HOUSING AUTHORITY OF INDIAN WELLS
PROFESSIONAL SERVICES AGREEMENT

1. PARTIES AND DATE.

This Agreement is made and entered into this **1st** day of **July, 2015**, by and between the **Housing Authority of Indian Wells Housing Authority,** a municipality organized under the laws of the State of California with its principal place of business at 44-950 Eldorado Drive, Indian Wells, California 92210-7497 ("Housing Authority") and **WinnResidential California,** L.P., a California limited partnership, with its principal place of business at 2350 W. Shaw Avenue, Suite 142, Fresno, CA 93711 ("Consultant"). Housing Authority and Consultant are sometimes individually referred to as "Party" and collectively as "Parties."

2. RECITALS.

2.1 Consultant.

Consultant desires to perform and assume responsibility for the provision of certain professional services required by the Housing Authority on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing professional property management services to public clients, is licensed in the State of California, and is familiar with the plans of Housing Authority.

2.2 Project.

Housing Authority desires to engage Consultant to render professional property management services for the Indian Wells Villas located at 74800 Village Center Drive, Indian Wells, California and Mountain View Villas residential communities located at 78000 Betty Barker Way, Indian Wells, California ("Project") as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the Housing Authority all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional property management consulting services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from **July 1, 2015** to **June 30, 2018**, unless earlier terminated as provided herein or extended by mutual written agreement of the Housing Authority and Consultant. Consultant shall meet any other established schedules and deadlines as detailed in the Exhibit "B" attached hereto and incorporated herein by reference.

3.2 Responsibilities of Consultant.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Housing Authority retains Consultant on an independent contractor basis and not as an employee. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of Housing Authority and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: medical benefits, social security taxes, income tax withholding, unemployment insurance, disability insurance, workers' compensation insurance, and in compliance with all applicable state and federal labor laws.

3.2.2 Schedule of Services. Consultant shall perform all Services in accordance with professional standards for affordable housing property management, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, Housing Authority shall respond to Consultant's submittals in a timely manner. Upon request of Housing Authority, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of Housing Authority.

3.2.4 Substitution of Key Personnel. Consultant has represented to Housing Authority that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of Housing Authority, which approval shall not be unreasonably withheld. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the Housing Authority, or who are determined by the Housing Authority to be uncooperative, incompetent, incapable, a threat to the adequate or timely management of the Project, or a threat to the safety of persons or property, is subject to removal from the Project by the Consultant at the request of the Housing Authority. The key personnel for performance of this Agreement are as follows:

Jerry Lemmon, Senior Vice President
Jennifer Coberth, Vice President, Quality Control
James (Jim) Aliberti, Divisional Vice President
Danielle Briggs, Senior Property Manager

3.2.5 Housing Authority's Representative. The Housing Authority hereby designates the Community Development Director, or his or her designee, to act as its representative for the performance of this Agreement ("Housing Authority's Representative"). Housing Authority's Representative shall have the power to act on behalf of the Housing Authority for all purposes under this Contract. Consultant shall not accept direction or orders from any person other than the Housing Authority's Representative or his or her designee.

3.2.6 Consultant's Representative. Consultant hereby designates Jim Aliberti, Divisional Vice President, or his or her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with Housing Authority staff in the performance of Services and shall be available to Housing Authority's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professional property managers in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it has all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City of Indian Wells Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the Housing Authority, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. In the event the Housing Authority reasonably determines that any employee of Consultant is uncooperative, incompetent, incapable, a threat to the adequate management of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Housing Authority, then upon notice from the Housing Authority, then the employee shall promptly be removed from the Project by the Consultant, provided Consultant determines such removal will not subject Consultant to any legal liability. Further, all representatives and employees of Consultant that enters or has access to any area of the Project

that is not open to the general public in order to provide service under this Agreement shall, prior to accessing any such non-public area, undergo and pass a complete criminal background check in accordance with Consultant's employment standards, which must be reviewed and approved by Housing Authority, such approval not to be unreasonably withheld or delayed, as those standards may be revised from time to time.

