

**RECORDING REQUESTED BY:**

City of Pomona

**WHEN RECORDED MAIL TO:**

City Clerk  
City of Pomona  
505 South Garey Ave.  
Pomona, CA 91766

**NO FEE RECORDING**

This instrument is for the benefit of the City of Pomona, and is entitled to be recorded without fee. (Govt. Code §27383)

**Exhibit A** to Resolution No. 2024-119

APN: 8336-014-027, 8336-014-016 & 8336-014-017

Above Space for Recorder’s Use

**DEVELOPMENT IMPACT FEE DEFERRAL AGREEMENT**

**1. PARTIES AND DATE**

This Development Impact Fee Deferral Agreement (“**Agreement**”) is entered into between the City of Pomona, a California charter city and municipal corporation (“**City**”), and Holt & Main, LP , a California limited partnership (“**Owner**”).

This Agreement will not become effective or a binding obligation of either party until the date on which both of the following occur (the “**Effective Date**”):

- (i) This Agreement and its Exhibits have been approved and executed by the Owner, and
- (ii) This Agreement and its Exhibits have been approved by the City Council and executed by the City’s authorized official.

**2. RECITALS.**

2.1 Owner is the fee simple owner of that certain real property located at 221 and 237 W. Holt Avenue in the City of Pomona, Los Angeles County, California (“**Property**”). The Property is more particularly described in Exhibit “A,” attached hereto and incorporated herein by reference.

2.2 Owner desires to develop 158 affordable housing units for qualifying low and very-low income tenants and two unrestricted management units on the Property (collectively, the “**Project**”).

2.3 Owner has submitted applications to City for those permits and entitlements necessary to allow the construction of the Project.

2.4 In connection with the granting of such permits and entitlements, City has imposed certain development impact fees and charges as allowed by City’s Municipal Code and adopted resolutions.

2.5 Owner has represented to City that Owner would incur severe financial hardship if it is required to pay the entirety of the impact fees imposed against the Project at the time otherwise required. Accordingly, City has agreed, subject to the terms, conditions and limitations of this Agreement, to defer payment of the following impact fees payable with respect to the Project as more particularly set forth in this Agreement:

- A. Traffic Signal and Control Device Facilities Fee
- B. Road and Highway Facilities Fee
- C. Public Safety Facilities Fee
- D. Park and Recreation Improvement Facilities Fee
- E. Sewer Connection Fee
- F. Water Connection Fee
- G. Storm Drain Fee

The aggregate sum of the foregoing is referred to herein as the “**Deferred Fees**” and is more particularly described in Exhibit “B,” attached hereto and incorporated herein by reference.

2.6 City adopted Ordinance No. 4309, which amended and restated Chapter 70 of Article III of the Pomona Municipal Code (the “**Code**”) relating to development impact fee administration, and at a City Council meeting held on November 18, 2024, the City Council considered and approved the deferral of the impact fees for this Project pursuant to the Code.

### 3. **TERMS.**

3.1 Deferred Fees and Interest Rate. The Deferred Fees shall accrue simple interest at the rate of three percent (3.0%) per annum, commencing on the Effective Date and continuing until the date that the Deferred Fees are paid in full.

3.2 Payment Schedule. Subject to the terms, conditions and limitations of this Agreement, City hereby agrees to defer payment of the Deferred Fees payable with respect to the Project. Owner agrees to repay the Deferred Fees in accordance with the following:

- A. Owner shall pay the principal sum of the Deferred Fees plus any and all accrued interest in a lump sum payment to City no later than the “**Maturity Date**,” which shall be the earlier of: (i) the date that is 55 years from the date that this Agreement is recorded against the Property; (ii) the expiration date of the 55 year Regulatory Agreement to be recorded against the Property by the California Tax Credit Allocation Committee in connection with placement in service of the Project (“**TCAC Regulatory Agreement**”); or (iii) the date that the TCAC Regulatory Agreement terminates and is of no further force or effect. Notwithstanding the

foregoing, Owner's refinancing of any senior debt financing for the Project shall accelerate the lump sum payment required by this Agreement to the date of refinancing, making the principal sum of the Deferred Fees plus and all accrued interest due in full immediately thereof.

B. Unless otherwise provided by this Agreement, Owner shall not be obligated to make any prior payments of principal or interest; provided, however, the Deferred Fees and any accrued interest may be prepaid, without penalty, in whole or in part, at any time prior to the Maturity Date, including from a portion of residual receipts generated by the Project.

3.3 Security. Owner's obligation to pay the Deferred Fees and any and all accrued interest shall be evidenced by a Promissory Note ("**Note**") in the form attached hereto as Exhibit "C" and secured by a Deed of Trust ("**Deed of Trust**") and collectively with the Note and this Agreement, the "**Loan Documents**") on the Property in the form attached hereto as Exhibit "D," both to be executed by Owner in favor of City and delivered to City. The Deed of Trust shall be recorded in accordance with Section 3.16.

3.4 Rights Not Granted Under Agreement. This Agreement is not, and shall not be construed to be, an approval or an agreement to issue permits or a granting of any right or entitlement by City concerning the construction of the Project, or any other project, development or other construction by Owner within the City. This Agreement does not, and shall not be construed to, exempt Owner from paying any fees for any permits, licenses or other approvals which may be required by City, and (other than the Deferred Fees) at the time required by City, concerning the construction of the Project, or any other project, development or other construction by Owner within the City. This Agreement does not, and shall not be construed to, exempt Owner in any way from the requirement to obtain permits and/or other discretionary or non-discretionary approvals as may be necessary for the development, maintenance or operation of the Project, or any other project, development or other construction by Owner within the City. This Agreement does not, and shall not be construed to, exempt Owner or the Property from the application and/or exercise of City's power of eminent domain, or its police powers including, but not limited to, the regulation of land uses, and the taking of any actions necessary to protect the health, safety and welfare of its citizenry.

3.5 Default. Events of Default.

A. Each of the following events shall constitute an "**Event of Default:**"

(1) Owner fails to comply with or perform any material term, covenant or condition of this Agreement including, but not limited to, the payment of the Deferred Fees by the Maturity Date, and the failure continues for ten (10) days in the event of a monetary default or thirty (30) days in the event of a nonmonetary default after the date upon which City shall have given written notice of the default to Owner, provided that in the case of a nonmonetary default that is not susceptible of cure within thirty (30) days, an Event of Default shall not arise hereunder if Owner commences to cure the default within thirty (30) days and thereafter prosecutes the curing of such default to completion with due diligence and in good faith, but in no event longer than 90 days from the receipt of notice of default; or

(2) An "Event of Default" exists as defined in the Promissory Note or the Deed of Trust.

B. Rights Upon Event of Default. In addition to all other available legal or equitable remedies, upon an Event of Default, City shall have the right to do any one or more of the following:

- (1) Withhold the issuance of a Final Certificate of Occupancy for the Project if not already previously issued;
- (2) Accelerate the Maturity Date to the date of the Event of Default; or
- (3) Exercise all rights and remedies provided in this Agreement, the Note and the Deed of Trust.

C. City agrees that any of the limited partners of Owner, identified in Section 3.12 below, shall have the right, but not the obligation, to cure any Event of Default or default by Owner under the Loan Documents; provided, however, the cure period shall be extended by 60 days from written notice thereof to the limited partners. City further agrees any cure of any default or Event of Default made by the limited partners of Owner shall be deemed to be a cure by Owner and shall be accepted or rejected on the same basis as if made by Owner. City shall provide any notice of default under the Loan Documents to the limited partners concurrently with the provision of such notice to Owner, and as to the limited partners, the cure periods specified herein shall commence upon the date of receipt of such notice to Owner's limited partners at the address provided in Section 3.12 as may be updated with notice to City. Owner shall notify City within 10 days of any changes to: (i) the identity of Owner's limited partners; and/or (ii) the addresses for Owner's limited partners.

3.6 Cumulative Remedies. The rights or remedies of City, as provided in this Agreement, the Promissory Note, the Deed of Trust, or pursuant to any applicable laws, rules or regulations, may be pursued singly, successively, together or otherwise against the Property or Owner, at the sole discretion of City. City's failure to exercise any such right or remedy shall in no event be construed as a waiver or release of such rights or remedies, or of the right to exercise them at any later time.

3.7 Prevailing Wage. Owner assumes any and all responsibility and is solely responsible for determining whether or not laborers employed relative to the construction of the Project must be paid the prevailing per diem wage rate for their labor classification, as determined by the State of California pursuant to California Labor Code section 1720 et seq., or pursuant to applicable federal law. Owner will indemnify and hold City harmless from all claims or damages arising from compliance with prevailing wage laws.

3.8. Indemnification. In addition to the provisions of section 3.7 above, Owner agrees to indemnify and hold harmless City from and against all claims, demands, costs, liabilities and obligations of any kind or nature arising out of any default hereunder, including, with the exception of those claims arising out of the City's breach, negligence, or willful misconduct, without limitation, all costs of collection, including reasonable attorneys' fees, in the event the Deferred Fees are not paid when due.

3.9 No Set-Off Rights. Owner understands and agrees that it shall not have any rights whatsoever to set off against amounts due hereunder or otherwise due to City for any amount or obligation due to Owner or claimed to be due to Owner from City.

3.10 Successors and Assigns. Owner may not assign this Agreement, in whole or in part, without the prior written consent of City, and any attempt to make such assignment shall be null and void. This Agreement shall be binding on any and all successors and permitted assigns of the parties.

3.11 Governing Laws. This Agreement shall be governed by the laws of the State of California, without regard to the conflict of laws principles. The Municipal and Superior Courts of the State of California in the County of Los Angeles, California, shall have exclusive jurisdiction of any litigation between City and Owner arising out of this Agreement. Owner hereby expressly waives the provisions of any federal or state law providing for a change of venue to any other state court or to federal district court, due to any reason whatsoever, including, without implied limitation, the fact that the City (a public agency) is a party to this Agreement, due to any diversity of citizenship between the City and the Owner, or due to the fact that a federal question may be involved. Without limiting the generality of the foregoing, the Owner expressly waives, to the maximum legal extent, the benefit of California Code of Civil Procedure Section 394 and all other state and federal statutes and judicial decisions of similar effect.

3.12 Notices. All notices required to be delivered under this Agreement or applicable law shall be delivered by personal delivery, express mail or by United States mail, certified, postage prepaid. Notices personally delivered or delivered by express mail shall be deemed received upon receipt. Notices delivered by certified mail shall be deemed received the earlier of three days following deposit of such notice with the United States Postal Service or actual receipt. Notices shall be sent as follows:

To City: City of Pomona  
505 South Garey Ave.  
Pomona, CA 91766  
Attn: City Manager

To Owner: Holt & Main, LP  
11150 W. Olympic Blvd, Suite 620 Los Angeles, CA 90064  
Attn: President

With copies to Owner's limited partner(s):

Bank of America, N.A.  
100 Federal Street, 4th Floor  
MA5-100-04-11  
Boston, MA 02110  
Attention: Asset Management  
(617) 346-2257 (Telephone No.)  
(617) 346-2724 (Fax No.)

3.13 Attorneys' Fees and Costs. Should City or Owner bring any action or proceeding against the other, and if such action or proceeding is related to the interpretation or enforcement of this Agreement or in any way relates to or arises due to the existence of this Agreement, then the prevailing party in that action or proceeding shall be entitled to recover from the non-prevailing party, in addition to all other relief to which the prevailing party may be entitled, the prevailing party's litigation costs and reasonable attorneys' fees, in an amount to be determined by the court..

3.14 Entire Agreement. This Agreement constitutes the entire agreement of City and Owner and supersedes all previous agreements, oral or written, on the subject matter of this Agreement.

3.15 Modification. This Agreement may be amended or modified only by an Agreement in writing signed by each of the parties.

3.16 Recordation. Immediately following the Effective Date, City shall cause this Agreement and the Deed of Trust to be recorded with the Los Angeles County Recorder's Office.

3.17 Headings. Section headings contained in this Agreement are for convenience only, and shall not impact the construction or interpretation of any provision.

3.18 Further Acts. The parties agree to execute such additional documents and to take such further actions as are reasonably necessary to accomplish the objectives and intent of this Agreement.

3.19 Severability. If any provision or clause of this Agreement or any application of it to any person, firm, organization, partnership or corporation is held invalid, such invalidity shall not affect any other provision of this Agreement, and the Agreement shall be construed as if such provisions or clauses did not exist.

3.20 Good Faith Negotiations. City and the Owner acknowledge that this Agreement, the Note and the Deed of Trust are the product of mutual, good faith arms-length negotiations in that City and Owner each have been, or have had the opportunity to have been, represented by legal counsel of its own choosing in the negotiation and drafting of this Agreement. Accordingly, the rule of construction which provides that ambiguities in a document are to be construed against the drafter of that document shall have no application to either the interpretation or the enforcement of this Agreement. In any action or proceeding brought to interpret or enforce this Agreement, the trier of fact may refer to such extrinsic evidence which is not in direct conflict with any express term or provision hereof to ascertain and give effect to the intent of the parties hereto.

