



HOUSING AUTHORITY
COMMUNITY REDEVELOPMENT AGENCY STAFF
REPORT

DATE: November 19, 2008 NEW BUSINESS

SUBJECT: APPROVAL OF A MODIFICATION OF REGULATORY AGREEMENT, ASSIGNMENT AND ASSUMPTION OF LOAN DOCUMENTS, FREDDIE MAC RIDER TO THE REGULATORY AGREEMENT AND A SUBORDINATION AGREEMENT BY AND BETWEEN THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS AND CORPORATE FUND FOR HOUSING ("CFH"), d.b.a., LINC HOUSING CORPORATION OF LONG BEACH, CALIFORNIA TO ASSIGN THE AGREEMENT TO TAHQUITZ ASSOCIATES, LP, A CALIFORNIA LIMITED PARTNERSHIP AND BY THE HOUSING AUTHORITY OF THE CITY OF PALM SPRINGS AND CORPORATE FUND FOR HOUSING ("CFH"), d.b.a., LINC HOUSING CORPORATION OF LONG BEACH, CALIFORNIA TO ALLOW FOR THE TRANSFER OF THE PROPERTY TO A PARTNERSHIP THAT IS NOT A 501C(3) ORGANIZATION FOR THE TAHQUITZ COURT APARTMENTS AT 2800, 2890, 2900 and 2990 EAST TAHQUITZ CANYON WAY

FROM: David H. Ready, Executive Director

BY: Community & Economic Development Department

SUMMARY

The owners of the Tahquitz Court Apartments, Corporate Fund for Housing ("CFH"), d.b.a., LINC Housing Corporation of Long Beach, CA ("LINC") intended to apply for tax-exempt bonds and California 4% Low Income Housing Tax Credits for the refinancing, rehabilitation and construction of a new 2,800 s.f. community room at the property. This financing was intended to update and modernize the apartment complex, as well as incorporate energy-efficiency improvements, at a hard cost of approximately \$50,000 per unit. This project retains and upgrades 107 affordable housing units as rent- and income-restricted units, plus one unit reserved for the complex's management office.

Based on the request in 2005 from LINC and analysis by Staff, the Agency approved a resolution committing gap financing that would be paid out by the Agency over 10 years,

ITEM NO. BA2

not to exceed \$2,800,000 paid over that period of time. A new Owner Participation Agreement was to follow once the project had received the commitment of bond- and tax-credit financing. Since all of the units were and continue to be restricted to low- and very-low income residents, the Agency per-unit subsidy was proposed to be about \$26,000.

In the end, LINC was unable to obtain State financing for several technical reasons. One solution was to sell the property to a friendly non-profit and then collaborate on an application, but negotiations with several affordable non-profits failed. This year, LINC opted to market the property for sale and is under contract with RM Properties. Together they would form Tahquitz Associates, LP, with LINC as a managing general partner and RM as the limited partner and majority owner. There is no financing request before the Agency or Housing Authority; the only request is to assign the previous Agreements to the new partnership, which is not a non-profit.

RECOMMENDATION:

COMMUNITY REDEVELOPMENT AGENCY RECOMMENDATION:

1. Adopt Resolution No. _____, "A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING 1) A MODIFICATION OF REGULATORY AGREEMENT; 2) ASSIGNMENT AND ASSUMPTION OF LOAN DOCUMENTS; 3) FREDDIE MAC RIDER TO THE REGULATORY AGREEMENT; AND, 4) A SUBORDINATION AGREEMENT BY AND BETWEEN THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS AND CORPORATE FUND FOR HOUSING ("CFH"), d.b.a., LINC HOUSING CORPORATION OF LONG BEACH, CALIFORNIA TO ASSIGN THE AGREEMENT TO TAHQUITZ ASSOCIATES, LP, A CALIFORNIA LIMITED PARTNERSHIP FOR THE TAHQUITZ COURT APARTMENTS AT 2800, 2890, 2900 and 2990 EAST TAHQUITZ CANYON WAY;

HOUSING AUTHORITY RECOMMENDATION:

2. Adopt Resolution No. _____, "A RESOLUTION OF THE HOUSING AUTHORITY OF THE CITY OF PALM SPRINGS, CALIFORNIA APPROVING AN AMENDMENT TO A REGULATORY AGREEMENT AND DECLARATION OF COVENANTS AND RESTRICTIONS BY AND BETWEEN THE HOUSING AUTHORITY OF THE CITY OF PALM SPRINGS AND CORPORATE FUND FOR HOUSING ("CFH"), d.b.a., LINC HOUSING CORPORATION OF LONG BEACH, CALIFORNIA TO ALLOW FOR THE TRANSFER OF THE PROPERTY TO A PARTNERSHIP THAT IS NOT A 501C(3) ORGANIZATION FOR THE TAHQUITZ COURT APARTMENTS AT 2800, 2890, 2900 and 2990 EAST TAHQUITZ CANYON WAY;

3. Authorize the Executive Director to execute all the documents related to the Amendments.

STAFF ANALYSIS:

Tahquitz Court is a 108-unit garden-style family apartment project situated on approximately 5.4 acres, comprised of a campus of 10 buildings, each a two-story walk-up of wood frame, slab-on-grade construction. The project is located on Tahquitz Canyon Way adjacent to City Hall and is a short walking distance to personal services, public transportation, schools and shopping. It consists of 17 one bedroom/one bath units of approximately 700 square feet, 37 two bedroom/1.5 bath units of approximately 864 square feet, 38 two bedroom/2 bath units of approximately 1,089 square feet, and 16 three bedroom/2 bath units of approximately 1,390 square feet. The complex features two swimming pools, two spas, central laundry facilities, and covered parking. Individual units feature central heat and air conditioning, dishwashers, double sinks with garbage disposals, breakfast bars, separate linen closets and private balconies or patios.

In 1993, LINC's predecessor, Corporate Fund for Housing (CFH), a California 501(c)(3) non-profit public benefit corporation, acquired the property from Redlands Federal Bank (now CitiBank) which itself acquired the property through foreclosure in 1992. Originally constructed circa 1963, through the 1980's Tahquitz Court had fallen into disrepair in the hands of previous owners who operated it as a market-rate project with no subsidized or designated affordable units.

CFH carried out minor rehab, added affordability restrictions that range from 40% AMI to 60% AMI, and has owned the property since that time. CFH has determined that the property needs to be rehabbed and began the process of selling it to a tax credit partnership with LINC as the general partner.

On February 3, 1993, the Housing Authority of the City of Palm Springs adopted Inducement Resolution No. 26 expressing its intent to issue tax-exempt bond financing for the acquisition and rehabilitation of the Tahquitz Court Apartments, formerly the San Carlos Apartments.

The Housing Authority-backed bonds have been repaid through a refinancing of the project, in 2005.

In August 1993, the Community Redevelopment Agency of the City of Palm Springs also approved Resolution 894 and 894A authorizing a \$590,000 grant and transferring Housing Set-Aside funds for the purpose of rehabilitation costs and bond issuance costs.

In conjunction with CFH's acquisition of Tahquitz Court in September 1993, a substantial rehabilitation program under Redlands' ownership was completed. CFH was then able to reposition the property by lowering rents to attract and retain low- and

very low-income families. This project aided the City in meeting its' Regional Housing Needs Assessment (RHNA) numbers for very low, low and moderate income housing of 325 units between 1989 and 1994. Fifteen (15) years remain of the initial 30-year affordability condition as regulated in the August 1993 Regulatory Agreement.

While Tahquitz Court continues to serve the needs of low-to-moderate income individuals and families in Palm Springs, in 2005 LINC saw an opportunity to improve the project and thus the living standards of its residents. Using a combination of low-income housing tax credits through the California Tax Credit Allocation Committee (TCAC) and tax-exempt bond financing through the California Debt Limit Allocation Committee (CDLAC) LINC Housing proposed to embark on a \$16 million refinancing and rehabilitation program designed to update and modernize the units, as well as incorporating energy-efficiency improvements, and to ensure affordable housing choice for the long term.

In 2006, however, as LINC prepared to submit an Multi-family Housing Program (MHP) funding application to the State of California's Department of Housing and Community Development (HCD) a fundamental problem arose: HCD would consider the proposed sale of Tahquitz Court to a tax credit partnership with LINC Housing acting as the general partner as a "cash out refinancing," of the project, even though CFH would carry back a \$3 million seller's note. HCD determined that Corporate Fund for Housing and LINC share offices and staff and have overlapping Boards of Directors and despite the fact that there is no legal connection between the two, HCD concluded that they were related entities and this type of transaction between the two non-profits is prohibited by HCD regulations, even though the sales price was based upon an appraisal. Without the MHP funding, neither CFH nor LINC were able to complete the required rehabilitation of the 40+ year old Tahquitz Court that would include major improvements throughout the property and cost in excess of \$10 million.

LINC attempted for over a year to work with HCD to structure a transaction that would be eligible for MHP funding. HCD staff rejected the argument that a tax credit partnership, not LINC, would own Tahquitz Court Apartments after the sale. HCD staff has also rejected the idea that CFH and LINC could resolve the "related entities" issue by restructuring the CFH Board of Directors. Their belief is that once "tainted" always "tainted".

The only sale of Tahquitz Court Apartments from CFH to a LINC partnership that HCD would approve required that CFH sell the property to a LINC partnership for the lesser of the original purchase price or the current appraised value. CFH's purchase price in 1993 was approximately \$4.1 million. The 2005 appraised value was approximately \$8 million. This approach, however, would exclude the difference between the 1993 price and the 2005 value from the "sources and uses," did not generate sufficient funding to complete the necessary rehabilitation. Further, this alternative might be in conflict with federal or state requirements that preclude non-profits from selling property to for-profit entities at less than market value. (Even though the general partner is a non-profit, a tax

credit partnership is considered a for-profit entity because the investor is a for-profit corporation.)

CFH believed its only alternative was to sell the property either to another nonprofit that would carry out the same sort of rehab as would LINC or on the open market. However, a sale to a non-profit doing the same rehab would still require CFH to carry back approximately \$3 million and CFH only willing would do this for a development in which LINC had an active and ongoing role.

Alternatively, they could choose to sell on the open market, likely to a for-profit owner who could put down enough equity to eliminate the need for seller carryback. Earlier this summer, LINC listed the property for sale, and are now under contract with an apartment owner, Rocky Mountain Properties. The sale to Tahquitz Associates, LP, with Rocky Mountain Properties of Utah as the majority owner, will not result in additional affordability. However, the request is only to allow the partnership to purchase the property and not for any additional Agency funds.

RM Properties is not an affordable housing developer but is willing to purchase this property subject to the existing covenants. The parties are hoping to close on the sale in November but need the Regulatory Agreements to be modified to allow the sale to close.

The CRA Regulatory Agreement is still in place, with 15 years of affordability still left on it. The original covenants were 30 years.

The buyer has requested the Housing Authority and Community Redevelopment Agency to take several actions: (1) terminate the Housing Authority Regulatory Agreement in favor of the Agency Regulatory Agreement, since the City-backed financing is no longer in place and (2) amend the Agency Regulatory Agreement to change the name of the other party as well as remove the provision that requires the owner to be a 501c(3) organization, which LINC is but the new LP or LLC would not be.


Should the Agency enter a new Agreement to provide additional funds on the project, Redevelopment Law would require that a new 55 year affordability restriction be placed on the property. However, just changing the name and making a minor modification on the Regulatory Agreement, the existing commitment would remain for the next 15 years.

FISCAL IMPACT:

Finance Director Review:

There is no fiscal impact from either of these amendments.


John Raymond, Director
Community & Economic Development


David H. Ready, City Manager


Tom Wilson, Assistant City Manager

Attachment:

1. Agency Resolution
2. Housing Authority Resolution
3. MODIFICATION OF REGULATORY AGREEMENT
4. ASSIGNMENT AND ASSUMPTION OF LOAN DOCUMENTS
5. FREDDIE MAC RIDER TO THE REGULATORY AGREEMENT
6. SUBORDINATION AGREEMENT

RESOLUTION NO. _____

A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A MODIFICATION OF REGULATORY AGREEMENT, ASSIGNMENT AND ASSUMPTION OF LOAN DOCUMENTS, FREDDIE MAC RIDER TO THE REGULATORY AGREEMENT AND A SUBORDINATION AGREEMENT BY AND BETWEEN THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS AND CORPORATE FUND FOR HOUSING ("CFH"), d.b.a., LINC HOUSING CORPORATION OF LONG BEACH, CALIFORNIA TO ASSIGN THE AGREEMENT TO TAHQUITZ ASSOCIATES, LP, A CALIFORNIA LIMITED PARTNERSHIP FOR THE TAHQUITZ COURT APARTMENTS AT 2800, 2890, 2900 and 2990 EAST TAHQUITZ CANYON WAY A0501C

WHEREAS, the Community Redevelopment Agency of the City of Palm Springs (the "Agency") has established an affordable housing setaside fund in accordance with Section 33000 et. seq. of the California Health and Safety Code; and

WHEREAS, the Agency and the Developer entered into that certain Owner Participation Agreement ("OPA") with Corporate Fund for Housing ("CFH"), d.b.a., LINC Housing Corporation of Long Beach, California which provided for an Agency loan in combination with City-backed acquisition bonds for the Tahquitz Court Apartments at 2800, 2890, 2900, and 2990 East Tahquitz Canyon Way; and

WHEREAS, the Agency and the Owner now desire to approve, in accordance with the terms and conditions set forth in the Agreement, a Modification of Regulatory Agreement, Assignment and Assumption of Loan Documents, a Freddie Mac Rider to the Regulatory Agreement, and a Subordination Agreement.

NOW THEREFORE BE IT RESOLVED by the Community Redevelopment Agency of the City of Palm Springs, as follows:

SECTION 1. The above recitals are true and correct and incorporated herein.

SECTION 2. The Modification of Regulatory Agreement, Assignment and Assumption of Loan Documents, a Freddie Mac Rider to the Regulatory Agreement, and a Subordination Agreement are hereby approved and incorporated herein by this reference.

SECTION 3. The Executive Director, or his designee, is hereby authorized to execute on behalf of the Agency the documents necessary to the Agreement, and make minor changes as may be deemed necessary, in a form approved by Agency Counsel.

ADOPTED this _____ day of _____, 2008.

AYES:
NOES:
ABSENT:

COMMUNITY REDEVELOPMENT
AGENCY OF THE CITY OF PALM
SPRINGS, CALIFORNIA

Chairman

ATTEST:

James Thompson, Assistant Secretary

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

RESOLUTION NO. _____

A RESOLUTION OF THE HOUSING AUTHORITY OF THE CITY OF PALM SPRINGS, CALIFORNIA APPROVING AN AMENDMENT TO A REGULATORY AGREEMENT AND DECLARATION OF COVENANTS AND RESTRICTIONS BY AND BETWEEN THE HOUSING AUTHORITY OF THE CITY OF PALM SPRINGS AND CORPORATE FUND FOR HOUSING ("CFH"), d.b.a., LINC HOUSING CORPORATION OF LONG BEACH, CALIFORNIA TO ALLOW FOR THE TRANSFER OF THE PROPERTY TO A PARTNERSHIP THAT IS NOT A 501C(3) ORGANIZATION FOR THE TAHQUITZ COURT APARTMENTS AT 2800, 2890, 2900 and 2990 EAST TAHQUITZ CANYON WAY A0501C

WHEREAS, on February 3, 1993, the Housing Authority of the City of Palm Springs adopted Inducement Resolution No. 26 expressing its intent to issue tax-exempt bond financing on behalf of Corporate Fund for Housing ("Owner") for the acquisition and rehabilitation of the Tahquitz Court Apartments, formerly the San Carlos Apartments; and

WHEREAS, the Housing Authority-backed bonds have been repaid through a refinancing of the project, in 2005; and

WHEREAS, in conjunction with the Housing Authority action, the Community Redevelopment Agency and the Owner entered into that certain Owner Participation Agreement ("OPA") with Corporate Fund for Housing d.b.a., LINC Housing Corporation of Long Beach, California which provided for an Agency loan in combination with City-backed acquisition bonds for the Tahquitz Court Apartments at 2800, 2890, 2900, and 2990 East Tahquitz Canyon Way; and

The buyer has requested the Housing Authority and Community Redevelopment Agency to take several actions: (1) terminate the Housing Authority Regulatory Agreement in favor of the Agency Regulatory Agreement, since the City-backed financing is no longer in place and as well as remove the provision that requires the owner to be a 501c(3) organization, which LINC is but the new LP or LLC would not be (2) amend the Agency Regulatory Agreement to change the name of the other party; and

WHEREAS, the Housing Authority and the Owner now desire to approve an Amendment to the Regulatory Agreement in accordance with the terms and conditions set forth in the Agreement to change the name of the other party and to remove the provision that requires the owner to be a 501c(3) organization.

NOW THEREFORE BE IT RESOLVED by the Housing Authority of the City of Palm Springs, as follows:

SECTION 1. The above recitals are true and correct and incorporated herein.

SECTION 2. The Amendment is hereby approved and incorporated herein by this reference.

SECTION 3. The Executive Director, or his designee, is hereby authorized to execute on behalf of the Housing Authority the documents necessary to the Amendment, and make minor changes as may be deemed necessary, in a form approved by the City Attorney.

ADOPTED this _____ day of _____, 2008.

AYES:
NOES:
ABSENT:

HOUSING AUTHORITY OF THE CITY
OF PALM SPRINGS, CALIFORNIA

Chairman

ATTEST:

James Thompson, Assistant Secretary

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this "**Agreement**") is entered into this day of _____, 2008, by and between (i) **CAPMARK BANK**, a Utah industrial bank (the "**Senior Mortgagee**"), and (ii) **THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS CALIFORNIA**, a public body corporate and politic (the "**Subordinate Mortgagee**").

RECITALS

- A. Tahquitz Associates, LP, a California limited partnership (the "**Borrower**") is the owner of certain land located in Riverside County, California, described in Exhibit A hereto (the "**Land**"). The Land is currently improved with a multifamily housing project (the "**Improvements**").
- B. The Senior Mortgagee is making a loan to the Borrower in the original principal amount of \$4,839,000.00. The loan will be secured by a Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated _____, 2008 (the "**Senior Mortgage**") encumbering the Land and Improvements and other "**Mortgaged Property**" (as defined in the Senior Mortgage).
- C. The Subordinate Mortgagee has made a loan to the Borrower in the original principal amount of \$590,000.00. The loan is secured by a Deed of Trust With Assignment of Rents, Security Agreement and Fixture Filing dated September 28, 1993 (the "**Subordinate Mortgage**") encumbering the Land and Improvements.
- D. The Senior Mortgage is recorded in the land records of Riverside County, California ("**Recording Office**") of even date herewith and prior hereto. The Subordinate Mortgage is recorded in the Recording Office as Document Number 382201.
- E. The execution and delivery of this Agreement is a condition of Senior Mortgagee's making of the Senior Mortgage loan.

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

1. **DEFINITIONS.** The following terms, when used in this Agreement (including, as appropriate, when used in the above recitals), shall have the following meanings.
 - (a) The terms "**Condemnation**", "**Impositions**", "**Leases**", "**Rents**", "**Restoration**" and "**Transfer**", as well as any term used in this Agreement and not otherwise defined in this Agreement, shall have the meanings given to those terms in the Senior Mortgage.
 - (b) "**Bankruptcy Proceeding**" means any bankruptcy, reorganization, insolvency, composition, restructuring, dissolution, liquidation, receivership, assignment for the benefit of creditors, or custodianship action or proceeding under any federal or state law with respect to the Borrower, any guarantor of any of the Senior Indebtedness, any of their respective properties, or any of their respective partners, members, officers, directors, or shareholders.

- (c) **"Borrower"** means all persons or entities identified as "Borrower" in the first paragraph of this Agreement, together with their successors and assigns, and any other person or entity who acquires title to the Land and Improvements after the date of this Agreement; provided that the term "Borrower" shall not include the Senior Mortgagee in the event that the Senior Mortgagee may acquire title to the Land and Improvements.
- (d) **"Casualty"** means the occurrence of damage to or loss of any of the Mortgaged Property by fire or other casualty.
- (e) **"Enforcement Action"** means the acceleration of all or any part of the Subordinate Indebtedness, the advertising of or commencement of any foreclosure or trustee's sale proceedings, the exercise of any power of sale, the acceptance of a deed or assignment in lieu of foreclosure or sale, the collecting of Rents, the obtaining of or seeking of the appointment of a receiver, the seeking of default interest, the taking of possession or control of any of the Mortgaged Property, the commencement of any suit or other legal, administrative, or arbitration proceeding based upon the Subordinate Note or any other of the Subordinate Loan Documents, the exercising of any banker's lien or rights of set-off or recoupment, or the taking of any other enforcement action against the Borrower, any other party liable for any of the Subordinate Indebtedness or obligated under any of the Subordinate Loan Documents, or the Mortgaged Property.
- (f) **"Enforcement Action Notice"** means a written notice from the Subordinate Mortgagee to the Senior Mortgagee, given following a Subordinate Mortgage Default and the expiration of any notice or cure periods provided for such Subordinate Mortgage Default in the Subordinate Loan Documents, setting forth in reasonable detail the Enforcement Action proposed to be taken by the Subordinate Mortgagee.
- (g) **"Loss Proceeds"** means all monies received or to be received under any insurance policy, from any condemning authority, or from any other source, as a result of any Condemnation or Casualty.
- (h) **"Senior Indebtedness"** means the "Indebtedness" as defined in the Senior Mortgage.
- (i) **"Senior Loan Documents"** means the "Loan Documents" as defined in the Senior Mortgage.
- (j) **"Senior Mortgage Default"** means any act, failure to act, event, condition, or occurrence which constitutes, or which with the giving of notice or the passage of time, or both, would constitute, an "Event of Default" as defined in the Senior Mortgage.
- (k) **"Senior Mortgagee"** means the "Lender" as defined in the Senior Mortgage. When any other person or entity becomes the legal holder of the "Note" (as defined in the Senior Mortgage), such other person or entity automatically shall become the Senior Mortgagee.

- (l) **“Subordinate Indebtedness”** means all sums evidenced or secured or guaranteed by, or otherwise due and payable to the Subordinate Mortgagee pursuant to, the Subordinate Loan Documents.
- (m) **“Subordinate Loan Documents”** means the Subordinate Mortgage, the promissory note or other evidence of the Subordinate Indebtedness referred to in the Subordinate Mortgage and any replacement thereof (the **“Subordinate Note”**), the Regulatory Agreement and Declaration of Covenants and Restrictions dated September 28, 1993 and recorded September 30, 1993 as Document Number 382201 in the Recording Office (the **“Regulatory Agreement”**) and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Subordinate Indebtedness, as the same may be amended from time to time.
- (n) **“Subordinate Mortgage Default”** means any act, failure to act, event, condition, or occurrence which allows (but for any contrary provision of this Agreement), or which with the giving of notice or the passage of time, or both, would allow (but for any contrary provision of this Agreement), the Subordinate Mortgagee to take an Enforcement Action.
- (o) **“Subordinate Mortgagee”** means the person or entity named as such in the first paragraph of this Agreement and any other person or entity who becomes the legal holder of the Subordinate Note after the date of this Agreement.

2. SUBORDINATION OF SUBORDINATE INDEBTEDNESS.

- (a) The Subordinate Indebtedness is and shall at all times continue to be subject and subordinate in right of payment to the prior payment in full of the Senior Indebtedness.
- (b) Until the occurrence of a Senior Mortgage Default, the Subordinate Mortgagee shall be entitled to retain for its own account all payments made on account of the principal of and interest on the Subordinate Indebtedness in accordance with the requirements of the Subordinate Loan Documents; provided no such payment is made more than ten (10) days in advance of the due date thereof. However, immediately upon the Subordinate Mortgagee’s receipt of notice or actual knowledge of a Senior Mortgage Default, the Subordinate Mortgagee will not accept any payments on account of the Subordinate Indebtedness, and the provisions of Section 2(c) of this Agreement shall apply. The Subordinate Mortgagee acknowledges that a Subordinate Mortgage Default constitutes a Senior Mortgage Default. Accordingly, upon the occurrence of a Subordinate Mortgage Default, the Subordinate Mortgagee shall be deemed to have actual knowledge of a Senior Mortgage Default.
- (c) If (i) the Subordinate Mortgagee receives any payment, property, or asset of any kind or in any form on account of the Subordinate Indebtedness (including, without limitation, any proceeds from any Enforcement Action) after a Senior Mortgage Default of which the Subordinate Mortgagee has actual knowledge or has been given notice, or (ii) the Subordinate Mortgagee receives, voluntarily or involuntarily, by operation

of law or otherwise, any payment, property, or asset in or in connection with any Bankruptcy Proceeding, such payment, property, or asset will be received and held in trust for the Senior Mortgagee. The Subordinate Mortgagee will promptly remit, in kind and properly endorsed as necessary, all such payments, properties, and assets to the Senior Mortgagee. The Senior Mortgagee shall apply any payment, asset, or property so received from the Subordinate Mortgagee to the Senior Indebtedness in such order, amount (with respect to any asset or property other than immediately available funds), and manner as the Senior Mortgagee shall determine in its sole and absolute discretion. The Subordinate Mortgagee hereby designates and appoints, irrevocably and coupled with an interest, the Senior Mortgagee (and all persons and entities designated by the Senior Mortgagee) as the Subordinate Mortgagee's true and lawful attorney-in-fact with power to endorse the name of the Subordinate Mortgagee upon any check or other instrument and to take any action necessary to collect any payment, property, or asset referred to in, or otherwise to effectuate the provisions of, this Section 2(c).

- (d) Without limiting the complete subordination of the Subordinate Indebtedness to the payment in full of the Senior Indebtedness, in any Bankruptcy Proceeding, upon any payment or distribution (whether in cash, property, securities, or otherwise) to creditors (i) the Senior Indebtedness shall first be paid in full in cash before the Subordinate Mortgagee shall be entitled to receive any payment or other distribution on account of or in respect of the Subordinate Indebtedness, and (ii) until all of the Senior Indebtedness is paid in full in cash, any payment or distribution to which the Subordinate Mortgagee would be entitled but for this Agreement (whether in cash, property, or other assets) shall be made to the Senior Mortgagee.
- (e) The subordination of the Subordinate Indebtedness shall continue in the event that any payment under the Senior Loan Documents (whether by or on behalf of the Borrower, as proceeds of security or enforcement of any right of set-off or otherwise) is for any reason repaid or returned to the Borrower or its insolvent estate, or avoided, set aside or required to be paid to the Borrower, a trustee, receiver or other similar party under any bankruptcy, insolvency, receivership or similar law. In such event, the Senior Indebtedness or part thereof originally intended to be satisfied shall be deemed to be reinstated and outstanding to the extent of any repayment, return, or other action, as if such payment on account of the Senior Indebtedness had not been made.

3. SUBORDINATION OF SUBORDINATE LOAN DOCUMENTS.

- (a) The Subordinate Mortgage and each of the other Subordinate Loan Documents are, and shall at all times remain, subject and subordinate in all respects to the liens, terms, covenants, conditions, operations, and effects of the Senior Mortgage and each of the other Senior Loan Documents.
- (b) The subordination of the Subordinate Loan Documents and of the Subordinate Indebtedness shall apply and continue notwithstanding (i) the actual date and time of execution, delivery, recording, filing or perfection

of the Senior Mortgage and other Senior Loan Documents and of the Subordinate Mortgage and other Subordinate Loan Documents, and (ii) the availability of any collateral to the Senior Mortgagee, including the availability of any collateral other than the Mortgaged Property.

- (c) By reason of, and without in any way limiting, the full subordination of the Subordinate Indebtedness and the Subordinate Loan Documents provided for in this Agreement, all rights and claims of the Subordinate Mortgagee under the Subordinate Mortgage or under the Subordinate Loan Documents in or to the Mortgaged Property or any portion thereof, the proceeds thereof, the Leases thereof, the Rents, issues and profits therefrom, and the Loss Proceeds payable with respect thereto, are expressly subject and subordinate in all respects to the rights and claims of the Senior Mortgagee under the Senior Loan Documents in and to the Mortgaged Property or any portion thereof, the proceeds thereof, the Leases thereof, the Rents, issues and profits therefrom, and the Loss Proceeds payable with respect thereto.
- (d) If the Subordinate Mortgagee, by indemnification, subrogation or otherwise, shall acquire any lien, estate, right or other interest in any of the Mortgaged Property, that lien, estate, right or other interest shall be fully subject and subordinate to the receipt by the Senior Mortgagee of payment in full of the Senior Indebtedness, and to the Senior Loan Documents, to the same extent as the Subordinate Indebtedness and the Subordinate Loan Documents are subordinate pursuant to this Agreement.
- (e) In confirmation, and not as a condition, of the subordination of the Subordinate Indebtedness and the Subordinate Loan Documents provided for in this Agreement, the Subordinate Lender shall place on or attach to the Subordinate Note the following notice, and shall provide the Senior Mortgagee with a copy of the Subordinate Note showing such notice:

“The right of the holder of this promissory note to payment of any of the indebtedness evidenced by this promissory note is and shall at all times be subordinate to the right of the holder of that certain Multifamily Note dated _____, 2008 from the maker of this promissory note to the order of Capmark Bank (the “**Senior Note**”), to payment in full of the indebtedness evidenced by the Senior Note. The foregoing subordination is pursuant to a Subordination Agreement dated _____, 2008, between Capmark Bank and the holder on the date of the Subordination Agreement of this promissory note.”

- (f) Notwithstanding any provisions of the Regulatory Agreement to the contrary, all provisions which require the consent of Subordinate Mortgagee to the sale or transfer of the Land or compliance with certain transfer criteria and requirements, assumption or transfer fees shall not apply to any transfer of the Land to Senior Mortgagee and/or a nominee thereof by foreclosure or deed in lieu of foreclosure, or to any third party purchaser from Senior Mortgagee and/or a nominee thereof at or subsequent to foreclosure or a deed in lieu of foreclosure.

4. ADDITIONAL REPRESENTATIONS AND COVENANTS.

- (a) The Subordinate Mortgagee represents and warrants that (i) the Subordinate Mortgagee is now the owner and holder of the Subordinate Loan Documents; (ii) the Subordinate Loan Documents are now in full force and effect; (c) the Subordinate Loan Documents have not been modified or amended; (iv) no Subordinate Mortgage Default has occurred, (v) the current principal balance of the Subordinate Indebtedness is \$ _____; (vi) no scheduled monthly payments under the Subordinate Note have been or will be prepaid; and (vii) none of the rights of the Subordinate Mortgagee under any of the Subordinate Loan Documents are subject to the rights of any third parties, by way of subrogation, indemnification or otherwise.
- (b) Without the prior written consent of the Senior Mortgagee in each instance, the Subordinate Mortgagee shall not (i) amend, modify, waive, extend, renew or replace any provision of any of the Subordinate Loan Documents, or (ii) pledge, assign, transfer, convey, or sell any interest in the Subordinate Indebtedness or any of the Subordinate Loan Documents; or (iii) accept any payment on account of the Subordinate Indebtedness other than a regularly scheduled payment of interest or principal and interest made not earlier than ten (10) days prior to the due date thereof, or as expressly authorized in Section 4(i); or (iv) take any action which has the effect of increasing the Subordinate Indebtedness, or (v) appear in, defend or bring any action to protect the Subordinate Lender's interest in the Mortgaged Property, or (vi) take any action concerning environmental matters affecting the Mortgaged Property.
- (c) The Subordinate Mortgagee shall deliver to the Senior Mortgagee a copy of each notice received or delivered by the Subordinate Mortgagee pursuant to the Subordinate Loan Documents or in connection with the Subordinate Indebtedness, simultaneously with the Subordinate Mortgagee's delivery or receipt of such notice. The Senior Mortgagee shall deliver to the Subordinate Mortgagee a copy of each notice of a Senior Mortgage Default delivered by the Senior Mortgagee, simultaneously with the Senior Mortgagee's delivery of such notice. Neither giving nor failing to give a notice to the Senior Mortgagee or Subordinate Mortgagee pursuant to this Section 4(c) shall affect the validity of any notice given by the Senior Mortgagee or Subordinate Mortgagee to the Borrower, as between the Borrower and such of the Senior Mortgagee or the Subordinate Mortgagee as provided the notice to the Borrower.
- (d) Without the prior written consent of the Senior Mortgagee in each instance, the Subordinate Mortgagee will not commence, or join with any other creditor in commencing, any Bankruptcy Proceeding. In the event of a Bankruptcy Proceeding, the Subordinate Mortgagee shall not vote affirmatively in favor of any plan of reorganization or liquidation unless the Senior Mortgagee has also voted affirmatively in favor of such plan. In the event of any Bankruptcy Proceeding, the Subordinate Mortgagee shall not contest the continued accrual of interest on the Senior Indebtedness, in accordance with and at the rates specified in the Senior Loan Documents,

both for periods before and for periods after the commencement of such Bankruptcy Proceedings.

- (e) Whenever the Subordinate Loan Documents give the Subordinate Mortgagee approval or consent rights with respect to any matter, and a right of approval or consent with regard to the same or substantially the same matter is also granted to the Senior Mortgagee pursuant to the Senior Loan Documents or otherwise, the Senior Mortgagee's approval or consent or failure to approve or consent, as the case may be, shall be binding on the Subordinate Mortgagee. None of the other provisions of this Section 4 are intended to be in any way in limitation of the provisions of this Section 4(c).
- (f) All requirements pertaining to insurance under the Subordinate Loan Documents (including requirements relating to amounts and types of coverages, deductibles and special endorsements) shall be deemed satisfied if the Borrower complies with the insurance requirements under the Senior Loan Documents. All original policies of insurance required pursuant to the Senior Loan Documents shall be held by the Senior Mortgagee. Nothing in this Section 4(f) shall preclude the Subordinate Mortgagee from requiring that it be named as a mortgagee and loss payee, as its interest may appear, under all policies of property damage insurance maintained by the Borrower with respect to the Mortgaged Property, provided such action does not affect the priority of payment of Proceeds, or that the Subordinate Mortgagee be named as an additional insured under all policies of liability insurance maintained by the Borrower with respect to the Mortgaged Property.
- (g) In the event of a Condemnation or a Casualty, the following provisions shall apply:
 - (i) the rights of the Subordinate Mortgagee (under the Subordinate Loan Documents or otherwise) to participate in any proceeding or action relating to a Condemnation or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Condemnation or a Casualty, shall be and remain subordinate in all respects to the Senior Mortgagee's rights under the Senior Loan Documents with respect thereto, and the Subordinate Mortgagee shall be bound by any settlement or adjustment of a claim resulting from a Condemnation or a Casualty made by the Senior Mortgagee;
 - (ii) all Loss Proceeds shall be applied either to payment of the costs and expenses of Restoration or to payment on account of the Senior Indebtedness, as and in the manner determined by the Senior Mortgagee in its sole discretion;
 - (iii) in the event the Senior Mortgagee applies or releases Loss Proceeds for the purposes of Restoration of the Mortgaged Property, the Subordinate Mortgagee shall release for such purpose all of its right, title and interest, if any, in and to such Loss Proceeds. If the Senior Mortgagee holds Loss Proceeds, or monitors the disbursement thereof, the Subordinate Mortgagee

shall not do so. Nothing contained in this Agreement shall be deemed to require the Senior Mortgagee to act for or on behalf of the Subordinate Mortgagee in connection with any Restoration or to hold or monitor any Loss Proceeds in trust for or otherwise on behalf of the Subordinate Mortgagee, and all or any Loss Proceeds may be commingled with any funds of the Senior Mortgagee; and

- (iv) if the Senior Mortgagee elects to apply Loss Proceeds to payment on account of the Senior Indebtedness, and if the application of such Loss Proceeds results in the payment in full of the entire Senior Indebtedness, any remaining Loss Proceeds held by the Senior Mortgagee shall be paid to the Subordinate Mortgagee unless another party has asserted a claim to the remaining Loss Proceeds.
- (h) The Subordinate Mortgagee shall enter into recognition and non-disturbance agreements with any tenants under commercial or retail Leases to whom the Senior Mortgagee has granted recognition and non-disturbance, on the same terms and conditions given by the Senior Mortgagee.
- (i) Except as provided in this Section 4(i), and regardless of any contrary provision in the Subordinate Loan Documents, the Subordinate Mortgagee shall not collect payments for the purpose of escrowing for any cost or expense related to the Mortgaged Property or for any portion of the Subordinate Indebtedness. However, if the Senior Mortgagee is not collecting escrow payments for one or more Impositions (as defined in the Senior Mortgage), the Subordinate Mortgagee may collect escrow payments for such Impositions; provided that all payments so collected by the Subordinate Mortgagee shall be held in trust by the Subordinate Mortgagee to be applied only to the payment of such Impositions.
- (j) Within ten (10) days after request by the Senior Mortgagee, the Subordinate Mortgagee shall furnish the Senior Mortgagee with a statement, duly acknowledged and certified setting forth the then-current amount and terms of the Subordinate Indebtedness, that there exists no default under the Subordinate Loan Documents (or describing any default that does exist), and such other information with respect to the Subordinate Indebtedness as the Senior Mortgagee may request.
- (k) The Senior Mortgagee may waive, postpone, extend, reduce or otherwise modify any provisions of the Senior Loan Documents without the necessity of obtaining the consent of or providing notice to the Subordinate Mortgagee, and without affecting any of the provisions of this Agreement. Notwithstanding the forgoing, Senior Mortgagee may not modify any provisions of the Senior Loan Documents that increases the Senior Indebtedness, except for increases in the Senior Indebtedness that results from advances made by Senior Mortgagee to protect the security or lien priority of Senior Mortgagee under the Senior Loan Documents or to cure defaults under the Subordinate Loan Documents.

5. DEFAULT UNDER LOAN DOCUMENTS.

- (a) For a period of ninety (90) days following delivery of an Enforcement Action Notice given by the Subordinate Mortgagee as a consequence of the Subordinate Mortgage Default, the Senior Mortgagee shall have the right to cure any Subordinate Mortgage Default, provided if such Subordinate Mortgage Default is not capable of being cured within such ninety (90) days period and Senior Mortgagee has commenced and is diligently pursuing such cure to completion, such additional period of time as may be required to cure such Subordinate Mortgage Default or until such time, if ever, as the Senior Mortgagee's delivery to the Subordinate Mortgagee of written consent to an Enforcement Action described in an Enforcement Action Notice given by the Subordinate Mortgagee as a consequence of the Subordinate Mortgage Default. The Senior Mortgagee shall not have any obligation whatsoever to cure any Subordinate Mortgage Default. The Senior Mortgagee shall not be subrogated to the rights of the Subordinate Mortgagee under the Subordinate Loan Documents by reason of the Senior Mortgagee having cured any Subordinate Mortgage Default. However, the Subordinate Mortgagee acknowledges that all amounts advanced or expended by the Senior Mortgagee in accordance with the Senior Loan Documents to cure a Subordinate Mortgage Default shall be added to and become a part of the Senior Indebtedness under Section 12 of the Senior Mortgage and shall be secured by the lien of, the Senior Mortgage.
- (b) The Senior Mortgagee shall deliver to the Subordinate Mortgagee a notice within five business days in each case where the Senior Mortgagee has given notice to the Borrower of a Senior Mortgage Default. Failure of the Senior Mortgagee to send notice to the Subordinate Mortgagee shall not prevent the exercise of the Senior Mortgagee's rights and remedies under the Senior Mortgage Documents, subject to the provisions of this Agreement. The Subordinate Mortgagee shall have the right, but not the obligation, to cure any such Senior Mortgage Default within 30 days following the date of such notice; provided, however, that the Senior Mortgagee shall be entitled during such 30-day period to continue to pursue its remedies under the Senior Mortgage Documents. Subordinate Mortgagee may have up to 90 days from the date of the notice to cure a non-monetary default if during such 90-day period Subordinate Mortgagee keeps current all payments required by the Senior Mortgage Documents. In the event that such a non-monetary default creates an unacceptable level of risk relative to the Mortgaged Property, or Senior Mortgagee's secured position relative to the Mortgaged Property, as determined by Senior Mortgagee in its sole discretion, then Senior Mortgagee may exercise during such 90-day period all available rights and remedies to protect and preserve the Mortgaged Property and the rents, revenues and other proceeds from the Mortgaged Property. All amounts paid by the Subordinate Mortgagee to the Senior Mortgagee to cure a Senior Mortgage Default shall be deemed to have been advanced by the Subordinate Mortgagee pursuant to, and shall be secured by the lien of, the Subordinate Mortgage.
- (c) In the event of a Subordinate Mortgage Default, the Subordinate Mortgagee will not commence any Enforcement Action until after the expiration of a period of ninety (90) days after the Subordinate Mortgagee

has given the Senior Mortgagee an Enforcement Action Notice with respect to such Enforcement Action, provided that during such 90 day period, the Subordinate Mortgagee shall be entitled to seek specific performance to enforce covenants and agreements of the Borrower relating to income, rent, or affordability restrictions contained in the Regulatory Agreement subject to Senior Mortgagee's right to cure a Subordinate Mortgage Default set forth in Section 5(a). The Subordinate Mortgagee may not commence any other Enforcement Action, including but not limited to any foreclosure action under the Subordinate Loan Documents, until the earlier of (A) the expiration of such ninety (90) day period or; (B) the delivery by Senior Mortgagee to the Subordinate Mortgagee of the Senior Mortgagee's written consent to such Enforcement Action by the Subordinate Mortgagee. The Subordinate Mortgagee acknowledges that the Senior Mortgagee may grant or refuse consent to the Subordinate Mortgagee's Enforcement Action in the Senior Mortgagee's sole and absolute discretion, and that such discretion may be exercised in an arbitrary manner. At the expiration of such ninety (90) day period, subject to Senior Mortgagee's right to cure set forth in Section 5(a), Subordinate Mortgagee may commence any Enforcement Action. Any Enforcement Action on the part of the Subordinate Mortgagee shall be subject to the provisions of this Agreement. The Subordinate Mortgagee acknowledges that the provisions of this Section 5(c) are fair and reasonable under the circumstances, that the Subordinate Mortgagee has received a substantial benefit from the Senior Mortgagee having granted its consent to the Subordinate Mortgagee, and that the Senior Mortgagee would not have granted such consent without the inclusion of these provisions in this Agreement.

- (d) The Senior Mortgagee may pursue all rights and remedies available to it under the Senior Loan Documents, at law, or in equity, regardless of any Enforcement Action Notice or Enforcement Action by the Subordinate Mortgagee. No action or failure to act on the part of the Senior Mortgagee in the event of a Subordinate Mortgage Default or commencement of an Enforcement Action shall constitute a waiver on the part of the Senior Mortgagee of any provision of the Senior Loan Documents or this Agreement.
- (e) In the event that the Enforcement Action taken by the Subordinate Mortgagee is the appointment of a receiver for any of the Mortgaged Property, all of the rents, issues, profits and proceeds collected by the receiver shall be paid and applied by the receiver solely to and for the benefit of the Senior Mortgagee until the Senior Indebtedness shall have been paid in full.
- (f) The Subordinate Mortgagee hereby expressly consents to and authorizes the release by the Senior Mortgagee of all or any portion of the Mortgaged Property from the lien, operation, and effect of the Senior Loan Documents. The Subordinate Mortgagee hereby expressly consents to and authorizes the release by the Senior Mortgagee of all or any portion of the Mortgaged Property from the lien, operation, and effect of the Senior Loan Documents. The Subordinate Mortgagee hereby waives to the fullest extent permitted by law, all equitable or other rights it may have (i) in connection with any release of any portion of the Mortgaged Property, (ii)

to require the separate sales of any portion of the Mortgaged Property or to require the Senior Mortgagee to exhaust its remedies against any portion of the Mortgaged Property or any combination of portions of the Mortgaged Property or any other collateral for the Senior Indebtedness, or (iii) to require the Senior Mortgagee to proceed against the Borrower, any other party that may be liable for any of the Senior Indebtedness (including any general partner of the Borrower if the Borrower is a partnership), any portion of the Mortgaged Property or combination of portions of the Mortgaged Property or any other collateral, before proceeding against all or such portions or combination of portions of the Mortgaged Property as the Senior Mortgagee determines. The Subordinate Mortgagee waives to the fullest extent permitted by law any and all benefits under California Civil Code Sections 2845, 2849 and 2850. The Subordinate Mortgagee hereby expressly consents to and authorizes, at the option of the Senior Mortgagee, the sale, either separately or together, of all or any portion of the Mortgaged Property. The Subordinate Mortgagee acknowledges that without notice to the Subordinate Mortgagee and without affecting any of the provisions of this Agreement, the Senior Mortgagee may (i) extend the time for or waive any payment or performance under the Senior Loan Documents; (ii) modify or amend in any respect any provision of the Senior Loan Documents; and (iii) modify, exchange, surrender, release and otherwise deal with any additional collateral for the Senior Indebtedness.

- (g) If any party other than the Borrower (including the Senior Mortgagee) acquires title to any of the Mortgaged Property pursuant to a foreclosure of, or trustee's sale or other exercise of any power of sale under, the Senior Mortgage conducted in accordance with applicable law, the lien, operation, and effect of the Subordinate Mortgage and other Subordinate Loan Documents automatically shall terminate with respect to such Mortgaged Property.

