

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Boston Private Bank & Trust Company
801 S. Figueroa Street, Suite 1825
Los Angeles, CA 90017
Attention: Emma Chavez
Re: Abel Gonzales Apartments

ASSIGNMENT OF DEED OF TRUST AND LOAN DOCUMENTS

This Assignment of Deed of Trust and Loan Documents (“**Assignment**”) is dated as of [____], 2019, and is executed by the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation organized and existing under the laws of the State of California (the “**Assignor**”), and BOSTON PRIVATE BANK & TRUST COMPANY, a Massachusetts chartered trust company (the “**Assignee**”), in accordance with the Loan Agreements (as defined below).

- A. MHDC Abel Gonzales, L.P., a California limited partnership (“**Borrower**”), has applied to the Assignor for a loan (the “**Borrower Loan**”) for the acquisition, rehabilitation and improvement of a 30-unit multifamily rental housing facility located at 1045 Capp Street, San Francisco, California and known as the Abel Gonzales Apartments (the “**Project**”), as described on Exhibit A attached hereto.
- B. The Borrower Loan is evidenced by that certain that certain Borrower Loan Agreement (“**Borrower Loan Agreement**”) dated as of the date hereof between Assignor and Borrower. The Borrower Loan is further evidenced by that certain Construction and Permanent Funding Agreement (“**Funding Agreement**”, and together with the Borrower Loan Agreement, collectively, the “**Loan Agreements**”), dated as of the date hereof between Borrower and Assignee.
- C. The Borrower Loan is secured by, among other things, that certain Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated as of the date hereof, executed by Borrower for the benefit of Assignor, which instrument is being recorded immediately prior hereto in the Official Records of San Francisco County, California, and encumbers the Project (the “**Security Instrument**”).
- D. In connection with the Borrower Loan and in addition to the Loan Agreements and Security Instrument described above, Borrower and certain other parties have entered into Borrower Loan Documents (as defined in the Borrower Loan Agreement).
- E. Assignee has agreed to originate and fund the Borrower Loan by making a loan to the Assignor (the “**Funding Loan**”), in the original principal amount of \$[12,442,500.00], pursuant to the terms of the certain Funding Loan Agreement, dated as of the date hereof,

by and among Assignor, Assignee and [_____], as fiscal agent (“**Funding Loan Agreement**”).

- F. The Assignor desires to assign and transfer to the Assignee all its right, title and interest to and under (but not any of its obligations which are not assignable as a matter of law) the Security Instrument and the other Borrower Loan Documents, and the Assignee desires to acquire the Assignor’s rights, title and interest as aforesaid under the Borrower Loan Documents in accordance with the terms hereof. The Assignee is joining in the execution of this Assignment in order to evidence its acceptance hereof.
- G. Borrower is joining in the execution of this Assignment in order to evidence its consent hereto and in order to agree that the Borrower Loan Documents shall be effective to secure the obligations of the Borrower to the Assignee as more fully set forth therein and herein.

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

1. Definitions. All capitalized words and phrases not defined herein shall have the meaning ascribed to such words and phrases in the Funding Agreement.

2. Assignment. Assignor hereby assigns, sets over and transfers, without recourse, to Assignee all of Assignor’s right, title and interest in and to, subject to the Unassigned Rights (as defined in the Funding Loan Agreement), the instruments described on Schedule 1 attached hereto (“**Assigned Instruments**”), and the money due and to become due on the Loan, with the interest thereon, to have and to hold the same unto the said Assignee forever, subject only to all the provisions contained therein, and said Assignor hereby constitutes and appoints the Assignee as the Assignor’s true and lawful attorney, irrevocable in law or in equity, in the Assignor’s name, place and stead, but at Assignee’s cost and expense, to have, use and take all lawful ways and means for the recovery of all of the said money and interest; and in case of payment, to discharge the same as fully as the Assignor might or could if these presents were not made.

3. Acceptance. The Assignee hereby accepts the assignment made pursuant to Section 2.

4. Miscellaneous. In case any one or more of the provisions contained in this Assignment are invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein will not be affected or impaired thereby. This Assignment may be executed in any number of counterparts, each executed counterpart constituting an original, but all counterparts together constituting only one instrument. It is the intention of the parties hereto that this Assignment and the rights and obligations of the parties hereunder shall be governed, construed and enforced in accordance with the laws of the State of California, without reference to the conflicts of laws of the State of California. In all references herein to any parties, persons, entities or corporations the use of any particular gender on the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require.

5. Successor and Assigns. This Assignment shall be binding upon and inure to the benefit of the heirs, legal representatives, assigns, and successors-in-interest of Borrower, Assignee and Assignor; provided, however, this shall not be construed and is not intended to waive any restrictions on assignment, sale, transfer, mortgage, pledge, hypothecation or encumbrance by Borrower contained in any of the Borrower Loan Documents.

6. Overriding Limitations. In no event shall Assignor:

- (i) prosecute its action to a lien on the Project; or
- (ii) take any action which may have the effect, directly or indirectly, of impairing the ability of Borrower to timely pay the principal of, interest on, or other amounts due under, the Borrower Loan, or of causing Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future; or
- (iii) interfere with the exercise by Assignee of any of its rights under the Borrower Loan Documents upon the occurrence of an event of default by Borrower under the Borrower Loan Documents; or
- (iv) take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Borrower Loan.

[Signatures on next page]

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Assignment of Deed of Trust and Loan Documents as of the date first above written.

ASSIGNOR:

CITY AND COUNTY OF SAN FRANCISCO

By: _____
Kate Hartley
Director, Mayor's Office of Housing and
Community Development

Approved as to Form:
DENNIS J. HERRERA
City Attorney

By: _____
Deputy City Attorney

ASSIGNEE:

BOSTON PRIVATE BANK & TRUST COMPANY,
a Massachusetts chartered trust company

By: _____
Emma S. Chavez
Vice President

The undersigned, being the Borrower referred to in the foregoing Assignment of Deed of Trust and Loan Documents, hereby acknowledges receipt and acceptance thereof and consents and agrees to the Assignment made therein and to the terms and provisions thereof to such Assignment.

BORROWER:

MHDC ABEL GONZALES, L.P.,
a California limited partnership

By: 1045 Capp Street Housing LLC,
a California limited liability company,
its general partner

By: Mission Housing Development Corporation,
a California nonprofit public benefit corporation,
its Manager

By: _____
Sam Moss
Executive Director

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 _____

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

personally appeared _____,

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person 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 _____

On _____, _____, before me, _____
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WITNESS my hand and official seal.

Signature

(Seal)

**SCHEDULE 1
TO
ASSIGNMENT OF DEED OF TRUST AND LOAN DOCUMENTS**

ASSIGNEE:

Boston Private Bank & Trust Company
801 S. Figueroa Street, Suite 1825
Los Angeles, CA 90017
Attention: Emma Chávez
Re: Abel Gonzales Apartments

ASSIGNED INSTRUMENTS:

1. The Loan Agreement; and
2. Security Instrument.

Schedule 1

EXHIBIT A
LEGAL DESCRIPTION

Exhibit A-1

Assignment of Deed of Trust & Loan Documents – Abel Gonzales Apartments