3.21 Time is of the Essence. Time is of the essence in this Agreement.

3.22 No Third Party Beneficiary. This Agreement and the performance of City's and Owner's obligations hereunder are for the sole and exclusive benefit of City and Owner. No person or entity who or which is not a signatory to this Agreement shall be deemed to be benefitted or intended to be benefitted by any provision hereof, and no such person or entity shall acquire any rights or causes of action against either City or Owner hereunder as a result of City's or Owner's performance or nonperformance of their respective obligations under this Agreement.

**[SIGNATURES ON FOLLOWING PAGE]**

IN WITNESS OF THE ABOVE, Owner has executed this Agreement on this \_\_\_ day of \_\_\_\_\_, 2024.

Holt & Main, LP, a California limited partnership

By: Holt & Main, LLC,  
Its administrative general partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: WCH Affordable LXIV, LLC  
Its managing general partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[ATTACH CALIFORNIA NOTARY BLOCK]



IN WITNESS OF THE ABOVE, City has executed this Agreement on this \_\_\_ day of \_\_\_\_\_, 2024.

**CITY OF POMONA,**  
a California charter city and municipal  
corporation

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

Name: Anita D. Gutierrez

Its: City Manager

**ATTEST:**

\_\_\_\_\_

City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_

City Attorney

[ATTACH CALIFORNIA NOTARY BLOCK]

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

**LEGAL DESCRIPTION: 221 W HOLT AVE**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF POMONA IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS: LOTS 4 AND 5 OF THE SUBDIVISION OF MCCOMAS HOMESTEAD PLACE, IN THE CITY OF POMONA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 60, PAGE 50 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 8336-014-027

**LEGAL DESCRIPTION: 237 W HOLT AVE**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF POMONA IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS: LOT 6 AND THE EAST ONE-HALF OF LOT 7 OF THE SUBDIVISION OF THE MCCOMAS HOMESTEAD PLACE, IN THE CITY OF POMONA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 60, PAGE 50 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 8336-014-016 AND 8336-014-017

**EXHIBIT “B”**

**FEES TO BE DEFERRED**

The following Development Impact Fees, Permit Fees and other miscellaneous fees shall constitute the “Deferred Fees” provided for under this Agreement, as outlined below:

Development Impact Fees:

Current estimated cost for Development Impact Fees is \$2,996,260.00:

PW - Traffic Signal	\$3,850
PW - Road and Highway	\$3,850
Public Safety	\$54,000
Park & Recreation Improvement Fee	\$1,543,840
Sewer Connection	\$692,160
Water Connection	\$691,360
Storm Drain	\$7,200
Total Fees Per Unit ( <i>160 units</i> )	\$18,727
<b>Total Deferred Fees:</b>	<b>\$2,996,260</b>

*This total is an estimate and may vary slightly upon finalization, but in no case will exceed \$3,000,000.*

The Deferred Fees shall not include school fees or any other third party fees which are not collected and/or held by the City.

The amount of the Deferred Fees shall be calculated according to the formula set forth in Ordinance No. 4309 of the City Council of the City of Pomona, using the rates in effect on the date of issuance of a building permit for the Project.

**EXHIBIT “C”**

**PROMISSORY NOTE SECURED BY DEED OF TRUST**

AMOUNT: \$2,996,260

DATE: \_\_\_\_\_, 2024

POMONA, CALIFORNIA

**FOR VALUE RECEIVED**, the undersigned, Holt & Main, LP, a California limited partnership (“**Maker**”), promises to pay to the City of Pomona, a California charter city and municipal corporation (“**Holder**”), at 505 South Garey Avenue, Pomona, CA 91766 (or at such other place as Holder may specify from time to time in writing), the principal sum of \$2,996,260, together with interest as provided herein.

1. Maker will pay to Holder the principal amount of this promissory note (“**Note**”), and accrued interest, as follows:

1.1 From the date of this Promissory Note until paid in full, the unpaid principal balance of this Promissory Note will bear simple interest computed at the rate of three percent (3.0%) per annum.

1.2 The payment of this Promissory Note, which will be in an amount equal to the entire outstanding principal balance of this Promissory Note, together with all accrued and unpaid interest (“**Payment Amount**”), will be paid and due as follows:

1.2.1 In a lump sum payment on the “**Maturity Date**” as defined in that certain Development Impact Fee Deferral Agreement dated [\_\_\_\_\_, 2024] between Maker and Holder, incorporated herein by reference (“**Agreement**”).