6. MISCELLANEOUS PROVISIONS

- (a) In the event of any conflict or inconsistency between the terms of the Subordinate Loan Documents and the terms of this Agreement, the terms of this Agreement shall control.
- (b) This Agreement shall be binding upon and shall inure to the benefit of the respective legal successors and assigns of the parties hereto.
- (c) This Agreement does not constitute an approval by the Senior Mortgagee of the terms of the Subordinate Loan Documents.
- (d) Each notice, request, demand, consent, approval or other communication (collectively, "notices", and singly, a "notice") which is required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if (i) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered), or (ii) sent by a national overnight courier service (such as FedEx) designating earliest available delivery (any notice so delivered shall be deemed to have been received on the next business day following receipt by the courier), or (c) sent by United States registered or certified mail, return receipt requested,

postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received on the date of delivery as confirmed by the return receipt), addressed to the respective parties as follows:

- (i) Notices intended for the Senior Mortgagee shall be addressed to the address set forth in the Senior Mortgage for notices to the Senior Mortgagee.
- (ii) Notices intended for the Subordinate Mortgagee shall be addressed to:

The Community Redevelopment Agency of the
City of Palm Springs
Attention: City Clerk
3200 E. Tahquitz Canyon Way
Palm Springs, California 92262
T: (760) 323-8204
F: (760) 322-8332

Any party, by notice given pursuant to this Section, may change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses, for its notices, but notice of a change of address shall only be effective upon receipt. Neither party shall refuse or reject delivery of any notice given in accordance with this Section.

- (c) Nothing herein or in any of the Senior Loan Documents or Subordinate Loan Documents shall be deemed to constitute the Senior Mortgagee as a joint venturer or partner of the Subordinate Mortgagee.
- (f) Upon notice from the Senior Mortgagee from time to time, the Subordinate Mortgagee shall execute and deliver such additional Instruments and documents, and shall take such actions, as are required by the Senior Mortgagee in order to further evidence or effectuate the provisions and intent of this Agreement.
- (g) This Agreement shall be governed by the laws of the State in which the Land is located.
- (h) If any one or more of the provisions contained in this Agreement, or any application thereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein, and any other application thereof, shall not in any way be affected or impaired thereby.
- (i) The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all of the Senior Indebtedness; provided that this Agreement shall be reinstated in the event any payment on account of the Senior Indebtedness is avoided, set aside, rescinded or repaid by the Senior Mortgagee as described in Section 2(e) hereof, (ii) the payment of all of the Subordinate Indebtedness other than by reason of payments which the Subordinate

Mortgagee is obligated to remit to the Senior Mortgagee pursuant to this Agreement, (iii) the acquisition by the Senior Mortgagee or by a third party purchaser, of title to the Land and Improvements pursuant to a foreclosure of, or trustee's sale or other exercise of a power of sale under, the Senior Mortgage; or (iv) without limiting the provisions of Section 5(d), the acquisition by the Subordinate Mortgagee, with the prior written consent of the Senior Mortgagee, of title to the Land and Improvements subject to the Senior Mortgage pursuant to a foreclosure, or a deed in lieu of foreclosure, of (or the exercise of a power of sale contained in) the Subordinate Mortgage.

- (j) No failure or delay on the part of any party hereto in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder.
- (k) Each party hereto acknowledges that in the event any party fails to comply with its obligations hereunder, the other parties shall have all rights available at law and in equity, including the right to obtain specific performance of the obligations of such defaulting party and injunctive relief.
- (l) No party other than the Senior Mortgagee and the Subordinate Mortgagee shall have any rights under, or be deemed a beneficiary of any of the provisions of, this Agreement.
- (m) No amendment, supplement, modification, waiver or termination of this Agreement shall be effective against any party unless such amendment, supplement, modification, waiver or termination is contained in a writing signed by such party.
- (n) This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[signature and acknowledgment pages follow]

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

SENIOR MORTGAGEE:

CAPMARK BANK, a Utah industrial bank


By: _____
Name:
Title:

SUBORDINATE MORTGAGEE:

**THE COMMUNITY REDEVELOPMENT
AGENCY OF THE CITY OF PALM
SPRINGS CALIFORNIA**, a public body
corporate and politic

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: 
Title: ~~City of Palm Springs~~ *Counsel*

CONSENT OF BORROWER

Borrower hereby acknowledges receipt of a copy of this Subordination Agreement, dated _____, 2008, by and between Capmark Bank and The Community Redevelopment Agency of the City of Palm Springs, California and consents to the agreement of the parties set forth herein.

BORROWER:

TAHQUITZ ASSOCIATES, LP, a California
limited partnership

By: _____
Name:
Title:

EXHIBIT A

DESCRIPTION OF THE PROPERTY

LOT 15 IN SECTION 13, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO MERIDIAN, AS PER MAP OF PALM VALLEY COLONY LANDS, IN THE CITY OF PALM SPRINGS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, RECORDED IN BOOK 14, PAGE 652 OF MAPS, SAN DIEGO COUNTY RECORDS.

EXCEPT THE PORTION LYING NORTH OF THE SOUTH LINE OF ENCHANTED HOMES UNIT NO. 1, RECORDED IN BOOK 34, PAGE 17 OF MAPS, RIVERSIDE COUNTY RECORDS.

SAID PROPERTY IS SHOWN ON RECORD OF SURVEY ENTITLED "RECORD OF SURVEY OF A PORTION OF LOT 1 OF SECTION 13, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO MERIDIAN, AS SHOWN BY MAP OF PALM VALLEY COLONY LANDS, AS RECORDED IN BOOK 14, PAGE 652 OF MAPS, SAN DIEGO COUNTY RECORDS" ON FILE IN BOOK 33, PAGE 77, RECORDS OF SURVEY, RIVERSIDE COUNTY RECORDS.

APN: 502-143-004-5

FREE RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City Clerk
City of Palm Springs
Box 2743
Palm Springs, CA 92263

MODIFICATION OF REGULATORY AGREEMENT

THIS MODIFICATION OF REGULATORY AGREEMENT ("Modification") is made this ____ day of November, 2008 by and among THE HOUSING AUTHORITY OF THE CITY OF PALM SPRINGS, a housing authority of the State of California duly organized and existing under the laws thereof ("Authority"), CORPORATE FUND FOR HOUSING, a California nonprofit public benefit corporation ("Owner"), and TAHQUITZ ASSOCIATES, LP, a California limited partnership ("Buyer").

RECITALS

A. Authority, Owner and Seattle-First National Bank, as trustee, are parties to that certain Regulatory Agreement and Declaration of Restrictive Covenants ("Regulatory Agreement") dated September 1, 1993, recorded September 30, 1993, in the Official Records of Riverside County, California as Instrument No. 382200, affecting certain real property of Owner located in the City of Palm Springs, County of Riverside, State of California more particularly described in Exhibit A attached hereto and incorporated herein by reference ("Property"). The Regulatory Agreement was executed in connection with the issuance of \$3,380,000.00 Housing Authority of the City of Palm Springs Multifamily Housing Mortgage Revenue Bonds (Tahquitz Court Apartments) ("Bonds"), and provides for certain terms, conditions, covenants and restrictions relating to a low income multi-family housing project located on the Property.

B. The Bonds have been redeemed and paid in full, and as of the date hereof no Bonds are outstanding.

C. Owner desires to transfer the Project (as defined in the Regulatory Agreement) to Buyer and obtain financing from Capmark Bank ("Lender") in the amount of \$4,839,000.00 ("Loan"). The Lender would not make the Loan without the Authority's consent to the transfer and modification of the Regulatory Agreement to incorporate the terms of the Freddie Mac Rider attached hereto.

D. Owner is a Qualifying Section 501(c)(3) Organization (as defined in the Regulatory Agreement), and Buyer's managing general partner is a Qualifying Section 501(c)(3) Organization.

E. The Authority has approved (i) the transfer of the Project to Buyer, (ii) modification of the Regulatory Agreement to permit ownership by a limited partnership with a managing general partner that is a Qualifying Section 501(c)(3) Organization and (iii) modification of the Regulatory Agreement to incorporate the terms of the Freddie Mac Rider attached hereto.

NOW, THEREFORE, Authority, Owner and Buyer declare, covenant and agree, in consideration of the mutual promises contained herein, and for other good and valuable consideration, as follows.

1. Pursuant to Section 15 of the Regulatory Agreement, the Authority has determined that the Owner is not in default under the Regulatory Agreement and that the continued operation of the Project by Buyer will comply with the provisions of the Regulatory Agreement. The Authority hereby consents to the transfer of Project from Owner to Buyer. Concurrently with the execution of this Modification, Owner and Buyer shall execute an assignment and assumption agreement in a form approved by the City Attorney and record it in the Official Records of Riverside County, California.

2. Section 15(iii) of the Regulatory Agreement shall be deleted in its entirety and replaced with the following:

“(iii) the purchaser or its assignee is a Qualifying Section 501(c)(3) Organization, or a limited partnership with a managing general partner that is a Qualifying Section 501(c)(3) Organization, and is willing and capable of complying with the terms and conditions of this Regulatory Agreement.”

3. Section 15(iv) of the Regulatory Agreement shall be amended by deleting “purchaser or assignee is a Qualified Section 501(c)(3) Organization” and replacing such text with “purchaser or assignee or its managing general partner is a Qualified Section 501(c)(3) Organization”.

