

## OPTION TO PURCHASE AND EXTENSION AGREEMENT

This Option to Purchase and Extension Agreement (the "Agreement") is made and entered into as of this 6 day of January 2020, by and between the City of Merced ("City"), Central Valley Coalition for Affordable Housing ("CVCAH"), a California Non-Profit Public Benefit Corporation, Richman Group of California Development Company LLC, a California Limited Liability Company ("Richman") and Merced CA Apartments, L.P., a Delaware Limited Partnership ("Partnership"), collectively referred to as Parties and with reference to the following recitals of fact:

### R E C I T A L S:

A. WHEREAS, the County of Merced (the "County") is the owner of that certain real property consisting of approximately 5.06 acres and generally known as 1137 "B" Street, Merced, California 95341 (APN 035-010-071) (the "Property" or "Site"). City and County entered into a Ground Lease and Option to Purchase Agreement dated June 19, 2018 (the "Option Agreement") related to the Site. On December 16, 2019 and December 17, 2019, respectively, the Merced City Council and Merced County Board of Supervisors approved a Purchase and Sale Agreement ("Purchase Agreement") which provides for the sale of the Site to the City.

B. WHEREAS, CVCAH, Richman, and Partnership (collectively "Developer") have proposed to acquire a portion of the Site from the City and develop one hundred and nineteen (119 - 118 rental units and one manager's unit) newly constructed units of quality affordable multi-family housing consisting of 30 Permanent Housing ("PSH") one bedroom units restricted to 30% of area median income (AMI); and 17 one bedroom units, 36 two bedroom units, and 36 three bedroom units restricted to 50% of the AMI, a multi-purpose room, manager's and service provider's offices, computer center, fitness room, mailboxes, laundry facilities, patio and barbeque area, swimming pool, and children's play area to be called Childs and B Street Transit-Oriented Development ("TOD") Affordable Housing, and project-related infrastructure improvements as defined and referred to in the Enforceable Funding Commitment Agreement dated February 4, 2019 ("EFCA"), which is incorporated herein by this reference, as the Project ("Project").

C. WHEREAS, in connection with construction of the Project and pursuant to the EFCA, as amended, Developer will acquire a portion of the Site from the City subject to the terms and conditions of the EFCA including, but not limited to, the Parties entering into certain Regulatory Agreements which shall govern construction of the Project;

D. WHEREAS, as contemplated by the Exclusive Negotiating Agreement, dated October 1, 2018, ("ENA"), which is incorporated herein by this reference, and the EFCA, Developer has requested, and the Parties desire to extend the expiration date of the EFCA pursuant to Section 17 thereof, and City is willing to grant an option to Developer to acquire the Property subject to compliance with the terms and conditions of this Agreement as more fully set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

## A G R E E M E N T

1. Extension of EFCA. Notwithstanding anything to the contrary contained in Section 17 of the EFCA, the Parties hereby agree to extend the expiration date of the EFCA to December 31, 2020, and further agree that CVCAH and Richman may assign their interest in the Loan (as defined in the EFCA) to the Partnership and that if so directed by CVCAH and Richman and subject to the terms and conditions of the EFCA, the City will make the Loan to the Partnership.

2. Grant of Option. The City hereby grants to Developer an option (the "Option") to acquire title to the Property on the terms set forth in this Agreement, the Regulatory Agreements, the Purchase and Sale Agreement and the terms and conditions of the Option Agreement and the Purchase Agreement. The Developer's right to exercise the Option shall commence on the date hereof, and shall terminate on September 30, 2020 (the "Option Deadline") unless, on or prior to the Option Deadline, Developer sends written notice to the City (the "Option Notice"), exercising the Option granted hereunder.

3. Conditions to Exercise of the Option. In addition to any other conditions set forth in this Agreement, the exercise by Developer of the Option shall be subject to the satisfaction of each of the following conditions (collectively, the "Option Conditions"). Each Party shall use its commercially reasonable efforts to satisfy the Option Conditions prior to the Option Deadline.

