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Government Code Section 27383

RECORDING REQUESTED BY:
AND WHEN RECORDED RETURN TO:

San Bernardino County
Department of Community Development and Housing
560 East Hospitality Lane, Suite 200
San Bernardino, CA 92415
Attn: Housing Development

MODIFICATION TO LOAN DOCUMENTS
(Citrus Grove Apartments)

This Modification to Loan Documents (the "Modification Agreement") is entered into as of March 11, 2025, by and between San Bernardino County, formerly known as the County of San Bernardino (the "County"), the Southern California Housing Development Corporation of the Inland Empire, a California nonprofit public benefit corporation ("SoCal") and Inland Valley Housing Partners, L.P., a California limited partnership (the "Partnership" and together with SoCal, the "Borrower").

RECITALS

- A. Borrower and the County entered into that certain HOME Investment Partnership Agreement, dated as of June 14, 2005 (the "HOME Agreement"), pursuant to which, among other things, the County agreed to loan Borrower an amount equal to Three Million and 00/100 Dollars (\$3,000,000) (the "Loan") for acquisition costs in connection with certain real property located in the City of Rialto, County of San Bernardino (the "Property") to enable Borrower to acquire, rehabilitate and operate an affordable housing project located thereon (the "Project").
- B. The Loan was evidenced by a residual receipts promissory note secured by deed of trust (the "Note") executed by Borrower in favor of the County dated as of June 14, 2005 and secured by a Deed of Trust (the "Deed of Trust") dated June 14, 2005, and recorded against the Property on August 17, 2006, as Instrument No. 2006-0563298 in the Official Records of the County of San Bernardino (the "Official Records").
- C. The HOME Agreement, Deed of Trust, and the Note are hereinafter referred to collectively as the "Loan Documents."
- D. The City and the Borrower desire to make certain modifications to the Loan Documents as set forth herein.
- E. Capitalized terms utilized in this Modification Agreement but not defined in this Modification Agreement shall have the meanings set forth in the Loan Documents.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration are hereby acknowledged, the County and the Borrower (referred to individually as the "Party" and collectively as the "Parties") agree as follows:

1. **Amendment to Loan Documents**. The Loan Documents are hereby amended as follows:

- (a) As of the date of this Modification Agreement, the outstanding principal balance of the Loan is Four Million Seven Hundred Seventy-Three Thousand Nine Hundred Twelve and No/100 Dollars (\$4,773,912), which amount is comprised of \$3,000,000 in outstanding principal and \$1,773,912 in accrued but unpaid interest as of the date hereof. All references in the Loan Documents to the Loan shall henceforth be deemed to refer to an amount equal to \$4,773,912.00.
- (b) As of the date of this Modification Agreement, the Loan shall bear compound interest at the rate of 4.82% per annum.
- (c) This Modification Agreement clarifies the existing total units as 152 (150 units restricted for occupancy by low-income tenants and two property managers units). Furthermore, the Borrower agrees to continue to maintain the affordable rental housing units and to maintain the long-term affordability of forty (40) of the units to Very Low-Income households as described in Exhibit B.
- (d) This Modification Agreement is contingent upon Borrower's agreement to incorporate the property deficiencies detailed in the Annual Compliance Monitoring Finding Report dated August 3, 2023, as part of the project rehabilitation scope of work. Borrower shall provide documentation satisfactory to the County evidencing the completion of the deficiencies.
- (e) Notwithstanding anything to the contrary contained in the Loan Documents, all outstanding amounts due on the Note Amount shall be due and payable on the fifty-seventh (57th) anniversary of the date of this Modification Agreement.
- (f) Notwithstanding anything to the contrary contained in the Loan Documents, if a non-monetary event of default occurs under the terms of any of the Loan Documents, prior to exercising any remedies thereunder, County shall give Borrower and its limited partner simultaneous written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the Borrower and its limited partner shall have such period to effect a cure prior to exercise of remedies by the County under the Loan Documents. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and if the Borrower and/or its limited partner (a) initiates corrective action within said period, and (b) diligently, continually, and in good faith works to effect a cure as soon as possible, then the Borrower and/or its limited partner shall have such additional time as is reasonably necessary, not to exceed 90 days, to cure the default prior to exercise of any remedies by County.

