint venturers or partners. Neither Manager nor Project Employees shall be deemed to be employees of Owner.

9.5 Integration Clause. This Agreement embodies the entire agreement and understanding between Owner's Agent and Manager with respect to its subject matter and supersedes all prior agreements and understandings, written and oral, between Owner and Manager related to that subject matter.

9.6 Governing Law. This Agreement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of California without giving effect to the principles of conflict of laws to the extent such principles would require or permit the application of the laws of another jurisdiction. Venue for any action brought to enforce this Agreement or collect any sum due under this Agreement shall be in the California Superior Court for the County of San Mateo.

9.7 Modification and Waiver. This Agreement and the obligations of the parties under this Agreement may be amended, supplemented, waived and discharged only by an instrument in writing executed by the party against which enforcement of the amendment, addendum, waiver or discharge is sought.

9.8 Prohibition on Assignment. Neither Owner's Agent nor Manager may assign this Agreement to any person or entity without the prior written consent of the other party. Subject to the foregoing sentence, this Agreement shall be binding upon and shall inure to the benefit of Manager and Owner's Agent and their respective successors and assigns.

9.9 Assignment to Project Lender. Notwithstanding any of the other provisions of this Agreement, Owner's Agent may assign its rights under this Agreement to any lender providing financing to Owner's Agent with respect to the Project and in connection with any such assignment, Manager shall execute any such certificates or consents as the lender may reasonably require. Manager agrees any lien rights it may have with respect to the Property or the Project shall be subject and subordinate to the lien of any mortgage or deed of trust now or hereafter encumbering rights, titles and interests of Owner's Agent in or to the Project or the Property.

This Agreement is made as of the date first written above.

OWNER: MANAGER:

By: _____

—

Its: _____

—

Date: _____

—

By: _____

—

Its: _____

—

Date: _____

—

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EXHIBIT B

PRE OPERATIONS CONSULTING SCOPE AND FEES

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EXHIBIT C

LEASING GUIDELINES [DRAFT]

As units become available, the Owner's Agent will provide the Manager with eligible employees to assign to vacant units; this will include name, contact information and household size. The Manager will coordinate all leasing information, including credit checks, lease signing, key distribution and other necessary unit leasing activities with the presumptive resident. Further, the Property Manager is responsible for preparing units for occupancy.

- b. No resident will be assigned to a unit by anyone other than the Owner's Agent.
- c. Resident leases shall be for periods as determined by Owner's Agent, generally for one year, with provisions for extensions for up to several years tenancy.
- d. Leases will be managed to limit turnover to support the District's goals for stable and affordable faculty and staff housing.
 - e. There will be a waiting list of District employees interested in securing units. That list is exclusively managed by the Owner's Agent and not the responsibility of the Property Manager.
- f. Rental rates, security deposits, other deposits, late fees and other fees shall be as determined in writing from time to time by Owner's Agent in consultation with Manager.
- g. Leases, applications and other tenancy forms shall be as prepared by Manager and approved by Owner's Agent.
- h. Each tenant will be required to obtain and carry Renter's Insurance at tenant's expense.

1. Management Fee: _____

2. Rate Schedule for Manager staff/employees: _____ 3.

Fee Schedule for Capital Projects: _____