(a) The City shall have acquired fee title to the Property from the County pursuant to the terms and conditions of the Option Agreement and the Purchase Agreement;

(b) Developer shall have delivered the Option Notice to the City at least ten (10) days prior to the Option Deadline;

(c) Developer shall have obtained construction and permanent financing for construction of the Project in form and substance satisfactory to Developer and City; and

(d) The Parties have negotiated and entered into a Purchase and Sale Agreement for the Site and the Regulatory Agreements contemplated by the ENA and EFCA, as amended, which will address the disposition of the property and the development of the project and.

4. Escrow; Closing Date.

(a) Purchase Price. The Purchase Price for the Property shall be One Million Eighty Thousand Dollars (\$1,080,000) (the "Purchase Price"), which Purchase Price shall be payable on the Close of Escrow (as defined below).

(b) Escrow. No later than three (3) business days after delivery of the Option Notice, Developer and City shall open an escrow (the "Escrow") with First American Title Company, 17 West Alexander Avenue, Merced, CA 95348 which is hereby designated as the escrow holder ("Escrow Holder") for the purpose of carrying out the terms of this Agreement. This Agreement is hereby designated as escrow instructions duly signed by Developer and City. Developer and City shall also execute and deliver Escrow Holder's standard escrow instructions, to clarify the duties and responsibilities of Escrow Holder, however, such standard escrow instructions shall not modify or amend the provisions of this Agreement. In the event that Escrow Holder is unable to comply with these instructions and close Escrow by the Closing

Date, then unless Escrow Holder has been advised in writing of the termination of this Agreement by either party, Escrow Holder shall continue to attempt to comply with these instructions and close Escrow as soon as possible thereafter. In no event shall the Close of Escrow occur unless all conditions precedent to said closing, as set forth herein, have been previously satisfied (or waived in writing by the party in whose favor such conditions run).

(c) Closing Date. For purposes of this Agreement, the "Close of Escrow" shall be the time and date upon which the grant deed (as defined below) conveying title to the Property to Developer is recorded in the Official Records of Merced County, California. The date of the Close of Escrow (the "Closing Date") shall be the date designated in Developer's Option Notice, which date shall be no later than December 31, 2020 or such later date as may be set forth in the Purchase and Sale Agreement and/or the Regulatory Agreements.

5. Negotiation of Agreements. The Developer shall deliver a draft of the Regulatory Agreements within sixty (60) days of the date hereof. Upon receipt of the draft of the Regulatory Agreements, the Parties shall negotiate with due diligence and in good faith the terms set forth therein. Subject to the Option Conditions set forth in Section 2, the City and the Developer shall execute and deliver the Regulatory Agreements prior to the Closing Date.

6. Assignment of Rights Hereunder. The City hereby agrees that the CVCAH and Richman has the right to assign its rights and obligations under this Agreement, including, without limitation, the right to exercise the Option to Partnership subject to the terms and conditions of this agreement and the other agreements set forth herein.

7. Due Diligence. The City agrees to allow Developer to enter the Property at any time prior to the Option Deadline (or, if Developer provides the Option Notice, at any time prior to execution and delivery of the Regulatory Agreements) for the purposes of investigating the Property and its feasibility and suitability for development and construction of the Project.

8. Option Payment. By not later than 5:00 p.m. (California Time) on the second (2<sup>nd</sup>) Business Day following the date of this Agreement, Developer shall pay to City the sum of One Hundred Dollars (\$100.00) (the "Option Payment"). The Option Payment is nonrefundable to Developer. City and Developer acknowledge and agree that the Option Payment is being paid in consideration for City maintaining its grant to Developer of the Option up to the Option Deadline.

9. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California.

10. Attorneys' Fees. The prevailing party in any action or proceeding between the parties hereto with respect to this Agreement and the transactions contemplated hereby shall be entitled to have and recover all costs, expenses and reasonable attorneys' fees incurred in connection therewith.