- (g) Notwithstanding anything to the contrary contained in the Loan Documents, County hereby agrees that any cure of any default made or tendered by one or more of the Borrower's limited partners shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower. Following admission of an investor limited partner to Borrower, copies of all notices which are sent to the Borrower under the terms of the Loan Documents shall also be sent to such limited partner at the address provided in writing to the County for such notices. The Borrower's limited partners may change their address for receipt of copies of notices by giving notice in writing stating its new address to the County.

Notices under the Loan Documents to Borrower shall also be sent to the limited partner at the following addresses:

RSEP Holding, LLC
c/o Red Stone Equity Partners, LLC
90 Park Avenue, 28th Floor
New York, NY 10016
Attn: General Counsel

with a copy to:

Nixon Peabody LLP
Exchange Place
53 State Street
Boston, MA 02109
Attention: Roger W. Holmes

- (h) Notwithstanding anything to the contrary contained in the Loan Documents, none of the following shall constitute a violation of the Loan Documents:
- (i) The withdrawal, removal, replacement, and/or addition of a general partner of the Borrower pursuant to the terms of Borrower's partnership agreement, provided that any new general partner: (i) is an entity that is exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended from time to time (or any successor statute), or (ii) is an affiliate of the limited partner; and
 - (ii) The transfer of any of the limited partners' interests in the Borrower or transfers of interests in the limited partner; and
 - (iii) The execution and delivery of a purchase option and right of first refusal agreement in favor of the general partner of Borrower or an affiliate or its assignee thereof shall not constitute a default under the Loan Documents or accelerate the maturity of the Loan thereunder and the exercise of said purchase option and right of first refusal agreement by the general partner, an affiliate thereof or its assignee, as applicable, identified therein.

- (i) The Borrower and the County hereby agree that the lien of the Deed of Trust shall be subordinate to and inferior in lien priority to deeds of trust and regulatory agreements, as applicable, entered into by Borrower in connection with 2025 rehabilitation financing for the Project. County agrees to enter into subordination agreements, in form and substance reasonably acceptable to the County, to evidence the foregoing subordination.

- (j) Notwithstanding anything to the contrary contained in the Loan Documents, annual “Operating Expenses” shall mean the following costs reasonably and actually incurred for operation and maintenance of the Property in a particular calendar year to the extent that they are consistent with an annual independent audit performed by a certified public accountant using generally accepted accounting principles:
 - i. Property taxes and assessments imposed on the Property;
 - ii. Debt service currently due on a non-optional basis (excluding debt service due from residual receipts or surplus cash of the Property) on loans, including without limitation the Primary Loan, associated with the development of the Property and approved by the County;
 - iii. Property management fees and reimbursements, not to exceed fees and reimbursements which are standard in the industry, and pursuant to a management contract approved by the County;
 - iv. Premiums for property damage and liability insurance;
 - v. Any annual license or certificates of occupancy fees required for operation of the Property;
 - vi. Security services;
 - vii. Advertising and marketing costs;
 - viii. Cash deposited into reserves for capital replacements of the Property in an amount to be approved by the County, as the same may increase during the Term with the approval of the County (but no greater than \$500 per month per unit);
 - ix. Cash deposited into an operating reserve in an amount to be approved by the County annually;
 - x. Asset management, including a partnership management fee and asset management fee in the amounts approved by the County as part of the annual operating budget;
 - xi. Deferred development fees in an amount approved by the County;
 - xii. Utility services not paid for directly by tenants, including without limitation, water, sewer, and trash collection;
 - xiii. Maintenance and repair, including pest control, landscaping, grounds maintenance, painting and decorating, cleaning, common systems repair, janitorial supplies and services;
 - xiv. Social services fees and expenses;
 - xv. Annual audit fees, inspection fees, or monitoring fees;
 - xvi. Extraordinary operating costs specifically approved by the County in its reasonable discretion;

