

ASSIGNMENT, ASSUMPTION AND MODIFICATION OF PROMISSORY NOTE

THIS ASSIGNMENT, ASSUMPTION, AND MODIFICATION OF PROMISSORY NOTE (this “**Assignment**”) is made as of this ___ day of _____, 2019 (the “**Effective Date**”), by and between TEMECULA GARDENS, L.P., a California limited partnership (“**Assignor**”), and TEMECULA GARDENS II, L.P., a California limited partnership (“**Assignee**”), and the CITY OF TEMECULA, CALIFORNIA, in its capacity as the housing successor (the “**Housing Successor**”) to the former Redevelopment Agency of the City of Temecula (the “**Former Agency**”) pursuant to California Health and Safety Code Section 34176.

Recitals

A. Assignor is the owner of that certain seventy-six (76) unit multifamily apartment complex located in the City of Temecula, California, known as Mission Village Apartments (the “**Project**”).

B. The Project is located on certain real property leased by the Housing Successor to Assignor pursuant to that certain Ground Lease, dated as of July 1, 1998, by and between the Housing Successor (as successor with respect to the housing functions of the Former Agency) and Assignor (the “**Ground Lease**”).

C. The Former Agency made a loan of \$305,000.00 (“**RHF Loan**”) to Assignor, as evidenced by that certain Promissory Note dated as of July 1, 1998 (the “**Note**”).

D. Contemporaneous with the execution of this Assignment, Assignor intends to transfer ownership of the Project to the Assignee, and to assign its interest in the Ground Lease to Assignee.

E. Assignor desires to assign all of its right, title and interest in the RHF Loan to Assignee and Assignee desires to accept and assume all of Assignor’s right, title and interest in the RHF Loan, subject to the terms and conditions of the Note, as modified herein.

F. The parties hereto agree to modify the Note in accordance with the terms set forth below.

Agreement

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto, hereby agree as follows:

1. Assignment and Assumption. Assignor hereby assigns to Assignee, and Assignee hereby accepts and assumes from Assignor, all of Assignor’s right, title, interest and obligations as Borrower under the RHF Note (as modified herein) as of the Effective Date.

2. Payments of Principal and Maturity Date. The first paragraph of the Note is deleted in its entirety and replaced as follows:

“Commencing on April 1, 2021, payments of principal and interests shall be paid annually, in an amount equal to the City’s Share of Net Cash Flow (as defined herein). In any event, all unpaid principal and interest shall accrue and be due and payable upon the termination of the Ground Lease (either at the expiration of the term or earlier termination pursuant to the terms thereof) (the “**Maturity Date**”). Each payment under this Note shall be credited first on interest then due, and the remainder, if any on principal, and interest shall thereon cease upon the principal so credited.”

3. City’s Share of Net Cash Flow. The term “**City’s Share of Net Cash Flow**” shall mean sixty-five percent (65%) of the Assignee’s Net Cash Flow (as defined in the Ground Lease) for the immediately prior year.

4. Security and Recourse.

a. Deed of Trust. As of the Effective Date, the RHF Loan and the Note shall be unsecured and non-recourse. The Deed of Trust recorded in connection with the RHF Loan shall be reconveyed by Housing Successor contemporaneously herewith, and any and all reference to the Deed of Trust in the Note shall be deleted in its entirety.

b. Recourse. Paragraph 7 of the Note shall be deleted in its entirety and replaced as follows:

“In the event of any default under the terms of this Note, the general and limited partners of the Borrower shall not be personally liable for the payment of this Note.”

5. Notice: Any notice to Borrower provided under the Note shall be made to the following address: _____.

6. Full Force and Effect. Except to the extent modified hereby, all of the terms of the Note shall remain in full force and effect. To the extent of any conflict between this Assignment and the Note, this Assignment shall control.

7. Miscellaneous:

a. This Assignment shall be governed by and construed in accordance with the laws of the State of California, applicable to contracts made and performed in California.

b. This Assignment may be executed in counterparts and evidenced by facsimile or by electronic mail, all of which shall be binding as a fully-executed single original of Assignment.

c. This Assignment shall be binding on and shall inure to the benefit of Assignor, Assignee, the Housing Successor and their respective successors and assigns.

- d. Each of the individuals signing this Assignment hereby represents and warrants that he or she has the full right, power, capacity and authority to execute and deliver this Assignment as a binding and valid obligation of such party.

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IN WITNESS WHEREOF, the undersigned have executed this Assignment as of the day and year first above written.

ASSIGNOR:

TEMECULA GARDENS, L.P.,
a California limited partnership

By: Affirmed Housing Group, Inc.,
a California corporation
its General Partner

By: _____

Name:

Title:

ASSIGNEE:

TEMECULA GARDENS II, L.P.,
a California limited partnership

By: Affirmed Housing Group, Inc.,
a California corporation
its General Partner

By: _____

Name:

Title:

CITY OF TEMECULA, AS HOUSING SUCCESSOR

By: _____

Name:

Title: