

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:
Rutan & Tucker, LLP
18575 Jamboree Rd., Suite 900
Irvine, CA 92612
Attn: Bryan A. Wilbert, Esq.

(Space Above for Recorder's Use)

**ASSIGNMENT AND ASSUMPTION
OF REGULATORY AGREEMENT**

This ASSIGNMENT AND ASSUMPTION OF Regulatory Agreement ("Assignment Agreement") dated for reference purposes as of [____], 202[], is made by and among Calmark Heritage Park II Limited Partnership, a California limited partnership ("Assignor") and Heritage Senior Preservation Escondido LLC, a California limited liability company ("Assignee") with reference to the following facts:

RECITALS

A. Assignor, the developer named therein formerly known as Shearson/Calmark Heritage Park II, Ltd., a California Limited Partnership ("Company"), Security Pacific National Trust Company (New York), as predecessor in interest to U.S. Bank National Association, as Trustee ("Trustee") and the Escondido Community Development Commission, a public body, corporate and politic, duly organized and existing under the laws of the State of California, as predecessor in interest to the City of Escondido, a California municipal corporation ("City") are parties to that certain Regulatory Agreement and Declaration of Restrictive Covenants dated as of December 1, 1985 and recorded December 30, 1985 as Instrument No. 85-492457 of Official Records of San Diego County, CA, as amended by that certain Assumption of Regulatory Agreement dated as of December 3, 1986 and recorded December 31, 1986 as Instrument No. 86-622286 of Official Records of San Diego County, CA, as amended by that certain Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants, dated as of December 1, 1992, recorded on December 14, 1992 in the Official Records of San Diego County, CA as Instrument No. 1992-0800153, as amended by that certain First Amendment to Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants dated as of July 1, 1998 and recorded on July 17, 1998 as Instrument No. 1998-0444363 in the Official Records of San Diego County, CA, as amended by that Second Amendment to Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants dated July 1, 2003 and recorded August 11, 2003 as Instrument No. 2003-0965707 in the Official Records of San Diego County, CA, as further amended by that certain Third Amendment to Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants dated as of February 26, 2021, recorded February 26, 2021 as Instrument No. 2021-0153272 in the Official Records of San Diego County, CA (as amended, the "Regulatory Agreement"), to facilitate the development and use of certain real property located at 2549 East Valley Parkway, Escondido, California, as more particularly described on Exhibit A attached hereto and incorporated herein (the "Property"). Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Regulatory Agreement.

B. Assignor is the fee owner of the Property. On [____, ____], the Property was conveyed to Assignor, and, as provided in the Regulatory Agreement, upon conveyance of the Property to Assignor, Assignor was deemed to have assumed all of Company's obligations under the Regulatory Agreement.

C. The Regulatory Agreement provides that Assignor may transfer any portion of the Property and assign its rights, duties and obligations under the Regulatory Agreement to another party by written instrument acceptable to the City and Trustee.

D. City and Trustee have reviewed this form of written Assignment Agreement of Regulatory Agreement and have determined that it is acceptable to the City and Trustee, in accordance with the Regulatory Agreement.

E. Concurrently with this Assignment Agreement, Assignor is transferring its fee interest in the Property to Assignee (and Assignee is acquiring such fee interest in the Property from Assignor).

F. Assignor desires to assign and transfer to Assignee, and Assignee desires to accept and assume from Assignor, all of Assignor's rights, duties, and obligations under the Regulatory Agreement arising due to events first occurring on or after the Effective Date.

AGREEMENT

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

1. Effective Date. The Effective Date of this Assignment Agreement shall be the date upon which Assignee collectively obtains fee title to the Property ("Effective Date").

2. Assignment by Assignor. As of the Effective Date, Assignor hereby assigns, transfers and grants to Assignee, and its successors and assigns, all of Assignor's rights under the Regulatory Agreement and, to the extent arising due to events first occurring on or after the Effective Date, duties, responsibilities, and obligations under the Regulatory Agreement (collectively, "Rights and Obligations").

3. Acceptance and Assumption by Assignee. As of the Effective Date, Assignee, for itself and its successors and assigns, hereby expressly and unconditionally accepts such assignment of, and assumes, all such Rights and Obligations, and expressly agrees for the benefit of the City and Trustee, to pay, perform and discharge all obligations of Assignor under the Regulatory Agreement arising due to events first occurring on or after the Effective Date, and to comply with all covenants of Assignor under the Regulatory Agreement arising due to events first occurring on or after the Effective Date. Assignor agrees to indemnify, defend and hold harmless Assignee (and Assignee's successors and assigns) from and against any and all claims, liens, damages, demands, causes of action, liabilities, lawsuits, judgments, losses, costs and expenses (including without limitation reasonable attorneys' fees and expenses) (collectively, "Claims") asserted against or incurred by Assignee under the Regulatory Agreement by reason of or arising out of events occurring prior to the Effective Date, including without limitation (a) any Claims due to the improvements constructed as of the Effective Date not being completed in accordance with the requirements of the Regulatory Agreement, and (b) any applicable fees and payments to be paid pursuant to the Regulatory Agreement not being paid as of the Effective Date.

4. Assignor Waiver. Assignor acknowledges and agrees that the Rights and Obligations have been fully assigned to Assignee by this Assignment Agreement and, accordingly, that Assignee shall have the exclusive right to assert any claims against City and Trustee with respect to such Rights and Obligations. Accordingly, without limiting any claims of Assignee under the Regulatory Agreement, Assignor hereby waives any claims or potential claims by Assignor against City and Trustee to the extent arising solely out

of the Rights and Obligations.

5. Substitution of Assignor. From and after the Effective Date, and subject to Section 3 hereunder, Assignee hereafter shall be substituted for and replace Assignor in the Regulatory Agreement.

6. Assignee Representations and Warranties. Assignee represents and warrants to City and Trustee as follows as of the Effective Date:

- (a) Assignee is a California limited liability company. For the purposes of this Assignment Agreement each Assignee's office is: 1901 Avenue of the Stars, Suite 395, Los Angeles, CA 90067.
- (b) To Assignee's knowledge, as of the Effective Date, Assignee is the sole fee owner of the Property.
- (c) Assignee is:
 - i. Duly formed and validly existing under the laws of the State of California;
 - ii. Qualified and authorized to do business in the State of California and, to Assignee's knowledge, has duly complied with all requirements pertaining to such qualification and authorization; and
 - iii. In good standing and has all necessary powers under the laws of the State of California to own property and in all other respects enter into and perform the undertakings and obligations of this Assignment Agreement.
- (d) Assignee further represents and warrants to City and Trustee as follows as of the Effective Date:
 - i. That no approvals or consents of any persons are necessary for the execution, delivery or performance of this Assignment Agreement by Assignee, except as have been obtained;
 - ii. That this Assignment Agreement is a legal, valid, and binding obligation of Assignee enforceable in accordance with its terms (subject to equitable principles and principles governing creditors' rights generally); and
 - iii. That the execution, delivery, and performance of this Assignment Agreement by the Assignee does not and will not materially conflict with, or constitute a material violation or material breach of, or constitute a default under (a) the formation agreements of the Assignee (if any), (b) to Assignee's knowledge, any law, rule, or regulation binding upon or applicable to Assignee, or (c) any material agreements to which Assignee is a party, except, in each case, for any conflict, violation or breach that will not adversely affect Assignee's ability to pay, perform and discharge all obligations of Assignor regarding the Property under the Regulatory Agreement arising due to events first occurring on or after the Effective Date.

7. Assignor Representations and Warranties. Assignor represents and warrants to City and Trustee as follows as of the Effective Date:

- (a) Assignor is the current holder of the entire interest of the "Developer" under the Regulatory Agreement.
- (b) The Regulatory Agreement, as amended, and remains in full force and effect.
- (c) No default on the part of Assignor, and no breach or failure of condition that, with notice or lapse of time or both, would constitute a default on the part of Assignor, exists under the Regulatory Agreement.
- (d) The execution, delivery, and performance by Assignor of this Assignment (i) will not contravene any legal requirements applicable to Assignor; (ii) will not conflict with, breach, or contravene any other agreement binding upon Assignor; and (iii) will not result in the creation or imposition of any lien on any portion of the Property, except as otherwise may be permitted under the terms of the Regulatory Agreement.
- (e) Prior to the Effective Date and pursuant to the Regulatory Agreement, Assignor has provided the City with written notice of this Assignment and has requested from Assignee the appropriate documentation required by the City in connection with this Assignment.

8. Regulatory Agreement in Full Force and Effect. Except as specifically provided herein with respect to the assignment, all the terms, covenants, conditions and provisions of the Regulatory Agreement are hereby ratified and shall remain in full force and effect.

9. Recording. Assignor shall cause this Assignment Agreement to be recorded in the Official Records of San Diego County, California, and shall promptly provide conformed copies of the recorded Assignment Agreement to Assignee and City.

10. Successors and Assigns. All of the terms, covenants, conditions and provisions of this Assignment Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

11. City and Trustee Are Third-Party Beneficiaries. The City and the Trustee are intended third-party beneficiaries of this Agreement, and have the right, but not the obligation, to enforce the provisions hereof.

12. Assignee Address for Notices. The address of Assignee for the purpose of notices, demands, correspondence, and communications under the Regulatory Agreement shall be:

c/o Standard Communities
31899 Del Obispo Street, Suite 150
San Juan Capistrano, CA 92675
Attn: Bradley C. Martinson, Esq.
Telephone: (949) 301-9383
Email: bmartinson@standard-companies.com

with copy to:

c/o Standard Companies
1901 Avenue of the Stars, Suite 395
Los Angeles, CA 90067
Attn: Robert Koerner
Email: rkoerner@standard-companies.com

with copy to:

c/o Standard Companies
1901 Avenue of the Stars, Suite 395
Los Angeles, CA 90067
Attn: Christopher Cruz
Telephone: (310) 553-5711
Email: ccruz@standard-companies.com

with copy to:

Rutan & Tucker, LLP
18575 Jamboree Rd., Suite 900
Irvine, CA 92612
Attn: Bryan A. Wilbert, Esq.
Telephone: (714) 662-4654
Email: bwilbert@rutan.com

c/o AOF / Pacific Affordable Housing Corp.
7755 Center Ave., Suite 575
Huntington Beach, CA 92647
Attention: Brett Mascaro, Executive Director
Telephone: (562) 449-5072
Email: Brett.Mascaro@AOFpacific. Com

With a copy to:

Downs Pham & Kuei LLP
235 Montgomery Street, 30th Floor
San Francisco, CA 94104
Attention: Irene C. Kuei, Esq.
Telephone : (415) 202-6376
Email : ikuei@downspham.com

13. Applicable Law/Venue. The laws of the State of California shall govern the validity, construction, enforcement, and interpretation of this Assignment Agreement, unless otherwise specified herein except for the conflict of laws provisions thereof. All claims, disputes and other matters in question arising out of or relating to this Assignment Agreement, or the breach thereof, shall be decided by proceedings instituted and litigated in a court of competent jurisdiction in the state in which the Property is situated, and the parties hereto expressly consent to the venue and jurisdiction of such court.

14. Counterparts. This Assignment Agreement may be executed in one or more

counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one and the same instrument, with the same effect as if all of the parties to this Assignment Agreement had executed the same counterpart.

15. Complete Agreement; Recitals; Exhibits. This Assignment Agreement contains the complete and final agreement with respect to the assignment of the rights and the assumption of the duties and obligations under the Regulatory Agreement. The introductory paragraph and the recitals set forth herein and all exhibits attached hereto are incorporated into this Assignment Agreement by reference.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have entered into this Assignment Agreement as of the date first above written.

ASSIGNOR:

Calmark Heritage Park II Limited Partnership,
a California limited partnership

By: _____
Name: _____
Title: _____

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 _____)
County of _____)

On _____, before me, _____, a 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 _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

ASSIGNEE:

Heritage Senior Preservation Escondido LLC,
a California limited liability company

By: _____
Name: _____
Title: _____

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 _____)
County of _____)

On _____, before me, _____, a 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 _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

The City of Escondido hereby consents to this Assignment Agreement.

CITY:

**CITY OF ESCONDIDO, a California
municipal corporation**

By: _____
Name:
Title:

Approved as to Form:

By: _____
Name:
Title:

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 _____)
County of _____)

On _____, before me, _____, a 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 _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

The Trustee hereby consents to this Assignment Agreement.

TRUSTEE:

**U.S. BANK TRUST NATIONAL
ASSOCIATION**

By: _____
Name:
Title:

Approved as to Form:

By: _____
Name:
Title:

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 _____)
County of _____)

On _____, before me, _____, a 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 _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

The Issuer hereby consents to this Assignment Agreement.

ISSUER:

By: _____
Name:
Title:

Approved as to Form:

By: _____
Name:
Title:

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 _____)
County of _____)

On _____, before me, _____, a 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 _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____