2. All payments due hereunder are payable in lawful money of the United States of America in same day funds. Any payments made shall be applied first to accrued interest and thereafter to reduction of principal.

3. Interest shall be computed on the basis of a year of 360 days and actual days elapsed and shall be payable on the unpaid principal balance hereof outstanding from time to time from the date hereof until payment in full of the Payment Amount.

4. If Maker fails to make the required payment of principal and/or interest under this Note within 10 days after such payment becomes due and payable, a late charge of five percent (5%) of the overdue payment of principal and/or interest (or of principal only if by the laws of the State of California a late charge may not be charged on overdue interest) may be charged by Holder, unless applicable law requires a lesser such charge, in which event the maximum rate permitted by such law may be charged by Holder. The parties agree that this late charge represents a reasonable sum considering all of the circumstances existing on the date of this Note and represents a fair and reasonable estimate of the costs and damages that Holder will incur by reason

of the late payment. The parties further agree that proof of actual damages would be costly or inconvenient. Acceptance of any late charge shall not constitute a waiver of the default with respect to the overdue amount, and shall not prevent Holder from exercising any of the other rights and remedies available to Holder. The foregoing shall not be construed as obligating the Holder to accept any payment after its due date.

5. This Note is secured by an instrument entitled Deed of Trust executed by Maker for the benefit of Holder (“**Deed of Trust**”), said instrument and any other instrument or document evidencing or securing the indebtedness evidenced hereby, whether now or hereafter existing, as such documents are now or may hereafter be amended, modified or supplemented, together with the Agreement and this Note are hereby incorporated by this reference. The real property and/or personal property secured by the Deed of Trust are referred to herein as the “**Property**.”

6. Upon the occurrence of any of the following, subject to the notice and cure rights in the Agreement, an “**Event of Default**” shall be deemed to have occurred and the Holder may, at Holder’s option, without prior notice, (i) declare the Payment Amount to be immediately due and payable, and the same shall immediately become due and payable; and (ii) exercise all rights and remedies provided in the Deed of Trust:

6.1 Maker shall fail to make the payment under this Note when due after 10 days following written notice of such failure from Holder; or

6.2 An “Event of Default” occurs under, and as defined in, any other Loan Document (as defined in the Agreement); or

6.3 Maker (i) becomes insolvent or unable to pay Maker’s debts generally as they mature, (ii) makes a general assignment for the benefit of creditors, (iii) admits in writing Maker’s inability to pay Maker’s debts generally as they mature, (iv) files or has filed against it a petition in bankruptcy or a petition or answer seeking a reorganization, arrangement with creditors or other similar relief under the Federal bankruptcy laws or under any other applicable law of the United States of America or any state thereof, or (v) consents to the appointment of a trustee or receiver for it or for a substantial part of Maker’s property; or

6.4 Any order, judgment or decree is entered appointing, without Maker’s consent, a trustee or receiver for it or for a substantial part of Maker’s property that is not removed within 60 days from such entry; or

6.5 A judgment against Maker for the payment of money totaling in excess of \$10,000 is outstanding for a period of 60 days without a stay of execution thereof; or

6.6 The holder of any senior or junior encumbrance on the Property institutes foreclosure or other proceedings for the enforcement of its remedies thereunder; or

6.7 Maker sells, transfers, conveys or encumbers the Property, or permits or suffers Maker’s title to be divested, sold, transferred or otherwise conveyed, whether voluntarily or involuntarily; or if title to the Property is subjected to any voluntary lien or charge, contractual or statutory, or any involuntary lien or charge that is not removed within 60 days from the date it attaches, without the prior written consent of Holder being first had and obtained. This provision shall apply to each and every sale, transfer or conveyance, regardless of whether or not Holder has consented to, or waived, Holder’s rights hereunder, whether by action or non-action, in connection with any previous sale, transfer, or conveyance, whether one or more.

Notwithstanding the above, in the event of an actual or deemed entry of an order for relief with respect to Maker under the Federal Bankruptcy Code, this Note and all interest and other amounts due hereon shall automatically become and be due and payable, without presentment, demand, protest or any notice of any kind, all of which are hereby expressly waived by Maker. Holder may exercise the option to accelerate after any Event of Default, regardless of any prior forbearance.

