

ASSIGNMENT, ASSUMPTION AND MODIFICATION OF LOAN AGREEMENT

THIS ASSIGNMENT, ASSUMPTION, AND MODIFICATION OF LOAN AGREEMENT (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 acknowledged and consented to by 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, and the SUCCESSOR AGENCY TO THE TEMECULA REDEVELOPMENT AGENCY (the “**Successor Agency**”).

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 Former Agency to Assignor pursuant to that certain Ground Lease, dated as of July 1, 1998, by and between the Former Agency and Assignor (the “**Ground Lease**”); and the rights and obligations of the Assignor under the Ground Lease will be assigned to and assumed by the Assignee as of the Effective Date.

C. In connection with the financing of the acquisition, construction and rehabilitation of the Project, the Former Agency issued and sold its Multifamily Housing Revenue Note (Mission Village Apartments) in the amount of \$5,800,000 on July 17, 1998 (the “**1998 Note**”) to JPMorgan Chase Bank, N.A. (successor in interest to Washington Mutual Bank, FA) (Washington Mutual Bank, FA, JPMorgan Chase Bank, N.A., and any other national bank is referred to herein as the “**Bank**”). The 1998 Note evidenced a loan by the Bank to the Former Agency in the amount of \$5,800,000 (the “**Bank Loan**”), made pursuant to that certain Loan Agreement, dated as of July 1, 1998, by and between the Bank and the Former Agency (the “**Bank Loan Agreement**”).

D. The proceeds from the Bank Loan were used by the Former Agency to provide a loan to Assignor in the amount of \$5,800,000 (“**Agency Loan**”) pursuant to that certain Construction and Term Loan Agreement, dated July 1, 1998, by and between the Agency and Assignor (the “**Agency Loan Agreement**”). Capitalized terms not otherwise defined herein have the definitions given to such terms in the Agency Loan Agreement.

E. Pursuant to that certain Assignment Agreement, dated July 1, 1998 (the “**Assignment Agreement**”), by and between the Agency and the Bank, the Agency assigned all of its rights under the Agency Loan Agreement (excepting only the Agency's rights under Section 2.17 of the Agency Loan Agreement, and the Agency's right to separately enforce, for the benefit of the Agency, the Agency's rights under Sections 2.12, 7.9 and 7.10 of the Agency Loan Agreement) to the Bank.

F. In connection with the provision of financial assistance to the Project and pursuant to the Agency Loan Agreement, the Former Agency agreed to set aside certain monies derived from that portion of taxes levied upon assessable property within the Project Area allocated to the Agency pursuant to Article 6 of Chapter 6 of the Redevelopment Law and Section 16 of Article XVI of the Constitution of the State of California and required by Section 33334.2 or 33334.6 of the Redevelopment Law to be placed in the Housing Fund for use in increasing and improving the supply of low and moderate income housing in the city of Temecula, California (the “**Housing Set Aside-Revenues**”), in the annual amount of \$305,000 (the “**Pledged Funds Amount**”) into the Pledge Fund to be held by the Bank. Said obligation to so set aside the Housing Set Aside-Revenues does not expire until July 2027.

G. The Agency Loan Agreement provides that the Pledge Funds Amount is to be withdrawn in part each month and applied to pay amounts due on the Bank Loan.

H. In connection with the issuance of the 1998 Note and the funding of the Agency Loan, the Assignor entered into (i) a Regulatory Agreement and Declaration of Restrictive Covenants, dated as of July 1, 1998, with the Former Agency which requires that, among other restrictions, not less than twenty percent (20%) of the units in the Project be rented to individuals and families with adjusted incomes that do not exceed fifty percent of the medium income for the area and that restricts the rents that can be charged for one-half of such entity; and (ii) a separate Regulatory Agreement, dated as of July 1, 1998, with the Former Agency which requires, that, among other matters related to the Project, all of the units in the Project be rented to very low or low income persons and families as follows: 8 of the 2 bedroom units shall be rented to households whose incomes do not exceed 50% of median income, 8 of the 3 bedroom units shall be rented to households whose incomes do not exceed 50% of median income, 30 of the 2 bedroom units shall be rented to households whose incomes do not exceed 60% of median income, and 30 of the 3 bedroom units shall be rented to households whose incomes do not exceed 60% of median income (collectively, the “**Project Tenant Affordability Restrictions**”). The restrictions described in the preceding clause (i) apply to the Project so long as any tax-exempt financing for the Project is outstanding, and the restrictions described in clause (ii) of the preceding sentence apply to the Project until July 17, 2048.

