

REPAYMENT GUARANTY

This **REPAYMENT GUARANTY** (this “Guaranty”) is entered into as of the 1st day of March, 2012, by **MERCY HOUSING, INC.**, a Nebraska nonprofit corporation (“Guarantor”, whether one or more), for the benefit of Beneficiary Parties (as defined below). The date of this Guaranty as set forth above is for reference purposes only.

RECITALS:

A. Mercy Housing California 55, a California limited partnership (the “Borrower”) has applied to the County of El Dorado (the “Lender”) for a HOME loan (the “HOME Loan”) and a CDBG Loan (the “CDBG Loan”) for the acquisition, construction, rehabilitation, development, equipping and/or operation of a 40-unit multifamily residential project located in Shingle Springs, El Dorado County, California, known or to be known as Sunset Lane Apartments (the “Mortgaged Property”).

B. Simultaneously with the execution of this Guaranty and as a part of the same transaction, the Borrower has executed and delivered to the Lender (i) the HOME Note in the maximum principal amount of \$3,000,000, together with the other HOME Loan Documents (each as hereinafter defined), which are intended to evidence and secure the HOME Loan and (ii) the CDBG Note in the maximum principal amount of \$483,000, together with the other CDBG Loan Documents (each as hereinafter defined), which are intended to evidence and secure the CDBG Loan. The HOME Loan and the CDBG Loan are collectively referred to as the “Loans”.

C. The HOME Loan is secured by, among other things, that certain Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the “HOME Security Instrument”), dated as of the date hereof, encumbering the property described on Exhibit A attached thereto, and incorporated by reference herein, and will be advanced to Borrower pursuant to that certain Development Agreement (“HOME Loan Agreement”) dated as of the date hereof between Borrower and Lender (the HOME Note, the HOME Security Instrument, the HOME Loan Agreement, the HOME Regulatory Agreement and all other documents executed in connection with the Loan are collectively referred to as the “HOME Loan Documents”).

D. The CDBG Loan is secured by, among other things, that certain Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the “CDBG Security Instrument” and together with the HOME Security Instrument, the “Security Instrument”), dated as of the date hereof, encumbering the property described on Exhibit A attached thereto, and incorporated by reference herein, and will be advanced to Borrower pursuant to that certain Loan Agreement (“CDBG Loan Agreement”) dated as of the date hereof between Borrower and Lender (the CDBG Note, the CDBG Security Instrument, the CDBG Loan Agreement, the CDBG Regulatory Agreement and all other documents executed in connection with the Loan are collectively referred to as the “CDBG Loan Documents”, and with the HOME Loan Documents, the “Loan Documents”). The HOME Note and the CDBG Note are collectively referred to as the “Notes”.

E. The term “Beneficiary Parties” as used herein shall mean Lender and its successors and assigns.

F. As a condition to the making of the HOME Loan and the CDBG Loan, Beneficiary Parties require that Guarantor execute this Guaranty to guaranty (i) repayment of the HOME Loan in the event of a default under the Regulatory Agreement that is not cured during any applicable cure period which in turn triggers an obligation to refund the HOME loan proceeds to the U.S. Department of Housing and Urban Development (“HUD”) during the 55-year term of the Regulatory Agreement and (ii) repayment to the Lender of any amount required in connection with the CDBG Loan as stipulated in Exhibit A, Section 6D(1) of that certain Standard Agreement between Lender and the Department of Housing and Community Development for the CDBG Grant (the “CDBG Recapture Provision”).

G. Guarantor will directly or indirectly derive a material financial benefit from the making of the Loans.

NOW, THEREFORE, in order to induce Lender to make the Loans to Borrower, and in consideration thereof, Guarantor agrees as follows:

1. **Defined Terms.** Capitalized terms used but not defined in this Guaranty shall have the meanings assigned to them in the HOME Security Instrument.

2. **Scope of Guaranty.** Guarantor represents to Beneficiary Parties that Guarantor has a direct or indirect ownership in Borrower and/or will otherwise derive a material financial benefit from the making of the Loans. Guarantor hereby guaranty to Beneficiary Parties the following (collectively, the “Guaranteed Obligations”):

(a) the due performance and prompt payment of Borrower’s obligations to repay the principal amount of the HOME Loan, all interest accrued thereon, late fees, and other amounts or sums evidenced and/or secured by the HOME Note, the HOME Security Instrument, and the other HOME Loan Documents by acceleration, which acceleration is triggered by Borrower’s default under the HOME Regulatory Agreement which (i) is not cured during any applicable cure period and (ii) triggers an obligation on behalf of Lender to refund the HOME Loan proceeds to HUD.

(b) the due performance and prompt payment of Borrower’s obligations to repay the Lender any amount due pursuant to the CDBG Recapture Provision.

If Borrower shall fail to duly and punctually perform and observe any of the Guaranteed Obligations, then Guarantor forthwith upon demand by Beneficiary Parties or its designee will themselves, at their own expense, do, promptly perform and observe such Guaranteed Obligations. In the case of any payment to be made by Guarantor, such payment shall be made within five (5) days following demand therefor, and any amounts not paid within such time shall accrue interest at five percent (5%) simple interest (“the Default Rate”) from the earlier of the date of demand therefor or such other date as may be provided under the Loan Documents.

3. **Guarantor’s Obligations Survive Foreclosure.** The obligations of Guarantor under this Guaranty shall survive any foreclosure proceeding, any foreclosure sale, any delivery

of any deed in lieu of foreclosure, and any release of record of the applicable Security Instrument or the other Loan Documents.

4. **Guaranty of Payment and Performance.** Guarantor's obligations under this Guaranty constitute an unconditional and continuing guaranty of payment and performance and not merely a guaranty of collection. Guarantor hereby irrevocably and unconditionally covenants and agrees that Guarantor is liable for the Guaranteed Obligations as a primary obligor. The Guaranteed Obligations and this Guaranty are separate, distinct and in addition to any liability and/or obligations that Borrower or Guarantor may have under any other guaranty or indemnity executed by Borrower or Guarantor in connection with the Loan, and no other agreement, guaranty or indemnity executed in connection with the Loan shall act to reduce or set off any of Guarantor's liability hereunder.

5. **Unconditional Guaranty.** The obligations of Guarantor under this Guaranty shall be performed without demand by Beneficiary Parties and shall be unconditional irrespective of the genuineness, validity, regularity or enforceability, in whole or in part, of the Guaranteed Obligations, the Notes, the Security Instruments or any other Loan Document, and without regard to any other circumstance which might otherwise constitute a legal or equitable discharge of a surety, a guarantor, a borrower or a mortgagor. Guarantor hereby waives the benefit of all principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms of this Guaranty and agrees that Guarantor's obligations shall not be affected by any circumstances, whether or not referred to in this Guaranty, which might otherwise constitute a legal or equitable discharge of a surety, a guarantor, a borrower or a mortgagor. Guarantor hereby waives the benefits of any right of discharge under any and all statutes or other laws relating to a guarantor, a surety, a borrower or a mortgagor, and any other rights of a guarantor, a surety, a borrower or a mortgagor, thereunder. Without limiting the generality of the foregoing, Guarantor hereby waives, to the fullest extent permitted by law, diligence in collecting the Indebtedness, presentment, demand for payment, protest, all notices with respect to the Notes and this Guaranty which may be required by statute, rule of law or otherwise to preserve Beneficiary Parties' rights against Guarantor under this Guaranty, including, but not limited to, notice of acceptance, notice of any amendment of the Loan Documents, notice of the occurrence of any default or Event of Default, notice of intent to accelerate, notice of acceleration, notice of dishonor, notice of foreclosure, notice of protest, and notice of the incurring by Borrower of any obligation or indebtedness. Guarantor also waives, to the fullest extent permitted by law, all rights to require Beneficiary Parties to (a) proceed against Borrower, (b) if Borrower is a partnership, proceed against any general partner of Borrower or the Other Guarantor, (c) proceed against or exhaust any collateral held by Beneficiary Parties to secure the repayment of the Indebtedness, (d) pursue any other remedy it may now or hereafter have against Borrower, or, if Borrower is a partnership, any general partner of Borrower or (e) record the Security Instrument or to file any financing statement or to otherwise enforce, perfect, protect, secure or insure any lien or security interest given as security in connection with the Security Documents. Guarantor further waives, to the fullest extent permitted by applicable law, (a) any right to revoke this Guaranty as to any future advances under the Security Instruments or the other Loan Documents, (b) any defenses that could arise with respect to an amendment or modification of the Guaranteed Obligations by operation of law, action of any court or the amendment of any of the Loan Documents, (c) any defense that Beneficiary Parties have waived any Guaranteed Obligation by failing to enforce any right or remedy hereunder, or to promptly

enforce any such right or remedy and (d) any other event or circumstance that may constitute a defense of Borrower or Guarantor to payment of the Guaranteed Obligations.

6. **Modification of Loan Documents.** At any time or from time to time and any number of times, without notice to Guarantor and without affecting the liability of Guarantor, (a) the time for payment of the principal of or interest on the Indebtedness may be extended or the Indebtedness may be renewed in whole or in part; (b) the time for Borrower's performance of or compliance with any covenant or agreement contained in the Notes, the Security Instrument or any other Loan Document, whether presently existing or hereinafter entered into, may be extended or such performance or compliance may be waived; (c) the maturity of the Indebtedness may be accelerated as provided in the Notes, the Security Instrument, or any other Loan Document; and (d) the Notes, the Security Instrument, or any other Loan Document may be modified or amended by Beneficiary Parties and Borrower in any respect.

7. **Waiver of Subrogation.** Guarantor agrees to withhold the exercise of any and all subrogation and reimbursement rights against Borrower, against any other person, and against any collateral or security for the Indebtedness and Guarantor shall have no right of, and hereby waives any claim for, subrogation or reimbursement against Borrower or any managing member or general partner of Borrower by reason of any payment by Guarantor under this Guaranty, whether such right or claim arises at law or in equity or under any contract or statute, until (a) the Indebtedness has been indefeasibly paid and satisfied in full, (b) all obligations owed to Beneficiary Parties have been fully performed, (c) there has expired the maximum possible period thereafter during which any payment made by Borrower to Beneficiary Parties with respect to the Indebtedness, could be deemed a preference under the United States Bankruptcy Code and (d) each of Beneficiary Parties has released, transferred or disposed of all its right, title and interest in such collateral or security.

8. **Preference.** If any payment by Borrower is held to constitute a preference under any applicable bankruptcy, insolvency, or similar laws, or if for any other reason any of Beneficiary Parties is required to refund any sums to Borrower, such refund shall not constitute a release of any liability of Guarantor under this Guaranty. It is the intention of Beneficiary Parties and Guarantor that Guarantor's obligations under this Guaranty shall not be discharged except by Guarantor's performance of such obligations and then only to the extent of such performance.

9. **Guarantor's Financial Condition.**

(a) Guarantor hereby represents and warrants to Beneficiary Parties that as of the date hereof and throughout the term of the Loans, and after giving effect to this Guaranty and the contingent obligation evidenced hereby, Guarantor is and will be solvent and has and will have (i) assets which, fairly valued, exceed its obligations, liabilities and debts, and (ii) property and assets sufficient to satisfy and repay its obligations and liabilities.

(b) Guarantor shall furnish or cause to be furnished to Lender: (i) within ten (10) days of Lender's request, a copy of the most recent year's federal tax return for such Guarantor, and (ii) as soon as available and in any event within one hundred twenty (120)

days after the end of each fiscal year of Guarantor, copies of the following financial statements of Guarantor for such fiscal year, prepared, and audited by an independent certified public accountant acceptable to Lender, in accordance with generally accepted accounting principles: (A) a balance sheet as of the end of such fiscal year (including supporting schedules), and (B) a statement of income and capital accounts for such fiscal year.

(c) Guarantor shall from time to time, upon request by Lender, deliver to Lender such other financial statements as Lender may reasonably require.

10. **Reserved.**

11. **State Specific Provisions (California).**

(a) If a guarantor is liable for only a portion of the Indebtedness, Guarantor hereby waives its rights under California Civil Code Section 2822(a) to designate the portion of the Indebtedness that shall be satisfied by Borrower's partial payment.

(b) Guarantor hereby waives any and all benefits and defenses under California Civil Code Section 2810 and agrees that by doing so Guarantor shall be liable even if Borrower had no liability at the time of execution of the Note, the Security Instrument or any other Loan Document, or thereafter ceases to be liable. Guarantor hereby waives any and all benefits and defenses under California Civil Code Section 2809 and agrees that by doing so Guarantor's liability may be larger in amount and more burdensome than that of Borrower. Guarantor also waives, to the fullest extent permitted by law, any and all benefits under California Civil Code Sections 2845, 2849 and 2850.

(c) Guarantor understands that the exercise by Beneficiary Parties of certain rights and remedies contained in the Security Instrument (such as a nonjudicial foreclosure sale) may affect or eliminate Guarantor's right of subrogation against Borrower and that Guarantor may therefore incur a partially or totally nonreimbursable liability under this Guaranty. Nevertheless, Guarantor hereby authorizes and empowers Beneficiary Parties to exercise, in their sole and absolute discretion, any right or remedy, or any combination thereof, which may then be available, since it is the intent and purpose of Guarantor that the obligations under this Guaranty shall be absolute, independent and unconditional under any and all circumstances. Guarantor expressly waives any defense (which defense, if Guarantor had not given this waiver, Guarantor might otherwise have) to a judgment against Guarantor by reason of a nonjudicial foreclosure. Without limiting the generality of the foregoing, Guarantor hereby expressly waives any and all benefits under (i) California Code of Civil Procedure Section 580a (which Section, if Guarantor had not given this waiver, would otherwise limit Guarantor's liability after a nonjudicial foreclosure sale to the difference between the obligations of Guarantor under this Guaranty and the fair market value of the Mortgaged Property or interests sold at such nonjudicial foreclosure sale), (ii) California Code of Civil Procedure Sections 580b and 580d (which Sections, if Guarantor had not given this waiver, would otherwise limit Beneficiary Parties' right to recover a deficiency judgment with respect to purchase money obligations and after a nonjudicial foreclosure sale,

respectively), and (iii) California Code of Civil Procedure Section 726 (which Section, if Guarantor had not given this waiver, among other things, would otherwise require Beneficiary Parties to exhaust all of their security before a personal judgment could be obtained for a deficiency). Notwithstanding any foreclosure of the lien of the Security Instrument, whether by the exercise of the power of sale contained in the Security Instrument, by an action for judicial foreclosure or by Beneficiary Parties' acceptance of a deed in lieu of foreclosure, Guarantor shall remain bound under this Guaranty.

(d) In accordance with Section 2856 of the California Civil Code, Guarantor also waives any right or defense based upon an election of remedies by Beneficiary Parties, even though such election (e.g., nonjudicial foreclosure with respect to any collateral held by Beneficiary Parties to secure repayment of the Indebtedness) destroys or otherwise impairs the subrogation rights of Guarantor or the right of Guarantor (after payment of the obligations guaranteed by Guarantor under this Guaranty) to proceed against Borrower for reimbursement, or both, by operation of Section 580d of the Code of Civil Procedure or otherwise.

(e) In accordance with Section 2856 of the California Civil Code, Guarantor waives any and all other rights and defenses available to Guarantor by reason of Sections 2787 through 2855, inclusive, of the California Civil Code, including any and all rights or defenses Guarantor may have by reason of protection afforded to Borrower with respect to any of the obligations of Guarantor under this Guaranty pursuant to the antideficiency or other laws of the State of California limiting or discharging Borrower's Indebtedness, including Sections 580a, 580b, 580d, and 726 of the California Code of Civil Procedure.

(f) In accordance with Section 2856 of the California Civil Code, Guarantor agrees to withhold the exercise of any and all subrogation and reimbursement rights against Borrower, against any other person, and against any collateral or security for the Indebtedness, including any such rights pursuant to Sections 2847 and 2848 of the California Civil Code, until the Indebtedness has been indefeasibly paid and satisfied in full, all obligations owed to Beneficiary Parties under the Loan Documents have been fully performed, and each of Beneficiary Parties has released, transferred or disposed of all of its right, title and interest in such collateral or security.

12. **Determinations by Lender.** Except to the extent expressly set forth in this Guaranty to the contrary, in any instance where the consent or approval of Lender may be given or is required, or where any determination, judgment or decision is to be rendered by Lender under this Guaranty, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall not be unreasonably withheld.

13. **Governing Law.** This Guaranty shall be governed by and enforced in accordance with the laws of the Property Jurisdiction, without giving effect to the choice of law principles of the Property Jurisdiction that would require the application of the laws of a jurisdiction other than the Property Jurisdiction.