3.2.9 Laws and Regulations; Building Compliance. Consultant shall keep itself fully informed of and, subject to the terms of this Agreement, in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the Housing Authority, Consultant shall be solely responsible for all costs arising therefrom.

3.2.10 Insurance.

3.2.10.1 Time for Compliance. Consultant shall not commence the Services under this Agreement until it has provided evidence satisfactory to the Housing Authority that it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the Housing Authority that the subcontractor has secured all insurance required under this section.

3.2.10.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives or employees. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability:* $2,000,000 per occurrence/$4,000,000 in the aggregate, for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability:* $1,000,000 per accident/$1,000,000 in the aggregate, for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability:* Workers' Compensation limits as required by the Labor

Code of the State of California. Employer's Liability limits of $1,000,000 per accident for bodily injury or disease.

3.2.10.3 Professional Liability. Consultant shall procure and maintain Errors and Omissions insurance in the amount of $1,000.000 for any one claim and $2,000,000 in the annual aggregate.

3.2.10.4 Fidelity Bonds. Consultant shall obtain Fidelity bond coverage, and shall submit evidence thereof in a form and substance satisfactory to the Housing Authority, covering all persons signing checks or otherwise possessing fiscal responsibilities on behalf of the Consultant, including, but not limited to, officers, directors, trustees and employees of the Consultant, who handle or are responsible for funds collected pursuant to this Agreement. Such coverage shall be in an amount deemed reasonably appropriate by the Housing Authority, but shall not be less than the estimated maximum funds in custody of the Consultant, or twenty-five percent (25%) of the estimated annual operating expenses of the Project, plus reserves, whichever is greater.

3.2.10.5 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by the Housing Authority to add the following provisions to the insurance policies:

(A) General Liability. The general liability policy shall be endorsed to state that: (1) the Housing Authority, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the Services or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; and (2) the insurance coverage shall be excess of and non-contributory to insurance available as respects the Housing Authority, its directors, officials, officers, employees, agents and volunteers, except that Consultant's general liability policy shall be primary and noncontributory to any other coverage available to the Housing Authority to the extent of Consultant's indemnity obligations under Section 3.5.6.1. Any insurance or self-insurance maintained by the Housing Authority, its directors, officials, officers, employees, agents and volunteers shall be primary to the Consultant's insurance and shall not be called upon to contribute with it in any way except to the extent described in the preceding sentence.

B) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the Housing Authority, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be excess of and non-contributory to insurance as respects the Housing Authority, its directors, officials, officers, employees, agents and volunteers. Any insurance or self-insurance maintained by the Housing Authority, its directors, officials, officers, employees, agents and volunteers shall be primary to the Consultant's insurance and shall not be called upon to contribute with it in any way.

(C) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: coverage shall not be canceled except after thirty (30) days prior written notice, has been given to the Housing Authority;

3.2.10.6 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions.

3.2.10.7 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Housing Authority.

3.2.10.8 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VII, licensed to do business in California, and satisfactory to the Housing Authority.

3.2.10.9 Verification of Coverage. Consultant shall furnish Housing Authority with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the Housing Authority. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the Housing Authority before work commences.

3.2.10.10 Consultant's Subcontractors. To the extent reasonably available in the commercial insurance marketplace, Consultant shall also require all of its subcontractors to procure and maintain appropriate types of insurance required by this Agreement, at limits appropriate for the risk associated with the subcontracted activity.