- xvii. Payments of deductibles in connection with casualty insurance claims normally paid from reserves, the amount of uninsured losses actually replaced, repaired or restored, and not normally paid from reserves;
- xviii. Reasonable accounting fees and legal fees; and
- xix. Other ordinary and reasonable operating expenses approved by the County in its reasonable discretion and not listed above.

Annual Operating Expenses shall exclude the following: depreciation, amortization, depletion or other non-cash expenses or, any amount expended from a reserve account. All other terms remain unchanged.

- (k) The Borrower shall submit to the County its Annual Financial Statement for the preceding year, not later than one hundred eighty (180) days after the end of the first calendar year (or partial year) covering the operation of the Project, and annually thereafter. On July 1, 2025, and July 1 of each year thereafter for the Term, the Borrower shall make repayments of the County Loan in the amount of up to twelve percent (12%) of the Residual Receipts for such prior year, to the extent that such Residual Receipts are available.
 - i. **Audited Financial Statement.** In connection with the annual repayment of the County Loan under Section 205, within one hundred eighty (180) days following the end of each calendar year, the Borrower shall furnish to the County an audited statement duly certified by an independent firm of certified public accountants selected from a list of independent firms of certified public accountants approved by the County, setting forth in reasonable detail the computation and amount of Residual Receipts during the preceding calendar year.
 - ii. **Books and Records.** The Borrower shall keep and maintain at the Property, or elsewhere with the County's written consent, full, complete and appropriate books, records and accounts relating to the Property, including all such books, records and accounts necessary or prudent to evidence and substantiate in full detail the Borrower's calculation of Residual Receipts.
 - iii. **County Audits.** The receipt by the County of any statement pursuant to subsection (i) above or any payment by the Borrower or acceptance by the County of any loan repayment for any period shall not bind the County as to the correctness of such statement or such payment. Within three (3) years after the receipt of any such statement, the County or any designated agent or employee of the County at any time shall be entitled to audit the Residual Receipts and all books, records, and accounts pertaining thereto. Such audit shall be conducted during normal business hours at the principal place of business of the Borrower and other places where records are kept. Within a reasonable time after the completion of an audit, the County shall deliver a copy of the results of such audit to the Borrower. If it shall be determined as a result of such audit that there has been a deficiency in a loan repayment to the County, then such deficiency shall become immediately due and payable with interest at the default rate set forth in Section 205 above, determined as of and accruing from the date that said payment should have been

made. In addition, if the Borrower's auditor's statement for any calendar year shall be found to have understated Residual Receipts by more than five percent (5%) and the County is entitled to any additional County Loan repayment as a result of said understatement, then the Borrower shall pay, in addition to the interest charges referenced hereinabove, all of the County's reasonable costs and expenses connected with any audit or review of the Borrower's accounts and records.

(l) Notwithstanding anything to the contrary contained in the loan documents, the definitions of "Residual Receipts" and "Gross Revenue" are hereby deleted in their entirety and replaced with the following:

"Residual Receipts" shall mean, in a particular calendar year, the amount by which Gross Revenue exceeds Annual Operating Expenses. County's Pro Rata Share of the Residual Receipts in the amount of twelve percent (12%)."