14. **Consent to Jurisdiction and Venue.** Guarantor agrees that any controversy arising under or in relation to this Guaranty shall be litigated exclusively in the Property

Jurisdiction. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Guaranty. Guarantor irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing herein is intended to limit Beneficiary Parties' right to bring any suit, action or proceeding relating to matters arising under this Guaranty against Guarantor or any of Guarantor's assets in any court of any other jurisdiction.

15. **Successors and Assigns.** This Guaranty shall be binding upon Guarantor and its heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate, and shall inure to the benefit of the Beneficiary Parties and their respective successors, successors-in-interest and assigns. The terms used to designate any of the parties herein shall be deemed to include the heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate, of such parties. References to a "person" or "persons" shall be deemed to include individuals and entities. Guarantor acknowledges and agrees that any Beneficiary Party, at its option, may assign its respective rights and interests under this Guaranty and the other Loan Documents in whole or in part and upon such assignment all the terms and provisions of this Guaranty or the other Loan Documents shall inure to the benefit of such assignee to the extent so assigned. Guarantor may not assign or delegate its rights, interests or obligations under this Guaranty without first obtaining Lender's prior written consent.

16. **Severability.** The invalidity, illegality or unenforceability of any provision of this Guaranty shall not affect the validity, legality or enforceability of any other provision, and all other provisions shall remain in full force and effect.

17. **Expenses.** Guarantor shall pay to the Beneficiary Parties, upon demand, the amount of any and all expenses, including, without limitation, reasonable attorneys' fees (including reasonable time charges of attorneys who may be employees of Beneficiary Parties), which the Beneficiary Parties may incur in connection with (a) the exercise or enforcement of any of their rights hereunder, (b) the failure by Guarantor to perform or observe any of the provisions hereof, or (c) the breach by Guarantor of any representation or warranty of Guarantor set forth herein.

18. **Remedies Cumulative.** In the event of Guarantor's default under this Guaranty, the Beneficiary Parties may exercise all or any one or more of their rights and remedies available under this Guaranty, at law or in equity. Such rights and remedies shall be cumulative and concurrent, and may be enforced separately, successively or together, and the exercise of any particular right or remedy shall not in any way prevent the Beneficiary Parties from exercising any other right or remedy available to the Beneficiary Parties. The Beneficiary Parties may exercise any such remedies from time to time as often as may be deemed necessary by the Beneficiary Parties.

19. **Entire Agreement; Amendment and Waiver.** This Guaranty contains the complete and entire understanding of the parties with respect to the matters covered herein. Guarantor acknowledges that Guarantor has received copies of the Notes, the Regulatory Agreements and all other Loan Documents. This Guaranty may not be amended, modified or

changed, nor shall any waiver of any provision hereof be effective, except by a written instrument signed by the party against whom enforcement of the waiver, amendment, change, or modification is sought, and then only to the extent set forth in that instrument. No specific waiver of any of the terms of this Guaranty shall be considered as a general waiver.

20. **Further Assurances.** Guarantor shall at any time and from time to time, promptly execute and deliver all further instruments and documents, and take all further action that may be reasonably necessary or desirable, or that any Beneficiary Party may reasonably request, in order to protect any right or interest granted by this Guaranty or to enable the Beneficiary Party to exercise and enforce its rights and remedies under this Guaranty.

21. **Notices; Change of Guarantor's Address.** All notices given under this Guaranty shall be in writing and shall be sent to the respective addresses of the parties, in the manner set forth in the Security Instrument. Notices to Guarantor may be sent to the address of Borrower set forth in the Security Instrument. Guarantor agrees to notify Lender (in the manner for giving notices provided in the Security Instrument) of any change in Guarantor's address within ten (10) Business Days after such change of address occurs.

22. **Captions.** The captions of the sections of this Guaranty are for convenience only and shall be disregarded in construing this Guaranty.

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IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Repayment Guaranty or caused this Repayment Guaranty to be duly executed and delivered by its authorized representative as of the date first set forth above. The undersigned intends that this instrument shall be deemed to be signed and delivered as a sealed instrument.

GUARANTOR:

MERCY HOUSING, INC.,
a Nebraska not-for-profit corporation

By: _____
[Name]
[Title]