3.2.11 Housing Authority Insurance.

i. Housing Authority agrees to maintain in full force and effect commercial general liability insurance on an occurrence form including premises/operations liability, protective liability, contractual liability, products/completed operations liability and personal and advertising liability coverages. The ISO commercial general liability policy form CG 00 01 or its equivalent should be utilized. The following minimum limits of liability shall be maintained: $1,000,000 each occurrence; $1,000,000 personal and advertising injury; $1,000,000 products/completed operations aggregate; $2,000,000 general policy aggregate. A per location general aggregate limit is required if the Housing Authority's general liability insurance policy covers more than one location. The Consultant shall be designated as an additional insured under the Housing Authority's policy which shall be primary and noncontributory to any other coverage available to the Consultant to the extent of the Housing Authority's indemnity obligations under Section 3.5.6.2.

ii. Housing Authority also agrees to maintain in full force and effect automobile liability insurance for all owned, leased, non-owned and hired vehicles. The minimum limit of liability shall be $1,000,000 each accident, combined single limit for bodily

injury and property damage. The policy shall include auto contractual liability coverage. The policy shall include the Consultant as an additional insured.

iii. Housing Authority also agrees to maintain in full force and effect excess umbrella liability insurance providing following form coverage over the underlying general liability and automobile liability insurance policies described above with minimum occurrence and aggregate limits of $5,000,000.

iv. Housing Authority also agrees to maintain in full force and effect "All-risk" property insurance to cover physical loss or damage to the Project in an amount equal to the 100% replacement cost of the Project; and Business interruption and extra expense coverage for the full recovery of the net profits of the Project for the entire period of any such business interruption. Coverage shall be in effect from the date on which the Consultant first assumes management responsibility of the property and throughout the term of the management agreement.

v) Each of the insurance coverages described above, must be purchased from insurance companies licensed to do business in California and have a current A.M. Best's rating of A-, VIII or higher.

vi) Housing Authority agrees to furnish certificates of the above-mentioned insurance before Consultant assumes management responsibility of the Project, and at each renewal. Such certificates shall state that in the event of cancellation, written notification shall be given at least thirty (30) days in advance of such cancellation.

3.2.12 Existing Conditions at Project. Housing Authority and Consultant agree and acknowledge that, notwithstanding anything in this Agreement or elsewhere to the contrary, Housing Authority is solely responsible and Agent has no responsibility whatsoever prior to commencement of this Agreement for identifying, addressing or correcting any existing issues at the Project, including, without limitation structural, building and fire code, asbestos, lead paint, ventilation, water pipe and potential mold problems, at the Project, including selecting and contracting with appropriate third-party contractors and vendors in connection with such issues. Housing Authority shall promptly cause the full remediation of any existing issues at the Project, such obligation to include expending such funds as shall be necessary for such purpose. Once all existing issues at the Project have been fully remedied by Housing Authority (to the extent any are necessary), Consultant will thereafter use commercially reasonable diligence, to the extent of funds made available by Housing Authority, to cause the Project to be maintained and repaired in accordance with state and local codes, in a condition at all times reasonably acceptable to Housing Authority, including but not limited to cleaning, painting, decorating, plumbing, carpentry, grounds care, and such other maintenance and repair work as may be necessary.

3.2.13 Neither Consultant nor Housing Authority shall assert against the other, and do hereby waive with respect to each other, any claims for any losses, damages, liability or expenses incurred or sustained by either of them on account of injury to persons or damage to property arising out of the ownership, operation or management of the Project, to the extent that

the same are covered by the insurance required under this Agreement. Each policy of liability insurance required herein shall contain a specific waiver of subrogation reflecting the provisions of this Section, and a provision to the effect that the existence of the preceding waiver shall not affect the validity of any such policy or the obligation of the insurer to pay the full amount of any loss sustained.

3.2.14 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall, subject to the other terms of this Agreement, at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and lifesaving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized payment for expenses, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The annual management fee paid to Consultant shall not exceed One Hundred Four Thousand Six Hundred Forty Dollars ($104,640), paid in equal monthly installments. Extra Work may be authorized, as described below; and if authorized and agreed to by Consultant, with compensation paid to Consultant as agreed to in writing by Housing Authority and Consultant.

3.3.2 Payment of Compensation. Consultant may pay its management fee from the General Operating Accounts for each project. The monthly management fee will be payable on the 1st of the month following the month in which services were rendered.

3.3.3 Payment for Expenses. Consultant shall not be paid for any expenses unless authorized in writing by Housing Authority, provided that such expense payments may be approved in the Annual Budget prepared for the Project, which must be approved by the Housing Authority. In addition, the costs listed on Exhibit "C" under the heading "Services not covered by the Consultant's compensation include the following" and under the heading "One Time Start Up Costs" as well as the following shall be paid from the Operating Account as Project expenses: (i) reasonable costs and expenses in connection with training of employees, annual certification and licensing programs, and on-going educational opportunities as well as the associated costs for travel, food, and lodging, (ii) the technology required to manage the Project including but not limited to hardware, software licensing and technology maintenance fees, and (iii) reasonable costs incurred in connection with third party records storage expenses, including but not limited to document storage, off-site electronic storage, maintenance, and retrieval costs,

provided that any such expenses shall be limited to budgeted amounts as approved by the Housing Authority as part of the Annual Budget. In addition, all costs and expenses in connection with emergency repairs involving manifest danger to persons or property or required to avoid suspension of any necessary service to the Project will be paid from the Operating Account and will be treated as a Project expense. Notwithstanding anything to the contrary stated or implied herein, Consultant shall have no obligation or responsibility to use its funds to pay Project expenses.

3.3.4 Extra Work. At any time during the term of this Agreement, Housing Authority may request that Consultant perform Extra Work which Consultant shall perform provided Consultant agrees to perform the Extra Work and Housing Authority and Consultant agree in writing on the additional compensation to be paid Consultant for such Extra Work. As used herein, "Extra Work" means any work which is determined by Housing Authority to be necessary for the proper management of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from Housing Authority's Representative.

3.3.5 In the event that the balance in the Operating Account is at any time insufficient to pay expenses when due, Consultant will inform Housing Authority of that fact, and Housing Authority will, within five (5) business days, remit to Housing Authority sufficient funds to cover the deficiency to the extent consistent with the approved Operating Budget and/or this Agreement. Notwithstanding anything to the contrary stated or implied herein, Consultant shall have no obligation or responsibility to use its funds to pay Project expenses.

3.4 Accounting Records.

3.4.1 Maintenance and Inspection. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of Housing Authority during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.5 General Provisions.

3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. Housing Authority may, by written notice to Consultant, terminate this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been rendered to Housing Authority, and Consultant shall be entitled to no further compensation. This Agreement may be terminated for

material breach by either party provided it first gives written notice to the other, setting forth with specificity the claimed breach(es) and the other party fails to cure the same within **thirty (30) days** (or such longer period if necessary under the circumstances).

3.5.1.2 Effect of Termination. Upon any termination of this Agreement, Housing Authority may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, Housing Authority may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Consultant:
WinnResidential California L.P.
2350 W. Shaw Avenue, Suite 142
Fresno, CA 93711
Attn: Jim Aliberti, Divisional Vice President

With a copy to:
WinnResidential
6 Faneuil Hall Marketplace
Boston, MA 02109
Attn: Deirdre A. Kuring, President

Housing Authority:
Housing Authority of Indian Wells
44-950 Eldorado Drive, Indian Wells
California 92210-7497
Attn: Warren Morelion, AICP
Community Development Director

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Ownership of Materials and Confidentiality.

3.5.3.1 Documents & Data; Licensing of Intellectual Property. Housing Authority agrees that it shall not copy, use, modify, reuse, or sublicense and shall keep confidential, subject to the rest of this paragraph, any and all procedures, management systems, operational and other manuals and forms used by Consultant in operating the Project outside the scope of this Agreement. If Housing Authority receives a request for any such materials that are in the Housing Authority's possession, Housing Authority will promptly provide Consultant with written notice of the request. Consultant will then have the time specified in the Housing Authority's notice to determine whether it considers any of the information confidential proprietary information and whether it will take legal action to preclude disclosure of the requested information. Consultant understands that the Housing Authority's notice of a request for records under the California Public Records Act (Gov. Code, section 6250, et seq.) will require a prompt response from Consultant given the Housing Authority's obligation to respond to such a request within 10 days of its receipt. Absent a timely response, Housing Authority may release the requested records. Housing Authority shall have no monetary liability to Consultant for release of information pursuant to a request under the California Public Records Act or any subpoena; nor shall Housing Authority be obligated to defend against any challenge related to a California Public Records Act request or a subpoena for records that Consultant asserts are confidential. Consultant further agrees to be liable for and pay all judgments against the Housing Authority, as well as attorney fees and costs, resulting from a challenge related to a records request or subpoena for records to the extent resulting from Consultant's actions to block the release of those records.

3.5.3.2 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of Housing Authority, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use Housing Authority's name or insignia, photographs of the Project, or any public Housing Authority pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of Housing Authority.

3.5.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.5 Prohibition Relative to Consultant's Employees. For the term of this Agreement, as it may be extended or renewed, and for one (1) year after its termination or expiration for any reason, Housing Authority shall not employ, engage, solicit for employment or consultation, hire, consult with or use the services of any person, in any capacity whatsoever,

who is currently, or during the term of this Agreement becomes, an employee of Consultant, whether such services are provided for with or without compensation. Housing Authority's obligations with respect to Section 3.5.3.1, as defined herein, shall apply fully to any employee or former employee of Consultant who becomes affiliated with Housing Authority in any respect. In addition to its other obligations hereunder, Housing Authority shall take all necessary precautions to insure that any employee or former employee of Consultant who becomes affiliated with Housing Authority in any respect keeps Consultant's materials strictly confidential in accordance with the provisions of Section 3.5.3.1.

3.5.6 Indemnification.

3.5.6.1 Consultant shall defend, indemnify and hold Housing Authority, its officials, officers, employees and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, to the extent such claim arises out of or is incident to the negligence, recklessness, or willful misconduct of Consultant, its officials, officers or employees in the performance of the Services by Consultant. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Housing Authority, its officials, officers, employees and agents.

3.5.6.2 Housing Authority shall defend, indemnify and hold Consultant, its officials, officers, employees and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death in connection with the Project or the performance of the Services by Consultant, except to the extent covered by the Consultant's indemnity pursuant to Section 3.5.6.1 above. Housing Authority's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Consultant, its officials, officers, employees and agents.

Every indemnity obligation contained in this Agreement shall survive the expiration or earlier termination of this Agreement.

3.5.7 Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both Parties.

3.5.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County.

3.5.9 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.10 Housing Authority's Right to Employ Other Consultants. Housing Authority reserves right to employ other consultants in connection with this Project.

3.5.11 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.

3.5.12 Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the Housing Authority. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.13 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subcontractors of Consultant, except as otherwise specified in this Agreement. All references to Housing Authority include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.14 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.15 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.5.16 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.18 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Housing Authority shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of Housing Authority, during the term of his or her service with Housing Authority, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.19 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of any Housing Authority's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.5.20 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5.21 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.22 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.5.23 Consultant Assumes No Liability for Past Practices. Notwithstanding anything to the contrary stated or implied herein, Consultant shall not be liable to Housing Authority (or anyone claiming through Housing Authority) in any context whatsoever for any acts or omissions of (a) Housing Authority, (b) any past or present employees of Housing Authority, (c) any previous Housing Authority of the Project, (d) any previous management Consultant employed at or providing services to the Project, or (e) any Consultant of (a)-(d) above.

3.5.24 Limitation of Liability. No manager, member, officer, director, agent, or employee of Consultant and no officer, director, trustee, member, partner, manager, agent, or employee of any manager or member of Consultant shall have any personal liability for the performance of any obligation by Consultant, or under or in connection with this Agreement or any acts done or omitted by Consultant. Housing Authority shall look only to Consultant and its assets for payment or performance under this Agreement.

3.5.25 Relationship of Parties. The relationship of the parties to this Agreement shall be that of principal and agent, and all duties to be performed by Consultant under this Agreement shall be for and on behalf of Housing Authority, in Housing Authority's name, and for Housing Authority's account. In taking any action under this Agreement, Consultant shall be acting only as agent for Housing Authority, and nothing in this Agreement shall be construed as creating a partnership, joint venture, or any other relationship between the parties to this Agreement, except that of principal and agent, or as requiring agent to bear any portion of losses

arising out of or connected with the ownership or operation of the Project. Neither party shall have the power to bind or obligate the other except as expressly set forth in this Agreement, except that Consultant is authorized to act with such additional authority and power as may be necessary to carry out the spirit and intent of this Agreement.

3.6 Subcontracting.

3.6.1 Prior Approval Required. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of Housing Authority. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. In selecting subcontractors or vendors to conduct work required by this Agreement or in connection with the operation and maintenance of the Project, the Consultant shall solicit bids or proposals from not less than three vendors or subcontractors through a formal or informal solicitation process as agreed to following consultation with the Housing Authority and approval by the Housing Authority of the proposed solicitation process.

HOUSING AUTHORITY OF INDIAN WELLS

By: Wade G. McKinney
Housing Authority Executive Director

WINNRESIDENTIAL CALIFORNIA L.P.

By: LLAM Realty Management, Inc., its general partner

By: Michael T. Putziger, Secretary

Attest:

Anna Grandys
Chief Deputy Housing Authority Clerk

Approved as to Form:

Stephen P. Deitsch
Housing Authority General Counsel

EXHIBIT "A"

SCOPE OF SERVICES

Consultant Services to include the following:

- Provide Winn Residential California L.P. employees to operate the properties including on-site personnel.
- Establish and maintain bank accounts for each property according to Housing Authority standards.
- Utilize Housing Authority standard lease for all current and future tenants.
- Lease units and operate Project according to Regulatory Agreements, covenants and conditions of the properties, and Fair Housing requirements.
- Provide compliance with regulatory requirements of the Housing Authority, County and all other governmental agencies having jurisdiction over affordable housing.
- Collect rents and other receipts.
- Pay property, subcontractor, and other required bills in a timely and effective manner.
- Investigate and furnish Housing Authority full reports of accidents occurring on or about the properties or in connection with the operations of the projects, or any claims or potential claims for damages.
- Establish and maintain comprehensive system of records, books and accounts in accordance with Housing Authority oversight and auditory controls.
- Provide monthly financial reports to the Housing Authority indicating all rents collected, rents outstanding, operating expenditures by property, capital replacement costs by property, and include any other financial data requested by Housing Authority.
- Provide Annual Budgets for each property and monthly reports detailing expenditures to Budget.
- Provide quarterly review of the Annual Budgets.
- Provide monthly maintenance and repair reports of the properties to the Housing Authority, including but not limited to, repair work order logs.
- Oversee and manage all vendors, contractors and subcontractors that provide goods and services to the Project, except to the extent that the Housing Authority notifies Consultant in writing that it assumes responsibility for one or more of the vendors, contractors or subcontractors.
- Seek Housing Authority Approval for any expenditure that exceeds the budgeted amount for such task or service by $5,000 or greater.
- Adjust rents yearly as required by Housing Authority policy.
- Enforce the Residential Lease provisions and Rules and Regulations.
- Perform evictions when necessary.
- Implement social service and senior activity programs.
- Establish processes for documenting and addressing tenant complaints, disputes, maintenance requests, and adult protective services necessity.

- Meet with the Housing Authority monthly or as determined by the Housing Authority.
- Assist Housing Authority in identifying and developing CDBG eligible projects to benefit senior tenants.
- Provide quarterly Housing Authority Board of Commissioner update reports.
- Attend Housing Authority Board of Commissioner meetings, or any other meetings requested by the Housing Authority.

Expectations for Service Delivery are as follows:

- Focus on a customer service culture and serving the needs of tenants.
- Provide accountability to the public.
- Manage the Properties as self-sufficient individual entities.
- Apply operational policies and procedures in a uniform manner.
- Ensure compliance with program requirements.
- Communicate with tenants and Housing Authority staff in a clear and concise manner.
- Setup and prepare emergency response resources and an implementation plan.
- Utilize industry best practices for tenet selection, leasing, rent re/assignment, and vacancy advertisement as needed.
- Manage tenant waiting lists through semi-annual updates of prospective applicants in conformance with Housing Authority tenant selection policies.
- Produce semi-annual reports detailing number of new applicants, number of dropped applicants, and total for each waiting list.
- Generate detailed files for evictions, application denials, and social service interventions for seniors unable to live independently.
- Recommend further improvements to operational practices to improve and refine administrative/leasing services further.
- Utilize Housing Authority's standardized chart of accounts.
- Use a financial software package capable of delivering accrual based accounting reports on a monthly basis.
- Comply and assist with preparation of an annual fiscal audit focused on compliance with generally accepted accounting procedures (GAAP).
- Implement proper internal controls for accounts receivable and payable, account reconciliation, security deposits, records retention, electronic backup, and expenditures for services.
- Act as Housing Authority's fiscal agent for day-to-day operations.
- Work with Housing Authority staff to ensure the most efficient system of reporting.

Performance Indicators:

Housing Authority staff will annually review management operations through a series of performance indicators and create a Performance Indicator Report. Any individual Performance Indicator that exceeds maximum thresholds as detailed herein may be grounds for a reduction in the management fee paid to Consultant by Housing Authority pursuant to

Section 3.3, Fees and Payment, of this AGREEMENT. Consultant is expected to perform to the following specifications:

- Perform to a budget variance of less than 5% (difference between budget and actual income and expenditures).
- Keep annual vacancy rate and rent loss due to vacancies under 3%.
- Keep regulatory compliance findings to less than 20% findings on annually reviewed files.
- Rank highly on an annual customer service survey of tenants.

Maintenance and Capital Replacement Services:

- Ensure cost control without sacrificing quality of maintenance services and contractors performing routine maintenance.
- Utilize a maintenance request/maintenance tracking system or software program that provides quarterly reports to Housing Authority staff detailing work orders received (date & time), completion (date & time), and hours completed or subcontractors used to complete work.
- Manage a comprehensive landscaping service contract that provides timely and effective repair and replacement of irrigation systems to ensure landscape vitality.
- Oversight of subcontracts for services for pest management, electrical systems, trash removal, fire alarm and suppression systems, HVAC, security gates, and custodial cleaning (as necessary).
- Perform reliable and well-executed replacements and repairs related to plumbing lines, lighting, curbs, sidewalks, window coverings, paint, and unit appliances/fixtures (i.e. light bulb replacement, roof repairs, stucco repair, etc.).
- Conduct semi-annual unit inspections to track and monitor condition and need for maintenance or replacement of carpeting, appliances, fixtures, blinds, and other unit assets in a form approved by Housing Authority.
- Provide emergency maintenance services, and help Housing Authority improve preventive maintenance procedures.
- Participate in capital needs planning and budgeting.
- Recommend process and material use improvements to extend Project longevity while minimizing long-term cost impacts.
- Employ qualified and trained maintenance staff with adequate oversight for quality control.
- Conduct annual assessment of available energy and water efficiency improvements that help to identify future operating cost savings.

EXHIBIT "B"

SCHEDULE OF SERVICES

WORKING TO PUT TOGETHER THE SCOPE OF SERVICE BASED ON TRANSITION PLAN BEING PROVIDED BY WINN

Consultant's Transition Responsibilities within 90 days of Agreement effective Date:

- Assess building conditions, review existing warranties, manufacturer's instructions and other subcontracts. Provide Housing Authority a preventive maintenance schedule in accordance with manufacturer's recommendations and Project needs.
- Hire all persons necessary to properly maintain and operate the Properties. All contractor employees will be the sole responsibility of contractor and in no instance will be City or Housing Authority employees.
- Review existing service subcontracts and provide Housing Authority a full list of subcontractors with expiration dates, contract costs, and proof of liability insurance naming the Housing Authority additionally insured.
- Catalog and inventory all removable assets (furniture, tools, appliances, etc.) and provide to Housing Authority.
- Develop and submit an emergency response plan and submit to Housing Authority.
- In accordance with California State Toxic Substance Program (Right-to-Know Law) and the United States Occupational Safety and Health Administration's Hazard Communication Standard, produce and provide a communication plan.
- Develop quarterly report to Housing Authority detailing Administrative/Leasing actions taken, financial documentation of accounts payable and receivable, Maintenance work order tracking and completion logs, and regulatory compliance updates.
- Develop and provide to Housing Authority a Management, Marketing, and Tenant Selection plan.

Consultant shall be subject to the following Regulatory Compliance procedures and oversight:

- Perform annual random sample monitoring of income re/certification procedures, files, tenant lease agreements, and rent roll records to verify compliance with income certification requirements.
- Conduct semi-annual random audit of tenant files to ensure proper records retention for verification of continued income eligibility, occupancy limits, vehicle registration and insurance, etc.

- Review the prospective tenant waiting list files for compliance with tenant selection policy, applicant verification procedures, and waiting list noticing requirements.
- Quarterly review rent rolls and Profit and Loss statements to verify budget variance percentages, rent collections percentages, and vacancy rate.

EXHIBIT "C"

COMPENSATION

Fee Structure

Consultant's Compensation: Consultant shall be compensated for its services under this contract by a monthly management fee to be paid out of the General Operating Account. The monthly fee shall be $40 per unit per month for 218 units.

Consultant has no responsibility with respect to the correction of any deferred maintenance items prior to the beginning date of this Agreement. The correction of any deferred maintenance items shall not be included as part of the Agreement and any correction of such deferred maintenance items shall be handled and paid for separately by Housing Authority.

Consultant is not responsible for any errors in tenant files prior to the beginning date of this Agreement. The correction of errors in files prior to this Agreement shall not be included as part of the Agreement.

Services not covered by the Consultant's compensation include the following:

- Employee costs including payroll, benefits, bonus incentive programs, taxes, social security, bonds, E.P.L. and workers compensation insurance, and any other applicable direct cost of employment.
- Operating expenses
- Maintenance & repairs
- On-site telephone & computer costs including software and hardware maintenance costs
- Annual audit and other owner reports not required by this agreement
- Yardi Management Software Platform with Budget Model, Payscan and Checkscanning ($24 per unit per year, as initial cost)
- Business System Support: WinnDESK, antivirus, anti-spam, assett management, software upgrades, WinnersEdge, Remote Support, Disaster Recovery ($40 per month per computer, as initial cost)
- Fidelity Coverage: $107 per year for all 218 units, subject to

reasonable increases as approved through the annual budget

- Errors & Omission Coverage: $441 per year for all 218 units, subject to reasonable increases as approved through the annual budget
- Check Scanner at property $50 per month for each property, subject to reasonable increases as approved through the annual budget

One Time Startup Costs:

Yardi Property Set-Up	Convert existing property software information to Yardi platform, including resident information, certification information, lease information, resident balances, G/L balances, Unit and Property Set-Up information	$300 set-up fee plus $3.50 per unit
Desktop Computer	Desktop with current MS Windows 7 Configuration (includes Microsoft Office 2010 and Installation	$1,700
Laptop Computer	Laptop with current MS Windows 7 Configuration (includes Microsoft Office 2010 and Installation	$2,000
Standard Office Printer	Printer, 500 page capacity and cable	$525
Color Multi Function Printer	HP LaserJet Pro M177FW Laser Multifunction Printer	$450

The services and costs described above shall be paid from the Operating Account as Project expenses or charged to Housing Authority by Consultant and then paid by Consultant to its employees, vendors and contractors as appropriate, provided that all payments made for such services and costs shall be in compliance with the existing Annual Budget for the Project which has been approved by Housing Authority. Consultant shall not pass through any costs to Housing Authority that are not part of the Annual Budget unless approved by the Housing Authority in writing other than those incurred for emergency expenses as described in the Agreement that are in excess of the amounts established in the Annual Budget.