

AMENDED AND RESTATED SECURED PROMISSORY NOTE

(JHLP Funds, Inclusionary Funds, HTF Funds, LHFT Funds, ERAF Funds, LMIHAF Funds,
and EN SOMA Funds)

Principal Amount: \$ [66,777,411]

San Francisco, CA

Date: _____, 2022

FOR VALUE RECEIVED, the undersigned, MERCY HOUSING CALIFORNIA 97, L.P., a California Limited Partnership ("Maker"), hereby promises to pay to the order of the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, or holder (as the case may be, "Holder"), the principal sum of [Sixty-Six Million Seven Hundred Seventy-Seven Thousand Four Hundred Eleven] and No/100 Dollars (\$[66,777,411].00) (the "Funding Amount"), or so much of the Funding Amount as may be disbursed from time to time pursuant to the Agreement described in **Section 1** below, together with interest thereon, as provided in this City Note.

1. Agreement.

1.1 Pursuant to a Loan Agreement dated March 27, 2020, by and between Holder and Maker (the "Original Loan Agreement"), Holder previously made a loan of \$3,500,000.00 to Maker (the "Original Loan") to conduct predevelopment activities in support of the construction of the Project. The Original Loan is further evidenced by a Secured Promissory Note dated Marcy 27, 2020 ("Original Note").

1.2 This Amended and Restated Secured Promissory Note (this "City Note") amends, restates, and replaces in its entirety the Original Note and is given under the terms of an Amended and Restated Loan Agreement by and between Maker and Holder (the "Agreement") dated as of the date set forth above, which Agreement is incorporated herein by reference. Maker's obligations under this City Note and the Agreement are secured by that certain Deed Of Trust, Assignment Of Rents, Security Agreement And Fixture Filing dated as of the date of this City Note, made by Maker for the benefit of Holder. Definitions and rules of interpretation set forth in the Agreement apply to this City Note. In the event of any inconsistency between the Agreement and this City Note, this City Note will control. Upon execution of this City Note, the Original Note will be cancelled and returned to Maker.

2. Interest. Interest will accrue on the principal balance outstanding under this City Note from time to time at the rate of three percent (3%) per annum, simple interest, from the date of the close of escrow through the date of full payment of all amounts owing under the City Documents. Interest will be calculated on the basis of actual days elapsed and a 360-day year, which will result in higher interest charges than if a 365-day year were used. As of the date of this Note, Maker agrees that \$ _____ of interest has accrued on the Loan.

3. Default Interest Rate. Upon the occurrence of an Event of Default under any City Document, interest will be deemed to have accrued on the outstanding principal balance of the Loan at a compounded annual rate equal to the lesser of: (a) ten percent (10%); or (b) the maximum lawful rate of interest, commencing on the date of the Event of Default through the earlier of: (x) the date on which the Event of Default is cured; or (y) the date on which all amounts due under the City Documents are paid to Holder. Maker acknowledges and agrees that the default interest that must be paid in the event of an Event of Default pursuant to this Section represents a reasonable sum considering all the circumstances existing on the date of this City Note and represents a fair and reasonable estimate of the costs that will be sustained by Holder if Maker defaults. Maker further agrees that proof of actual damages would be costly and

inconvenient and that default interest will be paid without prejudice to Holder's right to collect any other amounts to be paid or to exercise any of its other rights or remedies under any City Document.

4. Repayment of Funding Amount.

4.1 Subject to Section 13.4 of the Agreement, Maker must make annual payments of principal and interest (each, a "Payment") in an amount equal to the Residual Receipts, if any, attributable to the prior calendar year, beginning on the first June 30th after the end of the calendar year of the Completion Date, and continuing each June 30th thereafter up to and including the Maturity Date, as defined below (each, a "Payment Date"). All Payments will be applied to the following in the following order: (a) costs and fees incurred and unpaid; (b) accrued and unpaid interest; and (c) reduction of the principal balance of the Loan. The unpaid principal balance of the Loan, together with all accrued and unpaid interest and unpaid costs and fees incurred, will be due and payable on the date that is the later of (a) the fifty-seventh (57th) anniversary of the date the Deed of Trust is recorded in the Recorder's Office of San Francisco County or (b) the fifty-fifth (55th) anniversary of the Conversion Date but in no event later than December 31, 2081 (the "Maturity Date"). Any Payment Date, including any Excess Proceeds Payment Date, AHP Award Date, and the Maturity Date, that falls on a weekend or holiday will be deemed to fall on the next succeeding business day.

4.2 Subject to Section 13.4 of the Agreement, Maker shall notify the City in writing thirty (30) days after the later of the date on which Maker receives its Form 8609 from the California Tax Credit Allocation Committee or the date on which Maker receives Excess Proceeds from its limited partner or other financing sources. No later than sixty (60) days after receipt of such notification (the "Excess Proceeds Payment Date"), unless the City elects to waive such payment, Maker must make payments of principal and interest (each, an "Excess Proceeds Payment") in an amount equal to the Excess Proceeds. All Excess Proceeds Payments will be applied to the following in the following order: (a) costs and fees incurred and unpaid; (b) accrued and unpaid interest; and (c) reduction of the principal balance of the Loan.

4.3 If Maker is awarded AHP funding for the Project, Maker will make a payment of principal and interest (an "AHP Payment") in an amount equal to the AHP Bridge Loan within three hundred sixty-five (365) days of the date the AHP funding is awarded to Maker ("AHP Award Date"); provided, however, that if Maker is not awarded AHP funding for the Project or receives AHP funding sufficient for only partial repayment of the AHP Bridge Loan, the unpaid principal balance of the AHP Bridge Loan will be due and payable on the Maturity Date. The AHP Payment will be applied to the following in the following order: (a) costs and fees incurred and unpaid; (b) accrued and unpaid interest; and (c) reduction of the principal balance of the Loan.

5. Security. Maker's obligations under this City Note are secured by the Deed of Trust.

6. Terms of Payment.

6.1 All Payments must be made in currency of the United States of America then lawful for payment of public and private debts.

6.2 All Payments must be made payable to Holder and mailed or delivered in person to Holder's office at One South Van Ness Avenue, 5th Floor, San Francisco, CA 94103, or to any other place Holder from time to time designates.

6.3 In no event will Maker be obligated under the terms of this City Note to pay interest exceeding the lawful rate. Accordingly, if the payment of any sum by Maker pursuant to the terms of this City Note would result in the payment of interest exceeding the amount that Holder may charge legally under applicable state and/or federal law, the amount by

which the payment exceeds the amount payable at the lawful interest rate will be deducted automatically from the principal balance owing under this City Note.

6.4 Maker waives the right to designate how Payments will be applied pursuant to California Civil Code Sections 1479 and 2822. Holder will have the right in its sole discretion to determine the order and method of application of Payments to obligations under this City Note, provided, that the Payments should be applied pursuant to Section 4.1 of this City Note.

6.5 Except as otherwise set forth herein or in the Agreement, no prepayment of this City Note will be permitted without Holder's prior written consent.

7. Default.

7.1 Any of the following will constitute an Event of Default under this City Note:

(a) Maker fails to make any Payment required under this City Note within ten (10) days of the date it is due; or

(b) the occurrence of any other Event of Default under the Agreement or other instrument securing the obligations of Maker under this City Note or under any other agreement between Maker and Holder with respect to the Project.

Notwithstanding the foregoing, the Maker's Limited Partner shall have the right to cure any Event of Default, and Holder shall accept or reject such cure on the same terms as if rendered by Maker.

7.2 Upon the occurrence of any Event of Default, without notice to or demand upon Maker, which are expressly waived by Maker (except for notices or demands otherwise required by applicable laws to the extent not effectively waived by Maker and any notices or demands specified in the City Documents), Holder may exercise all rights and remedies available under this City Note, the Agreement or otherwise available to Holder at law or in equity. Maker acknowledges and agrees that Holder's remedies include the right to accelerate the Maturity Date by declaring the outstanding principal balance of the Loan, together with all accrued and unpaid interest and unpaid fees and costs incurred, due and payable immediately, in which case, the Maturity Date will be superseded and replaced by the date established by Holder.

7.3 Notwithstanding Section 7.2 and subject to this Section, Holder will not seek or obtain judgment against Maker for the payment of any amounts due under this City Note following a judicial or nonjudicial foreclosure of the Deed of Trust, and Holder's sole recourse against Maker for any default under this City Note will be limited to the collateral for the Loan, provided, however, that this Section will be deemed void and of no effect if Maker challenges Holder's right to foreclose following an Event of Default in any legal proceeding on the grounds that the City Documents are not valid and enforceable under California law. This provision does not limit in any way Holder's right to recover sums arising under any obligation of Maker to indemnify Holder of sums incurred by Holder as a result of Maker's fraud, willful misrepresentation, misapplication of funds (including Loan Funds and Rents (as defined in the Deed of Trust), waste or negligent or intentional damage to the collateral for the Loan.

8. Waivers.

8.1 Maker expressly agrees that the term of this City Note or the date of any payment due hereunder may be extended from time to time with Holder's consent, and that Holder may accept further security or release any security for this City Note, all without in any way affecting the liability of Maker.

8.2 No extension of time for any Payment made by agreement by Holder with any person now or hereafter liable for the payment of this City Note will operate to release,

discharge, modify, change or affect the original liability of Maker under this City Note, either in whole or in part.

8.3 The obligations of Maker under this City Note are absolute, and Maker waives any and all rights to offset, deduct or withhold any Payments or charges due under this City Note for any reason whatsoever.

9. Miscellaneous Provisions.

9.1 All notices to Holder or Maker must be given in the manner and at the addresses set forth in the Agreement, or to the addresses Holder and/or Maker hereafter designate in accordance with the Agreement.

9.2 In the event of any legal proceedings arising from the enforcement of or a default under this City Note or in any bankruptcy proceeding of Maker, the non-prevailing party promises to pay all reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the proceeding, as provided in the Agreement.

9.3 This City Note may be amended only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

9.4 This City Note is governed by and must be construed in accordance with the laws of the State of California, without regard to the choice of law rules of the State.

9.5 Time is of the essence in the performance of any obligations hereunder.

"MAKER"

MERCY HOUSING CALIFORNIA 97, L.P.,
A California Limited Partnership

By: Mercy Housing California 97 LLC,
a California limited liability company,
its general partner

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Ramie Dare
Vice President