11. Time of Essence. Time is of the essence of this Agreement.

12. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument.

13. Time for Closing and Notices. If the deadline for any notice to be provided hereunder is a Saturday, Sunday or a state or federal holiday under the laws of the State of California or the United States of America, as applicable, or a banking holiday, such date shall be extended to the first business day thereafter that is not a Saturday, Sunday or such holiday.

14. Further Assurances. The parties hereto agree to cooperate in good faith to effect any further documents and to take such other steps as may be necessary or appropriate in order to more fully reflect and further evidence the transactions effected hereby.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and year first above written.

Date: \_\_\_\_\_, 20\_\_


CITY OF MERCED, a public body, corporate and  
politic, of the State of California

BY: \_\_\_\_\_

ATTEST:

BY: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

BY:   
City Attorney

Date: \_\_\_\_\_, 20\_\_

"DEVELOPER"

MERCED CA APARTMENTS, LP,  
A Delaware limited partnership

By: Central Valley Coalition for Affordable  
Housing, A California nonprofit  
corporation  
Its managing general partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Merced CA GP, LLC,  
A Delaware limited liability company  
its co-general partner

By: TRG Merced CA Member, LLC  
A Delaware limited liability company  
its sole member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

CENTRAL VALLEY COALITION FOR  
AFFORDABLE HOUSING,  
A California nonprofit corporation

Its Managing General Partner

By: \_\_\_\_\_  
Christina Alley  
Chief Executive Officer

RICHMAN GROUP OF CALIFORNIA  
DEVELOPMENT COMPANY, LLC  
A California limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

## **EXHIBIT A**

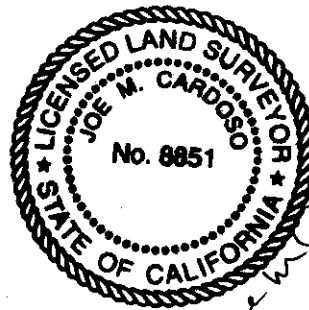
A parcel of land situated in the Southeast One Quarter (SE1/4) of Section 30, Township 7 South, Range 14 East, M.D.B. & M., City of Merced, County of Merced, State of California, said parcel of land being a portion of Parcel A, as said Parcel A is delineated on that certain map entitled "PARCEL MAP FOR RAYMOND A. BESSEMER M.D.", filed for record on March 2, 2000, in the office of the County Recorder of Merced County, in Book 86 of Parcel Maps, at Pages 22-23, said parcel of land being more particularly described as follows:

All of said Parcel A, EXCEPTING THEREFROM the following real property:

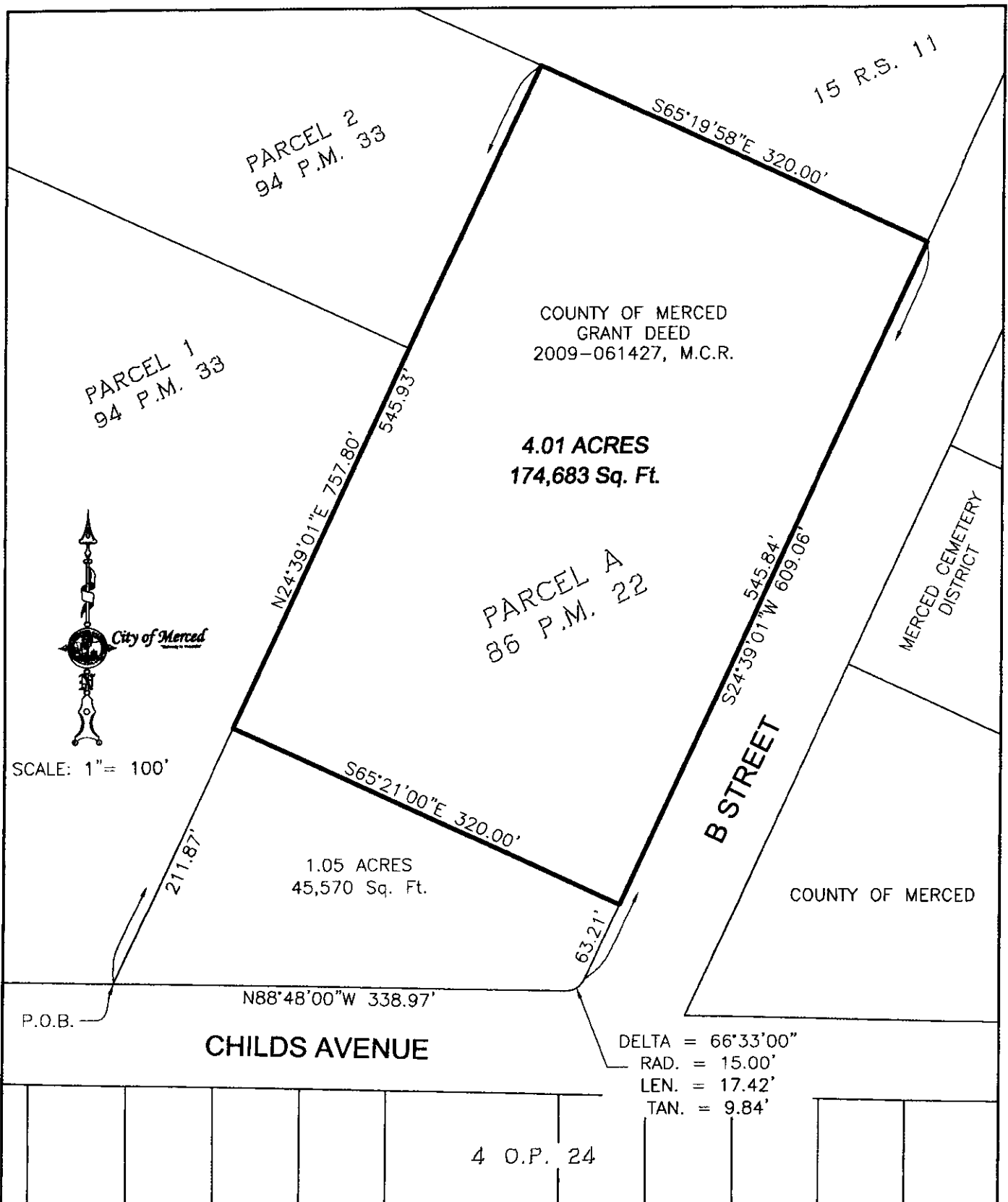
BEGINNING at the southwest corner of said Parcel A; thence N24°39'01"E, along the west line of said Parcel A, a distance of 211.87 feet; thence S65°21'00"E, to the easterly line of said Parcel A, a distance of 320.00 feet; thence S24°39'01"W, along said easterly line, a distance of 63.21 feet to the beginning of a tangent curve concave to the northwest, having a radius of 15.00 feet; thence southwesterly along said curve, through a central angle of 66°33'00", an arc distance of 17.42 feet to a point of tangency on the south line of said Parcel A; thence N88°48'00"W, along said south line, a distance of 338.97 feet to POINT OF BEGINNING.

The above-described parcel of land is delineated on Exhibit B, attached hereto, and made a part hereof.

The above-described parcel of land contains 4.01 acres, more or less, is subject to any liens, encumbrances, covenants, restriction, and rights-of-way or easements of record or legally acquired.



*Joe M. Cardoso*  
1/2/2020



**City of Merced**  
"Gateway to Yosemite"

DEVELOPMENT SERVICES  
ENGINEERING PROJECTS AND STANDARDS  
678 W. 18th Street (209) 385-6846

## EXHIBIT B

DR. BY: CARDOSO  
DATE: 4/19/16  
CH. BY:  
DATE:  
File No.  
SCALE: 1"=100'