

FIRST AMENDMENT OF DISPOSITION, DEVELOPMENT AND LOAN AGREEMENT  
(Heritage Point Apartments)

This First Amendment of Disposition, Development and Loan Agreement (the "First Amendment") is dated as of June \_\_\_\_\_, 2018, and is between the County of Contra Costa, a political subdivision of the State of California (the "County") and Heritage Point A/G, L.P., a California limited partnership, ("Borrower").

RECITALS

A. The County and Borrower entered into a Disposition, Development and Loan Agreement dated as of December 1, 2017 (the "DDLA") pursuant to which the County agreed to provide a loan to Borrower in the amount Five Million Eight Hundred Ninety Thousand Two Hundred Fifty-Four Dollars (\$5,890,254) (the "Original Loan"), to finance the construction of improvements on certain real property located in the County of Contra Costa. All capitalized terms used but not defined in this First Amendment have the meanings set forth in the DDLA.

B. The Original Loan is comprised of Two Million Nine Hundred Thousand Dollars (\$2,900,000) of CDBG Funds (the "CDBG Loan") and Two Million Nine Hundred Ninety Thousand Two Hundred Fifty-Four Dollars (\$2,990,254) of Affordable Housing Funds (the "Original Affordable Housing Funds Loan").

C. The Original Loan is evidenced by the following documents: (i) the DDLA; (ii) a Grand Deed dated December 1, 2017, by and between the County and Borrower, recorded against the Property on December 22, 2017 as instrument number 2017-241170; (iii) a Regulatory Agreement and Declaration of Restrictive Covenants dated December 1, 2017, by and between the County and Borrower, recorded against the Property on December 22, 2017 as instrument number 2017-241177; (iv) a Promissory Note dated December 1, 2017 and executed by Borrower for the benefit of the County in the amount of the Original Loan (the "Original Note"); (v) a Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing executed by Borrower for the benefit of the County, dated December 1 2017, recorded against the Property on December 22, 2017 as instrument number 2017-241178 and securing the Original Loan (the "Original Deed of Trust"); (vi) a Notice of Affordability Restrictions on Transfer of Property dated December 1, 2017, by and between the County and Borrower, recorded against the Property on December 22, 2017 as instrument number 2017-241179; and (vii) a Memorandum of DDLA dated December 1, 2017, by and between the County and Borrower, recorded against the Property on December 22, 2017 as instrument number 2017-241172 (the "Original Memorandum").

D. To address cost increases in the construction of the Improvements, Borrower desires to borrow from the County an additional Nine Hundred Ten Thousand Dollars (\$910,000) of Affordable Housing Funds (the "Additional Affordable Housing Funds") which, when combined with the Original Affordable Housing Funds Loan, results in a loan of Three Million Nine Hundred Thousand Two Hundred Fifty-Four Dollars (\$3,900,254) of Affordable Housing Funds (the "New Affordable Housing Funds Loan"). The New Affordable Housing

Funds Loan, when combined with the CDBG Loan results in a total loan amount of Six Million Eight Hundred Thousand Two Hundred Fifty-Four Dollars (\$6,800,254).

E. The County and Borrower now desire to amend the DDLA to reflect the increase in the amount of the Original Loan, and make related changes.

F. Concurrently with this First Amendment the County and Borrower will (i) amend and restate the Original Note in its entirety to reflect the changes in the Original Loan (the "Amended and Restated Note"); (ii) execute an amendment to the Original Deed of Trust to reflect the changes in the Original Loan (the "Deed of Trust Amendment"); and (iii) execute a memorandum of this First Amendment (the "Amendment Memorandum").

The parties therefore agree as follows:

## AGREEMENT

### 1. Amendment of Recitals - Loan Amount.

a. Affordable Housing Funds Loan. Recital P is deleted in its entirety and replaced with the following:

"P. Borrower desires to borrow from the County additional Affordable Housing Funds in the amount of Three Million Twenty-Three Thousand Fifty-Four Dollars (\$3,023,054), which when combined with the Predevelopment Loan results in a principal balance of Three Million Nine Hundred Thousand Two Hundred Fifty-Four Dollars (\$3,900,254) (the "Affordable Housing Funds Loan")."

b. Loan. Recital Q is deleted in its entirety and replaced with the following:

"Q. In furtherance of the CDBG Project Agreement and this Agreement the County is providing Borrower a loan in the amount of Six Million Eight Hundred Thousand Two Hundred Fifty-Four Dollars (\$6,800,254) (the "Loan"), comprised of the CDBG Loan and the Affordable Housing Funds Loan."

### 2. Amendment of Section 1.1 of DDLA - Definitions.

a. Agreement. Section 1.1(d) of the DDLA is deleted in its entirety and replaced with the following:

"(d) "Agreement" means this Disposition, Development, and Loan Agreement as amended by the First Amendment."

b. Approved Development Budget. Section 1.1(g) of the DDLA is deleted in its entirety and replaced with the following:

"(g) "Approved Development Budget" means the proforma development budget, including sources and uses of funds, as approved by the County, and attached hereto and incorporated herein as Exhibit B, as amended by the Updated Development Budget."

c. Deed of Trust. Section 1.1(dd) of the DDLA is deleted in its entirety and replaced with the following:

"(dd) "Deed of Trust" means the Deed of Trust with Assignment of Rents, Security Agreement, and Fixture Filing dated December 1, 2017, recorded against the Property on December 22, 2017 as instrument number 2017-241178, as amended by a First Amendment to Deed of Trust with Assignment of Rents, Security Agreement, and Fixture Filing executed by the County and Borrower, dated as of June \_\_\_\_, 2018, and to be recorded against the Property to secure repayment of the Loan and performance of the covenants of the County Documents."

d. Memorandum of DDLA. Section 1.1(bbb) of the DDLA is deleted in its entirety and replaced with the following:

"(bbb) "Memorandum of DDLA" means the Memorandum of Disposition, Development, and Loan Agreement dated December 1, 2017, recorded against the Property on December 22, 2017 as instrument number 2017-241172, as amended by a Memorandum of First Amendment to Disposition and Development Agreement executed by the County and Borrower, dated as of June \_\_\_\_, 2018, to be recorded against the Property."

e. Note. Section 1.1(eee) of the DDLA is deleted in its entirety and replaced with the following:

"(eee) "Note" means the First Amended and Restated Promissory Note dated as of June \_\_\_\_, 2018 that evidences Borrower's obligation to repay the Loan."

f. First Amendment. A new Section 1.1(jjjj) is added to the DDLA as follows:

"(jjjj) "First Amendment" means the First Amendment of Disposition, Development, and Loan Agreement executed by the County and Borrower, dated as of June \_\_\_\_, 2018, amending this Agreement."

g. Updated Development Budget. A new Section 1.1(kkkk) is added to the DDLA as follows:

"(kkkk) "Updated Development Budget" means the amendment to the Approved Development Budget attached to the First Amendment as Exhibit A and incorporated herein."

3. Amendment of Section 3.3 of DDLA – Use of Loan Funds. Section 3.3 of the DDLA is deleted in its entirety and replaced with the following:

"Section 3.3 Use of Loan Funds.

(a) The CDBG Loan may only be used for acquisition, closing costs, permits, fees, and construction costs, consistent with the Approved Development Budget.

(b) The Affordable Housing Fund Loan may only be used for construction and other development costs, consistent with the Approved Development Budget.

(c) Borrower may not use the Loan proceeds for any other purposes without the prior written consent of the County."

4. Updated Development Budget. Attached as Exhibit A to this First Amendment is an Updated Development Budget which amends the Approved Development Budget.

5. Conditions to Disbursement of Additional Affordable Housing Funds. The County is not obligated to make any disbursement of the Additional Affordable Housing Funds, or take any other action under the Loan Documents unless all of the following conditions precedent are satisfied:

a. The conditions set forth in Section 3.6 of the DDLA continue to be satisfied;

b. Borrower has executed this First Amendment, the Amended and Restated Note, the Deed of Trust Amendment, and the Amendment Memorandum;

c. The Deed of Trust Amendment and the Amendment Memorandum have been recorded against the Property in the Office of the Recorder of the County of Contra Costa;

d. Borrower has caused CHDC to execute an agreement reaffirming the subordination of the CHDC LC Loan and the Sponsor Loan to the Loan, (the "Subordination Agreement"), and the Subordination Agreement has been recorded against the Property in the Office of the Recorder of the County of Contra Costa; and

e. A title insurer reasonably acceptable to the County is unconditionally and irrevocably committed to issuing endorsement nos. 110.5 and 108.8 or equivalent, to the County's ALTA Lender's Policies of insurance insuring the continued priority of the Deed of Trust in the amount of the Loan.

6. Full Force and Effect. Except as set forth in this First Amendment, the DDLA remains unmodified and is in full force and effect.

7. Counterparts. This First Amendment may be signed by the different parties hereto in counterparts, each of which will be deemed an original but all of which together constitute one and the same agreement.

*(signatures on following page)*

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

**COUNTY:**

COUNTY OF CONTRA COSTA, a political subdivision of the State of California

By: \_\_\_\_\_

John Kopchik  
Director, Department of Conservation and Development

APPROVED AS TO FORM:

SHARON L. ANDERSON  
County Counsel

By: \_\_\_\_\_

Kathleen Andrus  
Deputy County Counsel

**BORROWER:**

Heritage Point A/G, L.P.,  
a California limited partnership

By: Heritage Point A/G LLC,  
a California limited liability company,  
its general partner

By: Community Housing Development Corporation of North Richmond, a California nonprofit public benefit corporation, its sole member/manager

By: \_\_\_\_\_

Donald Gilmore, Executive Director

EXHIBIT A  
Updated Development Budget