

**NO CHARGE ON THIS DOCUMENT
FOR THE BENEFIT OF
THE CITY OF SAN MARCOS**

Recording Requested By:

When Recorded Mail To:

Christensen & Spath LLP
401 West A Street, Suite 2250
San Diego, CA 92101

**AMENDMENT TO DEED OF TRUST
(Villa Serena II-Phase 2)**

THIS AMENDMENT TO DEED OF TRUST (“Amendment”) is dated as of the ___ day of _____, 2023, by Villa Serena Apartments Limited Partnership, a California limited partnership (“Trustor”), and the City of San Marcos acting solely in its capacity as the designated successor housing agency to the former Redevelopment Agency of the City of San Marcos (“Beneficiary”).

RECITALS

A. Trustor is the trustor with respect to that certain Deed of Trust, dated as of March 30, 2021, and recorded in the Office of the Recorder of the County of San Diego on March 30, 2021, as Document 2021-0248293 (“Deed of Trust”) in favor of the Beneficiary.

B. Concurrently with the execution and recordation of this Amendment, the Trustor and Beneficiary are increasing the principal amount of Note, as defined in the Deed of Trust. Therefore, Trustor, Trustee and the Beneficiary desire to amend the Deed of Trust as provided herein. In the event of any conflict between the Deed of Trust and this Amendment, this Amendment shall control.

NOW, THEREFORE, in furtherance of the recitals stated above and the mutual covenants set forth below, Trustor and the Beneficiary hereby amend the Deed of Trust, and agree, promise and declare as follows:

1. Restatement of Secured Obligation (a). Subsection (a) on page 1 of the Developer Deed of Trust, immediately following the words “**FOR THE PURPOSE OF SECURING:**” is hereby amended and restated in its entirety to provide:

(a) Payment of the indebtedness evidenced by that certain Promissory Note (Villa Serena II-SHA Loan-Phase 2) dated March 30, 2021, of even date herewith executed by Trustor, in the principal sum of \$10,727,4913,483,098.00, as amended by that certain Amendment to Promissory Note (Villa Serena II-Phase 2), dated June, 2021, and by that certain Second Amendment to Promissory Note (Villa

| Serena II-Phase 2) of even date herewith, and any renewal, extension, or modification of the promissory note (“Note”);

2. Confirmation of Obligations. Except to the extent modified by this Amendment, Trustor hereby confirms each of the covenants, agreements and obligations of Trustor set forth in the Deed of Trust.

3. General Provisions.

(a) Severability. If any provision of this Amendment is deemed to be invalid or unenforceable by a court of competent jurisdiction, that provision shall be severed from the rest of this Amendment and the remaining provisions shall continue in full force and effect.

(b) Recitals Incorporated. The Recitals to this Amendment are hereby incorporated into this Amendment by this reference.

(c) No Effect on Priority. The parties agree that this Amendment is not in any way intended to, and does not, affect any of the terms, conditions or priority of the Deed of Trust, or any other document executed in connection with any of the foregoing, nor enforcement of the same, except as specifically set forth herein.

(d) Counterparts. This Amendment may be executed in any number of counterparts and, as so executed, the counterparts shall constitute one and the same agreement. The parties agree that each such counterpart is an original and shall be binding upon all the parties, even though all of the parties are not signatories to the same counterpart.

(e) Capacity and Authority. All individuals signing this Amendment for a party which is a corporation, partnership, limited liability company or other legal entity, or signing under a power of attorney, or as a trustee, guardian, conservator, or in any other legal capacity, covenant to the Beneficiary that they have the necessary capacity and authority to act for, sign and bind the respective entity or principal on whose behalf they are signing.

TRUSTOR:

Villa Serena Apartments Limited Partnership, a California limited partnership

By: The Southern California Housing Development Corporation of Orange
Its: General Partner

By: _____
Print Name: _____
Its: _____

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

BENEFICIARY:

City of San Marcos in its capacity as the successor housing agency to the former San Marcos
Redevelopment Agency

By: _____
Michelle Bender, City Manager/Executive Director

APPROVED AS TO FORM:
Christensen & Spath LLP

By: _____
Walter F. Spath III, Esq.
Special Counsel to the Beneficiary

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of San Diego)

On _____, 2023, before me, _____, notary public, 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)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of San Diego)

On _____, 2023, before me, _____, notary public, 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)

**SECOND AMENDMENT TO
DEVELOPMENT AND LOAN AGREEMENT
(Villa Serena II-Phase 2)**

THIS SECOND AMENDMENT TO DEVELOPMENT AND LOAN AGREEMENT (“DLA Amendment”) is dated as of the ___ day of December, 2023, by Villa Serena Apartments Limited Partnership, a California limited partnership (“Developer”) and the City of San Marcos in its capacity as the successor housing agency to the former San Marcos Redevelopment Agency (“SHA”).

RECITALS

A. Developer and the SHA are all of the parties to that certain Development and Loan Agreement (Villa Serena II) dated as of July 9, 2019 (as amended by that certain First Amendment to Development and Loan Agreement (Villa Serena II) dated as of February 25, 2020, the “DLA”).

B. The Developer and the SHA have agreed to amend the DLA as set forth in this DLA Amendment. All terms not defined in this DLA Amendment shall have the meanings ascribed to them in the DLA.

NOW, THEREFORE, in furtherance of the recitals stated above and the mutual covenants set forth below, Developer and the SHA hereby amend the DLA, and agree, promise and declare as follows:

1. Refund of a Portion of Phase 1 Loan. The SHA made a loan to VS Phase 1 LP, a California limited partnership (“Phase 1 Developer”), in the original principal amount of \$9,867,129.00 (“Phase 1 Loan”), as evidenced by that certain Promissory Note (Villa Serena II-SHA Loan) dated March 30, 2021, made by the Phase 1 Developer in favor of the SHA. \$1,254,712.00 of the Phase 1 Loan is not needed for construction of Phase 1. Concurrently herewith, the Developer shall cause the Phase 1 Developer to refund and return \$1,254,712.00 of the Phase 1 Loan to the SHA.

2. Increased Phase 2 Loan. The SHA made a loan to the Developer, in the original principal amount of \$3,483,098.00 (“Phase 2 Loan”), as evidenced by that certain Promissory Note (Villa Serena II-Phase 2) dated March 30, 2021, made by Developer in favor of the SHA, which was amended by that certain Amendment to Promissory Note (Villa Serena II-Phase 2) dated June 1, 2021. The SHA and Developer hereby agree that the Phase 2 Loan is increased to \$10,727,491.00, which is comprised of:

- (a) \$3,483,098.00 of original principal;
- (b) \$5,300,000.00, as approved by the SHA on March 22, 2022; and
- (c) \$1,944,393.00, as approved by the SHA on July 25, 2023.

3. General Provisions.

(a) Counterparts. This DLA Amendment may be executed in any number of counterparts and, as so executed, the counterparts shall constitute one and the same agreement. The parties agree that each such counterpart is an original and shall be binding upon all the parties, even though all of the parties are not signatories to the same counterpart.

(b) Conflicts. In the event of any conflict between the DLA or any document executed in conjunction therewith and this DLA Amendment, this DLA Amendment shall control.

(c) Recitals Incorporated. The Recitals to this DLA Amendment are hereby incorporated in this DLA Amendment by this reference.

(d) Severability. If any provision of this DLA Amendment is deemed to be invalid or unenforceable by a court of competent jurisdiction, that provision shall be severed from the rest of this DLA Amendment and the remaining provisions shall continue in full force and effect.

(e) Signature Authority. All individuals signing this DLA Amendment for a party which is a corporation, partnership, limited liability company or other legal entity, or signing under a power of attorney, or as a trustee, guardian, conservator, or in any other legal capacity, covenant to the other parties hereto that they have the necessary capacity and authority to act for, sign and bind the respective entity or principal on whose behalf they are signing.

DEVELOPER:

Villa Serena Apartments Limited Partnership, a California limited partnership

By: The Southern California Housing Development Corporation of Orange
Its: General Partner

By: _____
Print Name: _____
Its: _____

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

SHA:

City of San Marcos in its capacity as the successor housing agency to the former San Marcos Redevelopment Agency

By: _____
Michelle Bender, City Manager/Executive Director

APPROVED AS TO FORM:
Christensen & Spath LLP

By: _____
Walter F. Spath III, Esq.
Special Counsel to the SHA

**AMENDMENT TO
UNSECURED ENVIRONMENTAL INDEMNITY AGREEMENT
(Villa Serena II-Phase 2)**

THIS AMENDMENT TO UNSECURED ENVIRONMENTAL INDEMNITY AGREEMENT (“Amendment”) is dated as of the ___ day of December, 2023, by Villa Serena Apartments Limited Partnership, a California limited partnership (“Developer”) and the City of San Marcos in its capacity as the successor housing agency to the former San Marcos Redevelopment Agency (“SHA”).

RECITALS

A. Developer and the SHA are all of the parties to that certain Unsecured Environmental Indemnity Agreement (Villa Serena II-Phase 2) dated as of March 30, 2021 (“Indemnity Agreement”).

B. The Developer and the SHA have agreed to amend the Indemnity Agreement as set forth in this Amendment. All terms not defined in this Amendment shall have the meanings ascribed to them in the Indemnity Agreement.

NOW, THEREFORE, in furtherance of the recitals stated above and the mutual covenants set forth below, Developer and the SHA hereby amend the Indemnity Agreement, and agree, promise and declare as follows:

1. Restatement of Recital A. Recital A to the Indemnity Agreement is hereby amended and restated in its entirety to provide as follows:

A. SHA has agreed to make a loan in the amount of \$~~10,727,491~~3,483,098.00 (“SHA Loan”) to Indemnitor as described in that certain Development and Loan Agreement (Villa Serena II) dated as of July 9, 2019, which was amended by that certain First Amendment to Development and Loan Agreement (Villa Serena II) dated as of February 25, 2020, and by that certain Second Amendment to Development and Loan Agreement (Villa Serena II-Phase 2) of even date herewith (as amended, the “DLA”), and that certain Promissory Note (Villa Serena II-SHA Loan-Phase 2) made by Indemnitor in favor of SHA, dated March 30, 2021, as amended by that certain Amendment to Promissory Note (Villa Serena II-Phase 2), dated June, 2021, and by that certain Second Amendment to Promissory Note (Villa Serena II-Phase 2) of even date herewith, which SHA Loan is secured by, among other things, a Deed of Trust executed by Indemnitor in favor of SHA (“Deed of Trust”). All capitalized terms used but not defined herein have the definitions set forth in the DLA. The Deed of Trust encumbers the real property described therein (such property along with any other property encumbered by the Deed of Trust, now or at any time in the future, shall be referred to herein as the “Property”).

2. General Provisions.

(a) Counterparts. This Amendment may be executed in any number of counterparts and, as so executed, the counterparts shall constitute one and the same agreement. The parties

agree that each such counterpart is an original and shall be binding upon all the parties, even though all of the parties are not signatories to the same counterpart.

(b) Conflicts. In the event of any conflict between the Indemnity Agreement or any document executed in conjunction therewith and this Amendment, this Amendment shall control.

(c) Recitals Incorporated. The Recitals to this Amendment are hereby incorporated in this Amendment by this reference.

(d) Severability. If any provision of this Amendment is deemed to be invalid or unenforceable by a court of competent jurisdiction, that provision shall be severed from the rest of this Amendment and the remaining provisions shall continue in full force and effect.

(e) Signature Authority. All individuals signing this Amendment for a party which is a corporation, partnership, limited liability company or other legal entity, or signing under a power of attorney, or as a trustee, guardian, conservator, or in any other legal capacity, covenant to the other parties hereto that they have the necessary capacity and authority to act for, sign and bind the respective entity or principal on whose behalf they are signing.

DEVELOPER:

Villa Serena Apartments Limited Partnership, a California limited partnership

By: The Southern California Housing Development Corporation of Orange
Its: General Partner

By: _____
Print Name: _____
Its: _____

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

SHA:

City of San Marcos in its capacity as the successor housing agency to the former San Marcos Redevelopment Agency

By: _____
Michelle Bender, City Manager/Executive Director

APPROVED AS TO FORM:
Christensen & Spath LLP

By: _____
Walter F. Spath III, Esq.
Special Counsel to the SHA

DO NOT DESTROY THIS AMENDMENT: WHEN PAID, THE NOTE, THIS AMENDMENT AND THE DEED OF TRUST SECURING IT MUST BE SURRENDERED TO TRUSTEE FOR CANCELLATION BEFORE RECONVEYANCE WILL BE MADE.