"Gross Revenue" with respect to a particular calendar year, shall mean all revenue, income, receipts, and other consideration received from operation and leasing of the Property, including but not limited to:

(i) all rents, fees and charges paid by tenants, payments or other rental subsidy payments received for the dwelling units, deposits forfeited by tenants, all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements resulting in actual income;

(ii) The proceeds of business interruption or similar insurance;

(iii) Any payment received in consideration for the leasing or other use of any portion of the Property;

(iv) Subject to the rights of Senior Lenders, the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Property (or applied toward the cost of recovering such proceeds);

(v) Subject to the rights of Senior Lenders, condemnation awards for a taking of part or all of the Property for a temporary period; and

(vi) Gross Revenue shall exclude tenants' security deposits, loan proceeds, capital contributions or other similar advances."

2. **Effective Date.** This Modification Agreement and amendments and deletions described in this Modification Agreement shall be effective as of the date first set forth above.

3. **Full Force and Effect.** Except as set forth in the Assignment and this Modification Agreement, the Loan Documents remain unmodified and are in full force and effect.

4. **Successors and Assigns.** This Modification Agreement shall be binding on and inure to the benefit of the legal representatives, heirs, successors and assigns of the parties.

5. **Invalidity.** Any provision of this Modification Agreement which is determined by a court to be invalid or unenforceable shall be deemed severed here from, and the remaining

provisions shall remain in full force and effect as if the invalid or unenforceable provision had not been a part hereof.

6. **California Law.** This Modification Agreement shall be governed by and construed in accordance with the laws of the State of California.

7. **Nonrecourse.** The Parties acknowledge and agree that the Loan is a nonrecourse obligation of the Borrower. Any partners, general or limited, of the Borrower shall not have any personal liability for repayment of the Loan and the sole recourse of the County will be the exercise of its rights against the Property and other security for the Loan.

8. **Counterparts.** This Modification Agreement may be signed by the different parties hereto in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day first above written.

BORROWER:

Inland Valley Housing Partners, L.P.,
a California limited partnership

By: Southern California Housing Development
Corporation of the Inland Empire,
a California nonprofit public benefit
corporation, its general partner

By: _____

Its: _____

Southern California Housing Development
Corporation of the Inland Empire,
a California nonprofit public benefit
corporation

By: _____

Its: _____

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

COUNTY:

SAN BERNARDINO COUNTY, a political subdivision of the State of California

By: _____
Dawn Rowe, Chair
Board of Supervisors

Date: _____

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE CHAIR
OF THE BOARD

Lynna Monell
Clerk of the Board of Supervisors of San Bernardino County

By: _____
Deputy

APPROVED AS TO LEGAL FORM:
TOM BUNTON
County Counsel

By: _____
Suzanne Bryant, Deputy County Counsel

Date: _____

STATE OF CALIFORNIA)
)
COUNTY OF SAN BERNARDINO)

On _____, before me, _____, Notary Public, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

STATE OF CALIFORNIA)
)
COUNTY OF SAN BERNARDINO)

On _____, before me, _____, Notary Public, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF RIALTO IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOT 1 OF TRACT NO. 18132, IN THE CITY OF RIALTO, AS SHOWN BY MAP RECORDED IN BOOK 332, PAGES 95 THROUGH 97, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA.
APN 0127-196-48-0-000

**EXHIBIT B
PROPOSED UNIT MIX AND AFFORDABILITY**

INCOME RESTRICTIONS	BEDROOM TYPE	AVERAGE SQUARE FEET	TOTAL NUMBER OF UNITS
EXTREMELY LOW INCOME (30% OF AMI)	2 BEDROOMS	795-866	11
	3 BEDROOMS	1106-1240	5
VERY LOW INCOME (40% OF AMI)	2 BEDROOMS	795-866	27
	3 BEDROOMS	1106-1240	12
VERY LOW INCOME (50% OF AMI)	2 BEDROOMS	795-866	36
	3 BEDROOMS	1106-1240	16
LOW-INCOME (60% OF AMI)	2 BEDROOMS	795-866	25
	3 BEDROOMS	1106-1240	18
2 - MANAGER UNITS	2 BEDROOMS	795-866	1
	3 BEDROOMS	1106-1240	1