4. The Regulatory Agreement is amended to incorporate the terms and conditions of the Freddie Mac Rider attached hereto.

5. Except as otherwise provided herein, the Regulatory Agreement shall be and remain unmodified and in full force and effect.

6. This Modification may be executed in any number of counterparts each of which shall be an original but all of which shall constitute one and the same document.

[SIGNATURES FOLLOW]

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

AUTHORITY:
ATTEST:

HOUSING AUTHORITY OF THE CITY
OF PALM SPRINGS

By: _____

By: _____
Its: _____

OWNER:
CORPORATE FUND FOR HOUSING, a
California nonprofit public benefit corporation

APPROVED AS TO FORM:

By: _____
Its: _____

By: *L. J. [Signature]*
Title: *PROPERTY MANAGER*

BUYER:

TAHQUITZ ASSOCIATES, LP, a
California limited partnership

By: LINC Housing Corporation, a California
nonprofit public benefit corporation, its
managing general partner

By: _____
Its: _____

By: Tahquitz Associates, LLC, a California
limited liability company, its co-general
partner

By: Dalton Hydro, LLC, a Vermont limited
liability company, its manager

By: SRC Corp., a _____
corporation, its manager

By: _____
Its: _____

ACKNOWLEDGMENT

State of California)
)ss.
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,
who 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.

Signature _____

(Seal)

State of California)
)ss.
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,
who 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.

Signature _____

(Seal)

State of California)

EXHIBIT A
LEGAL DESCRIPTION

FREDDIE MAC RIDER TO REGULATORY AGREEMENT

[to be attached]

FREDDIE MAC RIDER
REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS

THIS FREDDIE MAC RIDER TO REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS ("Rider"), executed as of _____, 2008 is deemed attached to and to form a part of the Regulatory Agreement and Declaration of Restrictive Covenants (the "**Regulatory Agreement**"), dated as of September 1, 1993[, as amended], by and between **TAHQUITZ ASSOCIATES, LP**, a California limited partnership, as successor to Corporate Fund For Housing, a California nonprofit public benefit corporation ("**Owner**"), its successors and assigns, and **THE HOUSING AUTHORITY OF THE CITY OF PALM SPRINGS**, a housing authority of the State of California ("**Authority**").

1. **Definitions.** All capitalized terms used in this Rider have the meanings given to those terms in the Regulatory Agreement.
2. **Applicability.** This Rider shall amend and supplement the Regulatory Agreement. In the event any provision of this Rider conflicts with the Regulatory Agreement, the Rider shall supersede the conflicting provision of the Regulatory Agreement. This Rider shall apply in spite of the fact that the covenants, reservations and restrictions of the Regulatory Agreement run with the land and shall be deemed applicable to any successor in interest to the Owner.
3. **Obligations Not Secured by the Project.** The payment and performance obligations of the Owner and any subsequent owner of the Project under the Regulatory Agreement shall not be secured by or constitute a security interest in the Project. The occurrence of an event of default under the Regulatory Agreement shall not defeat or render invalid the lien of the Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing executed by the Owner for the benefit of Capmark Bank ("**Capmark**"), dated as of _____, 2008 ("**Security Instrument**"), as assigned of even date therewith from Capmark to the Federal Home Loan Mortgage Corporation ("**Freddie Mac**"). For purposes of this Rider, Capmark and Freddie Mac, individually and together, are "Lender".
4. **Obligations Personal.** The Authority agrees that no owner of the Project (including Lender) subsequent to the Owner will be liable for, assume or take title to the Project subject to:
 - (a) any failure of any prior owner of the Project to perform or observe any representation or warranty, affirmative or negative covenant or other agreement or undertaking under the Regulatory Agreement; and
 - (b) the payment of any compensation or any accrued unpaid fees, costs, expenses or penalties otherwise owed by any prior owner of the Project under the Regulatory Agreement.

The Owner and each subsequent owner of the Project shall be responsible under the Regulatory Agreement only for its own acts and omissions occurring during the period of its ownership of the Project. All such liability and obligations shall be and remain personal to such person even after such person ceases to be the owner of the Project.

5. **Foreclosure/Deed in Lieu of Foreclosure.** All provisions of Section 15 of the Regulatory Agreement related to the sale or transfer of the Project which require the consent of the Authority or transfer agreements, compliance with Authority transferee criteria and requirements, opinion requirements, assumption fees, transfer fees, shall not apply to any transfer of title to the Project to Lender and/or a nominee thereof by foreclosure or deed in lieu of foreclosure or to any third party purchaser from Lender and/or a nominee thereof at or subsequent to foreclosure or deed in lieu of foreclosure, and there shall be no reversion of title to Owner by reason of any such transfer. Nothing contained in the Regulatory Agreement shall affect any provision of the Security Instrument or any of the other Loan Documents (as defined in Security Instrument) which requires the Owner to obtain the consent of Lender as a precondition to sale, transfer or other disposition of, or any direct or indirect interest in, the Project or of any direct or indirect interest in the Owner. No covenant obligating the Owner to obtain an agreement from any transferee to abide by all requirements and restrictions of the Regulatory Agreement shall apply to a transfer to Lender and/or a nominee thereof upon foreclosure or deed in lieu of foreclosure.

For purposes of Section 16 of the Regulatory Agreement, a foreclosure or delivery of a deed in lieu of foreclosure under the Security Instrument shall be deemed a foreclosure of the lien of the "Credit Bank" and "Project Mortgage" such that the terms of the Regulatory Agreement shall terminate and be of no further force and effect.

6. **Damage, Destruction or Condemnation of the Project.** In the event that the Project is damaged or destroyed or title to the Project, or any part thereof, is taken through the exercise or the threat of the exercise of the power of eminent domain, the Owner shall comply with all applicable requirements of the Security Instrument and the applicable requirements of the Security Instrument shall control over any conflicting provision of the Regulatory Agreement. In furtherance, and not in limitation of the foregoing, Lender shall have the sole right to determine, in accordance with the standards set forth in the Security Instrument, whether insurance or condemnation proceeds are to be applied to restore the Project (and to approve the plans and specifications in connection with any such restoration) or to prepay indebtedness.
7. **Regulatory Agreement Default.** Notwithstanding anything contained in the Regulatory Agreement to the contrary:
- a. The occurrence of an Event of Default under the Regulatory Agreement shall not defeat or render invalid the lien of the Security Instrument.
 - b. The occurrence of an Event of Default under the Regulatory Agreement shall not be or be deemed to be a default under the Loan Documents, except as may be otherwise specified in the Loan Documents.
8. **Rider Provisions Control.** The provisions of this Rider shall govern and control with respect to the matters set forth herein, regardless of whether, pursuant to Section 29 of the Regulatory Agreement, the rent and income restrictions of the "Agency Regulatory Agreement" defined in Section 29 control due to an inconsistency between the two Agreements.

IN WITNESS WHEREOF, this Rider has been duly executed and delivered by the Owner and the Authority as of the date first set forth above.

OWNER:

TAHQUITZ ASSOCIATES, LP, a California
limited partnership

By: _____
Name:
Title:

AUTHORITY:

**THE HOUSING AUTHORITY OF THE CITY
OF PALM SPRING**, a housing authority of the
State of California

By: _____
Name:
Title:

APPROVED AS TO FORM:

By: *[Signature]*
Title: *Attorney Counsel*

EXHIBIT A

DESCRIPTION OF THE PROPERTY

LOT 15 IN SECTION 13, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO MERIDIAN, AS PER MAP OF PALM VALLEY COLONY LANDS, IN THE CITY OF PALM SPRINGS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, RECORDED IN BOOK 14, PAGE 652 OF MAPS, SAN DIEGO COUNTY RECORDS.

EXCEPT THE PORTION LYING NORTH OF THE SOUTH LINE OF ENCHANTED HOMES UNIT NO. 1, RECORDED IN BOOK 34, PAGE 17 OF MAPS, RIVERSIDE COUNTY RECORDS.

SAID PROPERTY IS SHOWN ON RECORD OF SURVEY ENTITLED "RECORD OF SURVEY OF A PORTION OF LOT 1 OF SECTION 13, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO MERIDIAN, AS SHOWN BY MAP OF PALM VALLEY COLONY LANDS, AS RECORDED IN BOOK 14, PAGE 652 OF MAPS, SAN DIEGO COUNTY RECORDS" ON FILE IN BOOK 33, PAGE 77, RECORDS OF SURVEY, RIVERSIDE COUNTY RECORDS.

APN: 502-143-004-5

FREE RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City Clerk
City of Palm Springs
PO Box 2743
Palm Springs, CA 92263

ASSIGNMENT AND ASSUMPTION OF REGULATORY AGREEMENT

This ASSIGNMENT AND ASSUMPTION OF REGULATORY AGREEMENT (this "Agreement") is dated as of _____, 2008 ("Effective Date") between CORPORATE FUND FOR HOUSING, a California nonprofit public benefit corporation ("Assignor") and TAHQUITZ ASSOCIATES, L.P., a California limited partnership ("Assignee").

RECITALS

A. Assignor is the owner of certain real property located in the City of Palm Springs, County of Riverside, State of California, more particularly described in Exhibit A attached hereto and incorporated herein ("Property").