**SECOND AMENDMENT TO PROMISSORY NOTE
(Villa Serena II-Phase 2)**

THIS SECOND AMENDMENT TO PROMISSORY NOTE (“Amendment”) is dated as of the ___ day of December, 2023, and amends that certain Promissory Note (Villa Serena II-Phase 2) (“Note”), dated March 30, 2021, made by Villa Serena Apartments Limited Partnership, a California limited partnership (“Maker”), in favor of the City of San Marcos acting solely in its capacity as the designated successor housing agency to the former San Marcos Redevelopment Agency (“SHA”), in the original principal amount of \$3,483,098.00, as amended by that certain Amendment to Promissory Note (Villa Serena II-Phase 2), dated June, 2021, entered into between Maker and SHA. When executed by the Maker and the SHA, this Amendment shall be attached to and deemed to be a part of the Note; the Note plus this Amendment shall together constitute the “Note.” The parties hereto acknowledge that the Note is in full force and effect, except as modified by this Amendment. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Note. In the event of any conflict between the Note and this Amendment, this Amendment shall control.

1. Restatement of Section 1. Section 1 of the Note is hereby amended and restated in its entirety to provide as follows:

1. Principal and Interest. For value received, and in consideration of that certain loan made by the City of San Marcos acting solely in its capacity as the designated successor housing agency to the former San Marcos Redevelopment Agency (“SHA”), to Villa Serena Apartments Limited Partnership, a California limited partnership (“Maker”), as described in that certain Development and Loan Agreement (Villa Serena II) dated as of July 9, 2019, which was amended by that certain First Amendment to Development and Loan Agreement (Villa Serena II) dated as of February 25, 2020, and by that certain Second Amendment to Development and Loan Agreement (Villa Serena II-Phase 2) dated as of December ___, 2023 (as amended, the “DLA”), Maker promises to pay to the SHA, or order, at 1 Civic Center Drive, San Marcos, California 92069, or such other place as the holder may from time to time designate by written notice to Maker, the principal sum of ~~\$10,727,491~~\$3,483,098.00 (“SHA Loan”), or so much as is advanced, together with accrued interest from the date disbursed. Interest shall accrue on the unpaid principal of the SHA Loan at the rate of three percent (3%) simple interest per annum. This Note is issued pursuant to the DLA and the deed of trust (“Deed of Trust”), being executed concurrently herewith, to be recorded in the office of the County Recorder of San Diego County. The Deed of Trust, DLA and Declaration (as defined in the DLA), and all other documents executed by the parties in

connection therewith, are sometimes collectively referred to herein as the “Loan Documents.” All capitalized terms which are not defined herein shall have the meaning ascribed to them in the DLA.

2. Confirmation of Obligations. Except to the extent modified by this Amendment, Maker hereby confirms each of the covenants, agreements and obligations of Maker set forth in the Note and all other documents executed in conjunction therewith or with the loan described therein.

3. General Provisions.

(a) Recitals Incorporated. The Recitals to this Amendment are hereby incorporated into this Amendment by this reference.

(b) Counterparts. This Amendment may be executed in any number of counterparts and, as so executed, the counterparts shall constitute one and the same agreement. The parties agree that each such counterpart is an original and shall be binding upon all the parties, even though all of the parties are not signatories to the same counterpart.

(c) Signature Authority. All individuals signing this Amendment for a party which is a corporation, limited liability company, partnership or other legal entity, or signing under a power of attorney, or as a trustee, guardian, conservator, or in any other legal capacity, covenant to one another that they have the necessary capacity and authority to act for, sign and bind the respective entity or principal on whose behalf they are signing.

MAKER:

Villa Serena Apartments Limited Partnership, a California limited partnership

By: The Southern California Housing Development Corporation of Orange
Its: General Partner

By: _____
Print Name: _____
Its: _____

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

SHA:

City of San Marcos acting solely in its capacity as the designated successor housing agency to the former Redevelopment Agency of the City of San Marcos

By: _____
Michelle Bender, City Manager/Executive Director

Approved as to form:
Christensen & Spath LLP

By: _____
Walter F. Spath III
Special Counsel to the SHA

**AMENDMENT TO
SECURITY AGREEMENT
(Villa Serena II-Phase 2)**

THIS AMENDMENT TO SECURITY AGREEMENT (“Amendment”) is dated as of the ___ day of December, 2023, by Villa Serena Apartments Limited Partnership, a California limited partnership (“Developer”) and the City of San Marcos in its capacity as the successor housing agency to the former San Marcos Redevelopment Agency (“SHA”).

RECITALS

A. Developer and the SHA are all of the parties to that certain Security Agreement (Villa Serena II-Phase 2) dated as of March 30, 2021 (“Security Agreement”).

B. The Developer and the SHA have agreed to amend the Security Agreement as set forth in this Amendment. All terms not defined in this Amendment shall have the meanings ascribed to them in the Security Agreement.

NOW, THEREFORE, in furtherance of the recitals stated above and the mutual covenants set forth below, Developer and the SHA hereby amend the Security Agreement, and agree, promise and declare as follows:

1. Restatement of Recital A. Recital A to the Security Agreement is hereby amended and restated in its entirety to provide as follows:

A. The SHA has agreed to loan \$~~10,727,4913,483,098~~.00 to Borrower (“SHA Loan”) pursuant to that certain Development and Loan Agreement (Villa Serena II) dated as of July 9, 2019, which was amended by that certain First Amendment to Development and Loan Agreement (Villa Serena II) dated as of February 25, 2020, and by that certain Second Amendment to Development and Loan Agreement (Villa Serena II-Phase 2) of even date herewith (as amended, the “DLA”), and that certain Promissory Note (Villa Serena II-SHA Loan-Phase 2) made by Borrower in favor of the SHA, dated March 30, 2021, as amended by that certain Amendment to Promissory Note (Villa Serena II-Phase 2), dated June, 2021, and by that certain Second Amendment to Promissory Note (Villa Serena II-Phase 2) of even date herewith, which SHA Loan is secured by, among other things, a Deed of Trust executed by Borrower in favor of the SHA (“Deed of Trust”) and recorded against the real property described in the attached Exhibit A. The DLA, Promissory Note, Deed of Trust and this Security Agreement may be referred to collectively herein as the “Loan Documents.”

2. General Provisions.

(a) Counterparts. This Amendment may be executed in any number of counterparts and, as so executed, the counterparts shall constitute one and the same agreement. The parties agree that each such counterpart is an original and shall be binding upon all the parties, even though all of the parties are not signatories to the same counterpart.

(b) Conflicts. In the event of any conflict between the Security Agreement or any document executed in conjunction therewith and this Amendment, this Amendment shall control.

(c) Recitals Incorporated. The Recitals to this Amendment are hereby incorporated in this Amendment by this reference.

(d) Severability. If any provision of this Amendment is deemed to be invalid or unenforceable by a court of competent jurisdiction, that provision shall be severed from the rest of this Amendment and the remaining provisions shall continue in full force and effect.

(e) Signature Authority. All individuals signing this Amendment for a party which is a corporation, partnership, limited liability company or other legal entity, or signing under a power of attorney, or as a trustee, guardian, conservator, or in any other legal capacity, covenant to the other parties hereto that they have the necessary capacity and authority to act for, sign and bind the respective entity or principal on whose behalf they are signing.

DEVELOPER:

Villa Serena Apartments Limited Partnership, a California limited partnership

By: The Southern California Housing Development Corporation of Orange
Its: General Partner

By: _____
Print Name: _____
Its: _____

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

SHA:

City of San Marcos in its capacity as the successor housing agency to the former San Marcos Redevelopment Agency

By: _____
Michelle Bender, City Manager/Executive Director

APPROVED AS TO FORM:
Christensen & Spath LLP

By: _____
Walter F. Spath III, Esq.
Special Counsel to the SHA