

INTERCREDITOR AGREEMENT

This Intercreditor Agreement (this "Agreement") is made as of March 24th 2011 by and among Wells Fargo Bank, National Association (the "Senior Lender"), the Redevelopment Agency of the County of Santa Barbara, a public body corporate and politic (the "Agency") (the Agency and Senior Lender are sometimes referred to herein collectively as "Lenders") and Paradise Ivy LLC, a California limited liability company ("Borrower").

RECITALS:

A. The Agency is making a loan (the "Agency Loan") to aid Borrower in financing a mixed use development containing, among others, six (6) units for persons of low income ("Affordable Units"), known as Paradise Ivy (the "Development"). The Agency Loan is to be made by the Agency pursuant to California Health and Safety Code Section 33334.2 with moneys from the Agency's Low and Moderate Income Housing Fund. The Agency and Borrower have executed an Owner Participation Agreement entered into on July 14, 2009 and amended on June 15, 2010, a deed of trust recorded in the Official Records of Santa Barbara County on July 20, 2009 as Document Number 2009-0043705 and related loan documents (all collectively "Agency Loan Documents") to assist in financing of the Affordable Units.

B. Senior Lender intends to make a loan in the amount of Five Million Six Hundred Thousand Dollars (\$5,600,000) (the "Senior Loan") to aid Borrower in financing the Development. The Borrower and the Senior Lender have executed a deed of trust and promissory note and other loan documents (the "Senior Loan Documents") in connection with the Senior Loan.

C. Senior Lender and Borrower have requested that the undisbursed balance of the Agency Loan be deposited with the Senior Lender and be disbursed by the Senior Lender pursuant to this Agreement and Agency has agreed to that request.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth below and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are acknowledged, the parties agree as follows:

1. Agency Loan Administration and Funding. Agency Loan Funds in the amount of Six Hundred Seventeen Thousand Dollars (\$617,000) not including \$100,000 of the loan which has already been disbursed, shall be deposited by Agency with the Senior Lender (i.e., assigned, pledged and granted by the Borrower to the Senior Lender) and disbursed by the Senior Lender to the Borrower for Development construction costs as set forth below and in accordance with the terms and conditions of the Senior Loan Documents and in compliance with the payment schedule attached hereto and incorporated by this reference as Exhibit A ("Agency Funds Payment Schedule"). None of the proceeds of the Agency Loan shall be used to fund costs that are not directly related to construction of the Development or as expressly provided for in the Senior Loan Documents, including, without limitation, any addendum thereto.

2. Draw Procedures. The Agency Loan Documents and the Senior Loan Documents (collectively "Loan Documents") contain provisions relating to how and when the proceeds of the Agency Loan and Senior Loan are to be disbursed to or for the benefit of Borrower. Except as specifically modified by this Agreement, the requirements and conditions for disbursing funds under those Loan Documents are not superseded by this Agreement. The Lenders and Borrower agree, however, that the following draw procedures shall apply to the Agency Funds on deposit with the Senior Lender:

- a. The Agency Payment Schedule sets forth certain events upon the occurrence of which Borrower shall be entitled to receive a disbursement of proceeds from the Agency Loan as set forth therein ("Payment Condition"). Upon the occurrence of each Payment Condition, the Borrower may submit an Application for Payment of Agency Funds to the Senior Lender.
- b. Applications for Payment of Agency Funds shall be in the form attached hereto as Exhibit B. ("Payment Application") and must be executed by the Senior Lender prior to payment.
- c. Within 15 business days of receipt of a completed Payment Application the Senior Lender will determine whether to approve the payment. The Senior Lender shall approve all Payment Applications that are complete, accurate and consistent with this Agreement .
- d. Within the five (5) working day period following Senior Lender's confirmation of satisfaction of all conditions to each requested disbursement under this Agreement, including Exhibit A, Agency Funds Payment Schedule and the Senior Loan Documents, Senior Lender shall disburse the requested funds.
- e. No Lender shall have any obligation to fund more than its respective share of the Development as set forth in the Agency Loan Documents and Senior Loan Documents.
- f. Upon full completion of construction of the Development (as required by the individual Lender and its Loan Documents for the final disbursement) and satisfaction of any requirements or conditions in the Loan Documents for a final disbursement, the Senior Lender shall disburse the amounts previously withheld as retainage (if any) plus any additional amounts approved pursuant to the final Draw Request not previously disbursed.

3. Waiver. Any waiver by Lenders of any obligation in this Agreement must be in writing. No waiver will be implied from any delay or failure by a Lender to take action on any breach or default of Developer or to pursue any remedy allowed under this Agreement, the Loan Documents or applicable law. Any extension of time granted to Developer to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement.

4. Duties and Liabilities of the Senior Lender.

a. The Senior Lender agrees to act as disbursing agent under this Agreement on behalf of the Agency with regard to the Agency Funds. In making disbursements to the Borrower, the Senior Lender's only obligation shall be to make disbursements in conformity with the terms of this Agreement and the Senior Lender shall not be under any obligation to make reference to, observe, verify, perform, follow or act in accordance with any of the terms, conditions, covenants or agreements contained in any Agency Loan Documents. The Senior Lender shall be entitled to rely and act upon any notice, request, consent, order, certificate, report, opinion, bond or other document or instrument reasonably believed by the Senior Lender to be genuine and to have been signed and presented by the Agency.

b. In the event that the Senior Lender undertakes to perform any act or service not required under this Agreement, including but not limited to, inspection or review of the progress of construction, such additional act or service shall be deemed an accommodation to the parties hereto and shall not increase or extend the liability of the Senior Lender beyond that expressly assumed hereunder. It is expressly understood and agreed that the Senior Lender does not assume liability or responsibility for the satisfactory completion of the Development, nor for the adequacy of the Agency Funds, nor

for inspection during construction, nor for any other acts on the part of the Borrower, the Agency or any contractor, in connection with the Development.

c. The Senior Lender shall accept and disburse the Agency Funds in accordance with the terms of this Agreement. The Senior Lender shall have no liability hereunder arising from any other construction liens or claims of liens, and is under no duty, liability or obligation to defend any suit filed to enforce a construction lien against the property herein described. The defense of any such construction lien and suit filed to enforce same is the obligation of the Borrower.

d. Borrower agrees to indemnify and hold the Agency and Senior Lender harmless from all loss or damage of any nature which the Agency or Senior Lender may sustain resulting from the acts or omissions of the Borrower in the performance of its obligations under this Agreement.

5. No Modification to or Approval of Loan Documents. This Agreement is not intended to modify and shall not be construed to modify any terms or provisions of the Senior Loan Documents or the Agency Loan Documents, but, if there is a conflict or inconsistency between the terms of this Agreement and the terms of a Lender's Loan Documents, the terms of this Agreement shall control as between the Lenders. Otherwise, the terms of the each Lender's Loan Documents shall prevail. By executing this Agreement, a Lender is not approving the terms of the other Lender's Loan Documents. Each Lender has extended credit to Borrower based on the Lender's own assessment of the creditworthiness of Borrower, and neither Lender has relied upon the other Lender or any information it may have provided in making its decision. Apart from specific information or notices that must be given to the other Lender under this Agreement, a Lender is not required to notify the other Lender of its dealings with Borrower, Borrower's financial status, or any other information relating to Borrower or its loan to Borrower. By executing this Agreement, a Lender is not assuming any responsibility to oversee Borrower's application of any advances made to Borrower.

6. Further Assurances. So long as this Agreement is in effect, each Lender or any subsequent holder of each Lender's Note and Deed of Trust (as the case may be) shall execute, acknowledge, and deliver upon reasonable demand of the other Lender any further documents or instruments for the purpose of confirming and effecting the subordination and the agreements set forth in this Agreement.

7. Priority. Any security interest that the Agency may now or hereafter have in the collateral subject to the Senior Loan (the "Bank Priority Collateral") shall be subject and subordinate in all respects to the rights and perfected security interests of the Senior Lender, notwithstanding the provisions of applicable law with respect to the priority of security interests and irrespective of the order of attachment, filing or perfection thereof and the giving, or the failure to give, any notice in respect thereof, and regardless of any and all claims which the Agency or the Senior Lender may have against the Borrower (or Borrower's successors or predecessors).

8. Benefit. This Agreement shall inure to the benefit of and be binding on the parties and their respective successors and assigns (including all subsequent holders of any note, security deed, assignment, or other instrument mentioned in this Agreement).

9. Term. The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (a) the disbursement in full of the Agency Loan or (b) the transfer of title to the Development either pursuant to a foreclosure of a mortgage recorded against the Development or a deed in-lieu-of foreclosure or (c) five (5) years from the commencement of this Agreement. If the proceeds of the Agency Loan or any interest thereon are not fully disbursed prior to the termination of this Agreement the Senior Lender shall return the remaining balance to the Agency.

**SIGNATURE PAGE TO
INTERCREDITOR AGREEMENT**

AGENCY:

COUNTY OF SANTA BARBARA
REDEVELOPMENT AGENCY
a public body, corporate and politic

Dated: _____, 2011

By: _____
Joni Gray
Chair of Board of Directors

ATTEST:
CHANDRA WALLAR

Agency Secretary

APPROVED AS TO LEGAL FORM:
DENNIS A. MARSHALL
AGENCY COUNSEL

By: _____
Deputy Agency Counsel

DEVELOPER:
PARADISE IVY, LLC
a California limited liability company

Dated: _____

By: _____
Tim Werner

Dated: _____

By: _____
Richard Gilman

APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, CPA
AGENCY TREASURER

By: _____
Deputy Auditor-Controller

SENIOR LENDER

Wells Fargo Bank, National Association

By: _____

Its _____

and

By: _____

Its _____

Exhibit A

AGENCY FUNDS PAYMENT SCHEDULE

1. One (1) payment of One Hundred Thousand Dollars (\$100,000) at the time that the Developer obtains a Building Permit for construction of the Project (Developer shall provide Lender a copy of the building permit).
2. One (1) payment of One Hundred Fifty Thousand Dollars (\$150,000) upon completion of pouring of concrete foundation and second story concrete floor and receipt of written confirmation from County Building and Safety of inspection approval of the foundation and concrete work (Developer to provide Lender copy of inspection card as proof of completion of work referenced herein for the Project).
3. One (1) payment of Two Hundred Thousand Dollars (\$200,000) when rough framing has been completed and receipt of written confirmation from County Building and Safety of inspection approval of the rough framing (Developer to provide Lender copy of inspection card as proof of completion of work referenced herein for the Project).
4. One (1) payment of One Hundred Sixty Seven Thousand Dollars (\$167,000) upon issuance of certificates of occupancy for the residential component of the Project.

**EXHIBIT B
PAYMENT APPLICATION**

From: Paradise Ivy, LLC

To: Wells Fargo Bank, N.A.

We hereby request payment of funds in the amount of _____.

Pursuant to the terms and conditions specified in the "Intercreditor Agreement" dated March 24th, 2011, established by and among Paradise Ivy, LLC, Wells Fargo Bank, N.A., and the County of Santa Barbara Redevelopment Agency.

We have met the objectives of Milestone # _____, _____
(description of Milestone) and certify that the work has been completed.

Paradise Ivy, LLC

Approved:

Wells Fargo Bank, National Association

By: _____
Authorized Representative

Date

cc: Santa Barbara County Redevelopment
Agency