B. Assignor and the Housing Authority of the City of Palm Springs ("Authority") entered into a Regulatory Agreement and Declaration of Restrictive Covenants dated September 1, 1993, recorded September 30, 1993, in the Official Records of Riverside County, California as Instrument No. 382200 ("Original Regulatory Agreement"), which provides for certain terms, conditions, covenants and restrictions relating to a low income multi-family housing project located on the Property.

C. Assignor desires to transfer the Project (as defined in the Original Regulatory Agreement) to Assignee.

D. Concurrently with the execution of this Agreement, Assignor, Assignee and Authority are entering into a Modification of Regulatory Agreement dated as of the Effective Date ("Modification") to be recorded in the Official Records of Riverside County, California, which includes the consent of the Authority to the transfer the Project to Assignee. The Original Regulatory Agreement together with the Modification are referred to herein as the "Regulatory Agreement".

E. Assignor desires to assign the Regulatory Agreement to Assignee, and Assignee desires to accept such assignment and assume the obligations of Assignor under the Regulatory Agreement.

F. The Modification requires that the City Attorney of the City of Palm Springs approve the form of this Agreement.

AGREEMENT

NOW, THEREFORE, the parties mutually agree as follows:

1. Assignment of Assigned Assets. Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and obligations under all the Regulatory Agreement as of the Effective Date.
2. Acceptance of Assignment; Assumption of Obligations. Assignee hereby accepts the assignments set forth in Section 1 and hereby assumes, agrees and undertakes to perform all of the obligations, covenants and agreements of Assignor pursuant to the Regulatory Agreement arising from and after the Effective Date.
3. Representations. Assignor represents and warrants that it has not previously assigned, pledged, hypothecated or otherwise transferred any of its rights under the Regulatory Agreement.
4. Subsequent Agreements. Assignor and Assignee agree to enter into all additional documentation necessary to reflect or memorialize the assignments and assumptions described in this Agreement.
5. City Approval. Pursuant to Section 1 of the Modification, the City Attorney of the City of Palm Springs has approved the form of this Agreement.
6. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Assignment and Assumption of Regulatory Agreement as of the date first written above.

ASSIGNOR:

CORPORATE FUND FOR HOUSING, a
California nonprofit public benefit corporation

By: _____

Its: _____

ASSIGNEE:

TAHQUITZ ASSOCIATES, L.P., a
California limited partnership

By: LINC Housing Corporation, a California nonprofit
public benefit corporation, its managing general
partner

By: _____

Its: _____

By: Tahquitz Associates, LLC, a California limited
liability company, its co-general partner

By: Dalton Hydro, I.I.C, a Vermont limited liability
company, its manager

By: SRC Corp., a _____
corporation, its manager

By: _____

Its: _____

Approved as to Form:

By: _____
City Attorney, City of Palm Springs

ACKNOWLEDGMENT

State of California)
)ss.
County of _____)
On __ before me, _____
 (insert name and title of the officer)

personally appeared _____
who 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.

Signature _____

 (Seal)

State of California)
)ss.
County of _____)
On __ before me, _____
 (insert name and title of the officer)

personally appeared _____
who 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.

Signature _____

 (Seal)

State of California)
)ss.
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____
who 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.

Signature _____

(Seal)

EXHIBIT A

DESCRIPTION OF THE PROPERTY

LOT 15 IN SECTION 13, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO MERIDIAN, AS PER MAP OF PALM VALLEY COLONY LANDS, IN THE CITY OF PALM SPRINGS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, RECORDED IN BOOK 14, PAGE 652 OF MAPS, SAN DIEGO COUNTY RECORDS.

EXCEPT THE PORTION LYING NORTH OF THE SOUTH LINE OF ENCHANTED HOMES UNIT NO. 1, RECORDED IN BOOK 34, PAGE 17 OF MAPS, RIVERSIDE COUNTY RECORDS.

SAID PROPERTY IS SHOWN ON RECORD OF SURVEY ENTITLED "RECORD OF SURVEY OF A PORTION OF LOT 1 OF SECTION 13, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO MERIDIAN, AS SHOWN BY MAP OF PALM VALLEY COLONY LANDS, AS RECORDED IN BOOK 14, PAGE 652 OF MAPS, SAN DIEGO COUNTY RECORDS" ON FILE IN BOOK 33, PAGE 77, RECORDS OF SURVEY, RIVERSIDE COUNTY RECORDS.

APN: 502-143-004-5

FREE RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City Clerk
City of Palm Springs
PO Box 2743
Palm Springs, CA 92263

ASSIGNMENT AND ASSUMPTION OF LOAN DOCUMENTS

This ASSIGNMENT AND ASSUMPTION OF LOAN DOCUMENTS (this "Agreement") is effective as of _____, 2008 ("Effective Date") among CORPORATE FUND FOR HOUSING, a California nonprofit public benefit corporation ("Assignor"), TAHQUITZ ASSOCIATES, L.P., a California limited partnership ("Assignee"), and THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS, CALIFORNIA, a public body corporate and politic ("Agency").

RECITALS

A. Assignor is the owner of certain real property located in the City of Palm Springs, County of Riverside, State of California, more particularly described in Exhibit A attached hereto and incorporated herein ("Property").

B. Agency made a \$590,000 loan to Assignor (the "Loan"), as evidenced by a Promissory Note Secured by Deed of Trust dated September 28, 1993 ("Note").

C. Assignor and Agency entered into a Regulatory Agreement and Declaration of Restrictive Covenants dated September 28, 1993, recorded September 30, 1993, in the Official Records of Riverside County, California as Instrument No. 382201 ("Regulatory Agreement"), which provides for certain terms, conditions, covenants and restrictions relating to a low income multi-family housing project located on the Property.

D. The Loan is secured by a Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing dated September 28, 1993, recorded September 30, 1993, in the Official Records of Riverside County, California as Instrument No. 382205 ("Deed of Trust"). The Note, Regulatory Agreement Deed of Trust and all other documents evidencing or securing the Loan are referred to herein as the "Loan Documents".

E. Assignor desires to transfer the Project (as defined in the Loan Documents) to Assignee with the consent of Agency.

F. Assignor desires to assign the Loan Documents to Assignee, and Assignee desires to accept such assignment and assume the obligations of Assignor under the Loan Documents.

AGREEMENT

NOW, THEREFORE, the parties mutually agree as follows:

1. Assignment of Loan Documents. Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and obligations under all the Loan Documents as of the Effective Date.

2. Acceptance of Assignment; Assumption of Obligations. Assignee hereby accepts the assignments set forth in Section 1 and hereby assumes, agrees and undertakes to perform all of the obligations, covenants and agreements of Assignor pursuant to the Loan Documents arising from and after the Effective Date.

3. Agency Consent. Pursuant to Section 8 of the Note, Section 5.11(b) of the Deed of Trust and Section 6.2 of the Regulatory Agreement, Agency consents to the transfer of the Project and assignment of the Loan Documents to Assignee. Agency hereby releases Assignor from all obligations under the Loan Documents arising on or after the Effective Date.

4. Representations. Assignor hereby represents and warrants that it has not previously assigned, pledged, hypothecated or otherwise transferred any of its rights under the Loan Documents.

5. Subsequent Agreements. Assignor and Assignee agree to enter into all additional documentation necessary to reflect or memorialize the assignments and assumptions described in this Agreement.

6. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Assignment and Assumption of Loan Documents as of the date first written above.

ASSIGNOR:

CORPORATE FUND FOR HOUSING, a
California nonprofit public benefit corporation

By: _____
Its: _____

ASSIGNEE:

TAHQUITZ ASSOCIATES, L.P., a
California limited partnership

By: LINC Housing Corporation, a California nonprofit
public benefit corporation, its managing general
partner

By: _____
Its: _____

By: Tahquitz Associates, LLC, a California limited
liability company, its co-general partner

By: Dalton Hydro, LLC, a Vermont limited liability
company, its manager

By: SRC Corp., a _____
corporation, its manager

By: _____
Its: _____

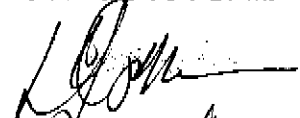
AGENCY:

ATTEST: THE COMMUNITY REDEVELOPMENT
AGENCY OF THE CITY OF PALM SPRINGS,
CALIFORNIA

By: _____

By: _____
Its: _____

APPROVED AS TO FORM:

By: 
Title: Henry Boushel

State of California)
)ss.
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,
who 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.

Signature _____

(Seal)

State of California)
)ss.
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,
who 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.

Signature _____

(Seal)

State of California)
)ss.
County of _____)

On _____ before me, _____
(inscrt name and title of the officer)

personally appeared _____,
who 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
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foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

State of California)
)ss.
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,
who 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/hcr/their authorized capacity(ies), and that by his/hcr/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.

Signature _____

(Seal)

EXHIBIT A

DESCRIPTION OF THE PROPERTY

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EXCEPT THE PORTION LYING NORTH OF THE SOUTH LINE OF ENCHANTED HOMES UNIT NO. 1, RECORDED IN BOOK 34, PAGE 17 OF MAPS, RIVERSIDE COUNTY RECORDS.

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APN: 502-143-004-5