I. The parties hereto now desire to have the Project undergo certain rehabilitation work in order to ensure that the Project contains quality units that are affordable to very low and low income households. In order to facilitate the rehabilitation of the Project, the Assignee intends to seek an allocation low-income tax housing credits from the California Tax Credit Allocation Committee (TCAC) (the “**Tax Credits**”) for the Project and to seek a loan of the proceeds of a new note (the “**New Note Financing**”) to be purchased by the Bank, which proceeds are to be used to prepay the Agency Loan and to provide funds to rehabilitate the Project. In order to obtain the Tax Credits and the New Note Financing, the Project must be transferred to the Assignee (which is a newly formed limited partnership in which a Tax Credit investor will have over a 99% ownership interest).

J. Due to the Project Tenant Affordability Restriction, the Assignee has determined that the cash flow from the Project is not sufficient to support a New Note Financing in a principal

amount that will provide adequate funds, when combined with the proceeds of the Tax Credits, to fully repay the Agency Loan and provide for the needed rehabilitation of the Project. Accordingly, the parties hereto desire to have the aforementioned pledge of Housing Set Aside Revenues, and use of the Pledged Funds Account, be applied to the New Note Financing so as to provide sufficient funds for the rehabilitation of the Project and the prepayment of the Agency Loan in light of the Project Tenant Affordability Restrictions.

K. The parties agree and acknowledge that, on and after the Effective Date, the Pledge Funds Amount will be reduced from \$305,000 to \$295,000 annually, and that such annual amount should be sufficient to support the New Note Financing.

L. The parties agree and acknowledge that other than the provisions of the Agency Loan Agreement relating to the Pledged Funds Amount (by reason of this Agreement), the terms and conditions of the Agency Loan Agreement will terminate upon repayment of the Agency Loan.

M. The Bank will assign its rights and interest in the Agency Loan Agreement back to the Agency simultaneously with the closing on the New Note Financing.

N. Assignor desires to assign all of its right, title and interest in the Agency Loan Agreement relating to the Pledged Funds Amount, reduced as described in Recital J above, to Assignee and Assignee desires to accept and assume all of Assignor's right, title and interest in the Agency Loan Agreement relating to the Pledged Funds Amount, subject to the terms and conditions set forth herein.

O. Assignee and Assignor desire to modify certain terms of the Agency Loan Agreement to reflect the above listed recitals, and the Housing Successor and the Successor Agency consent to such modifications.

Agreement

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

1. Except as may otherwise be provided for herein, as of the Effective Date (which shall also be the date that the Agency Loan is repaid in full by Assignor), the responsibilities and obligations of the Successor Agency, as successor to the Former Agency, and Assignor, as Borrower, under the Agency Loan Agreement shall terminate and be of no further effect; provided, however, that the all of the responsibilities and obligations of the Successor Agency, as successor to the Former Agency and Assignor under Article 6 of the Agency Loan Agreement, which provisions relate to the Pledged Funds Amount, shall survive the repayment of the Agency Loan and continue until the full amount of the remaining Pledged Funds Amount has been used to make payments on the New Note Financing.

2. 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 Article 6 of the Agency Loan Agreement effective as of the Effective Date.

3. Assignor hereby assigns to Assignee of all Assignor's rights, title, and interest in the Pledge Fund, and agrees that the Bank shall retain custody of the Pledge Fund as of the Effective Date in support of the New Note Financing.

4. The parties agree that the definition of "Pledged Fund Requirement" in Section 6.1.8 of the Agency Loan Agreement is hereby revised to mean "an amount equal to \$295,000", and all references to "\$305,000" in Article 6 under the Agency Loan Agreement (as assigned hereby) shall be revised to be "\$295,000," all as of the Effective Date. The parties acknowledge and agree that the obligation to deposit the Pledge Fund Requirement into the Pledge Fund is the obligation of the Successor Agency solely from the moneys received from the Successor Agency from the Redevelopment Property Tax Trust Fund pursuant to Recognized Obligation Payment Schedules approved by the Oversight Board and the California State Department of Finance (and not the obligation of the City of Temecula, California, the Housing Successor or any other City-related entities).

5. The parties agree that notwithstanding anything to the contrary provided for in Article 6 under the Agency Loan Agreement (as assigned hereby), after the Effective Date, the Pledged Funds Amount shall be applied to amounts owing on the New Note Financing.

6. Assignee hereby agrees to assume and abide by all obligations of Assignor under the Regulatory Agreement as of the Effective Date, and the Housing Successor, as successor to the housing assets of the Former Agency, consents to such assumption.

7. 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.

8. 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.

9. This Assignment shall be binding on and shall inure to the benefit of Assignor, Assignee, the Housing Successor, the Successor Agency and their respective successors and assigns. The Bank is intended to be and is hereby made a third party beneficiary of the obligations of the parties hereto.

10. 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:

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

CITY OF TEMECULA, AS HOUSING SUCCESSOR

By: _____

Name:

Title:

**SUCCESSOR AGENCY TO THE TEMECULA
REDEVELOPMENT AGENCY:**

By: _____

Name:

Title: