

RESOLUTION NO. 19-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMECULA, ACTING IN ITS CAPACITY AS THE HOUSING SUCCESSOR, APPROVING MODIFICATIONS TO A GROUND LEASE, A REGULATORY AGREEMENT AND A RESIDUAL RECEIPTS NOTE, RELATING TO THE MISSION VILLAGE APARTMENTS PROJECT AND THE TAKING OF RELATED ACTIONS

THE CITY COUNCIL OF THE CITY OF TEMECULA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. **Recitals.** The City Council of the City of Temecula (the “City”) hereby finds, determines and declares that:

(a) The Redevelopment Agency of the City of Temecula (the “**Former Agency**”) was a duly constituted redevelopment agency pursuant to provisions of the Community Redevelopment Law (the “**Redevelopment Law**”) set forth in Section 33000 et seq. of the Health and Safety Code (“**HSC**”) of the State of California (the “**State**”).

(b) Under the Redevelopment Law, the Former Agency was authorized, among other things, to provide assistance to the development of affordable housing projects.

(c) Pursuant to AB X1 26 (which became effective in June 2011), and the California Supreme Court’s decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, 53 Cal. 4th 231 (2011), the Former Agency was dissolved as of February 1, 2012, and the Successor Agency to the Temecula Redevelopment Agency (the “**Successor Agency**”) was constituted as the successor entity to the Former Agency.

(d) Pursuant to HSC Section 34175(b), all assets of the Former Agency transferred to the Successor Agency by operation of law; provided, that pursuant to HSC Section 34176 and Resolution No. 12-11, adopted by the City Council on January 24, 2012, the City elected to assume the housing functions of the Former Agency (in such capacity, the “**Housing Successor**”) and, consequently, housing assets approved on the Housing Asset List (defined below) are transferred to the Housing Successor.

(e) Temecula Gardens, L.P. (“**Temecula Gardens I**”), an affiliate of Affirmed Housing Group, Inc. (“**Affirmed**”), is the owner of a 76-unit multifamily apartment complex located at 28493 Pujol Street in the City, known as Mission Village Apartments (the “**Project**”).

(f) The Project is located on (the “**Land**”) leased by the Former Agency to Temecula Gardens I pursuant to a Ground Lease, dated as of July 1, 1998 (the “**Ground Lease**”). The Former Agency also provided other assistance for the 1998 financing of the acquisition and construction of the Project.

(g) In consideration for the Former Agency’s assistance, Temecula Gardens I entered into a Regulatory Agreement, dated as of July 1, 1998 (the “**Agency Regulatory Agreement**”),

which requires that, among other matters related to the Project, until July 17, 2048, units in the Project must be rented to low or very low income persons and families at affordable rent.

(h) Temecula Gardens I also issued a promissory note dated July 1, 1998, in the principal amount of \$305,000 (the “**Residual Receipts Note**”), in favor of the Former Agency, the principal and interest on which are payable no later than June 30, 2028.

(i) Pursuant to HSC Section 34176(a)(2), the City prepared a housing asset list (the “**Housing Asset List**”), listing all of the Former Agency’s housing assets to be transferred to the Housing Successor and submitted it to the State Department of Finance (the “**DOF**”) for approval. The DOF issued a letter dated July 3, 2013, approving the Housing Asset List, with certain modifications.

(j) Among the items on the Housing Asset List approved to be transferred to the Housing Successor are the Former Agency’s title to and interest in the Land (and, accordingly, the Former’s Agency’s rights, obligations and interest under the Ground Lease) and the Former Agency’s rights and interests under the Agency Regulatory Agreement and the Residual Receipts Note.

(k) Affirmed is undertaking a rehabilitation project of the Project (the “**Rehabilitation**”).

(l) In that connection, Affirmed is seeking an allocation of low-income housing tax credits from the California Tax Credit Allocation Committee (the “**Tax Credits**”) and is contemplating a financing transaction (the “**Rehabilitation Financing**”) to fund the Rehabilitation.

(m) To obtain the Tax Credits and the Rehabilitation Financing, Affirmed has indicated that it is necessary to have the Project transferred from Temecula Gardens I to a new California limited partnership, Temecula Gardens II L.P. (“**Temecula Gardens II**”) (in which a Tax Credit investor will have a significant ownership interest).

(n) Affirmed has presented the form of an Assignment, Assumption and Modification of Ground Lease and Regulatory Agreement (the “**Modification Agreement**”), in the form set forth in Attachment A, providing for: (i) Temecula Garden II’s assumption of Temecula Garden I’s rights and interests under the Ground Lease and the Regulatory Agreement, (ii) an extension of the term of the Ground Lease and the Regulatory Agreement to December 31, 2075, with an option to extend to December 31, 2095, (iii) changes to the ground rent, and (iv) certain changes to other provisions of the Ground Lease and the Regulatory Agreement.

(o) Affirmed has also presented an Assignment, Assumption and Modification of Promissory Note (the “**Amended Residual Receipts Note**”), in the form set forth in Attachment B, to replace the Residual Receipts Note.

(p) A report (the “**Section 33433 Report**”), consistent with the requirements of HSC Section 33433, has been prepared by Keyser Marston Associates, Inc., regarding the Ground Lease, as amended by the Modification Agreement. A copy of the Section 33433 Report is on file at the office of the City Clerk and has been made available for public inspection.

(q) Pursuant to HSC Section 33433, the City Council held a noticed public hearing on this day on the Modification Agreement.

Section 2. Approval of Agreement. The Modification Agreement, in the form set forth in Attachment A, is hereby approved. Each of the Mayor (or in the Mayor's absence, the Mayor Pro Tem) and the City Manager (each, an "**Authorized Officer**"), acting individually, is hereby authorized to execute and deliver, for and in the name of the City as the Housing Successor, the Modification Agreement, in substantially such form, with changes therein as the Authorized Officer executing the same may approve (such approval to be conclusively evidenced by the execution and delivery thereof).

Section 3. HSC Section 33433 Findings. For purposes of HSC Section 33433, the City Council hereby finds as follows: (i) The leasing of the Land pursuant to the Ground Lease, as amended by the Modification Agreement, will provide housing low or very low income persons, and (ii) the consideration received by the City, as the Housing Successor, is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the Ground Lease, as amended by the Modification Agreement.

Section 4. Approval of Amended Residual Receipts Note. The Amended Residual Receipts Note, in the form set forth in Attachment B, is hereby approved. Each Authorized Officer, acting individually, is hereby authorized to execute and deliver such instrument as necessary or appropriate to evidence the acceptance by the City, as the Housing Successor, of the Amended Residual Receipts Note in substantially such form, with changes therein as the Authorized Officer executing the same may approve (such approval to be conclusively evidenced by the execution and delivery thereof).

Section 5. Other Acts. The Authorized Officers and all other officers of the Successor Agency are hereby authorized, jointly and severally, to do all things, including the execution and delivery of documents and instruments, which they may deem necessary or proper to effectuate the purposes of this Resolution, the Modification Agreement and the Amended Residual Note and assist with consummation of the Rehabilitation Financing. The City Clerk is authorized to attest to the City officers' signatures to any such document or instrument.

Section 6. No Further NEPA or CEQA Review Required. On February 19, 2019, the United States Department of Housing and Urban Development approved a Determination of Categorical Exclusion (subject to 58.5) pursuant to 24 CFR 58.5 for the "rehabilitation and rental of a 76-unit apartment to benefit qualified low-income households upon completion" at 28493 Pujol Street in Temecula, California. No further environmental review is required under the National Environmental Protection Act or the California Environmental Quality Act.

Section 7. Certification. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Temecula this 13th day of August, 2019.

Michael S. Naggar, Mayor

ATTEST:

Randi Johl, City Clerk

[SEAL]

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF TEMECULA)

I, Randi Johl, City Clerk of the City of Temecula, do hereby certify that the foregoing Resolution No. 19- was duly and regularly adopted by the City Council of the City of Temecula at a meeting thereof held on the 13th day of August, 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Randi Johl, City Clerk

ATTACHMENT A

Assignment, Assumption and Modification of Ground Lease and Regulatory Agreement
(substantial final form)

(see attached)

ATTACHMENT B

Assignment, Assumption and Modification of Promissory Note
(substantial final form)

(see attached)