7. Maker agrees to indemnify Holder and to hold Holder and Holder's successors and assigns harmless from and against any and all claims, demands, costs, liabilities and obligations of any kind or nature arising out of any uncured default hereunder by Maker, including, without limitation, all costs of collection, including reasonable attorneys' fees and all costs of suit, in the event the unpaid principal sum of this Note and/or any interest thereon is not paid when due.

8. It is the intention of Maker and Holder to conform strictly to the usury laws now or hereafter enforced in the State of California, and any interest payable under this Note or any of the other documents to be executed by Maker in connection with the loan made or to be made hereunder, shall be subject to reduction to the amount not in excess of the maximum nonusurious amount allowed under the usury laws of California as now or hereafter construed by the courts having jurisdiction over such matters. In the event the maturity of this Note is accelerated by reason of any provision of this Note or by reason of an election by Holder resulting from any default (or an event permitting acceleration), under this Note or any other Loan Document, or otherwise, then earned interest may never include more than the maximum amount permitted by law, computed from the date hereof until payment, and any interest in excess of the maximum amount permitted by law shall be canceled automatically and, if theretofore paid, shall at the option of Holder either be rebated to Maker or be credited on the principal amount of this Note or if all principal has been repaid then the excess shall be rebated to Maker. The aggregate of all interest (whether designated as interest, service charges, points, or otherwise) contracted for, chargeable, or receivable under this Note or any other document executed in connection herewith shall under no circumstances exceed the maximum legal rate upon the unpaid principal balance of this Note remaining unpaid from time to time. In the event such interest does exceed the maximum legal rate, such excess shall be canceled automatically and if theretofore paid, rebated to the undersigned or credited on the principal amount of this Note, or if the Note has been repaid, then such excess shall be rebated to Maker.

9. Maker acknowledges and agrees that Maker shall not have any rights whatsoever to set-off against amounts due hereunder or otherwise due Holder any amount or obligation due Maker or claimed to be due Maker from Holder.

10. The rights or remedies of Holder, as provided in this Note and the Loan Documents, shall be cumulative and concurrent, and may be pursued singly, successively or together against the Property, and any other funds, property or security held by Holder for the payment hereof, or otherwise, at the sole discretion of Holder. The failure to exercise any such right or remedy shall in no event be construed as a waiver or release of such rights or remedies or of the right to exercise them at any later time.

11. Maker and all other persons liable or to become liable for all or part of this indebtedness, jointly and severally waive demand, presentment for payment, notice of nonpayment, protest and notice of protest hereon and agrees that when or at any time after this Note becomes due, Holder may, without notice, offset or charge this Note against any bank account or other account maintained by Maker with Holder. Maker further agrees to pay, in the Event of Default hereunder, all costs of collection, including reasonable attorney's fees, whether or not suit is commenced.

12. IN THE EVENT OWNERSHIP OF THE PROPERTY DESCRIBED IN THE DEED OF TRUST (PROPERTY), OR ANY PART THEREOF, BECOMES VESTED IN A PERSON OR PERSONS OTHER THAN MAKER, WITHOUT THE PRIOR WRITTEN APPROVAL OF HOLDER, THIS NOTE SHALL BE DUE AND PAYABLE AND HOLDER MAY, WITHOUT NOTICE TO MAKER, WAIVE SUCH DEFAULT AND DEAL WITH SUCH SUCCESSOR OR SUCCESSORS IN INTEREST IN THE PROPERTY IN THE SAME MANNER AS WITH MAKER, WITHOUT IN ANY WAY RELEASING, DISCHARGING OR OTHERWISE AFFECTING THE LIABILITY OF MAKER, THE ENDORSER, GUARANTORS, SURETIES, ACCOMMODATION PARTIES HEREOF AND ALL OTHER PERSONS LIABLE OR TO BECOME LIABLE FOR ALL OR ANY PART OF THIS INDEBTEDNESS. NO SALE OF THE PROPERTY, NO FORBEARANCE ON THE PART OF HOLDER, NO EXTENSION OF THE TIME FOR PAYMENT OF THE INDEBTEDNESS OR ANY CHANGE IN THE TERMS OF THIS NOTE CONSENTED TO BY HOLDER SHALL IN ANY WAY WHATSOEVER OPERATE TO RELEASE, DISCHARGE, MODIFY, CHANGE OR AFFECT THE ORIGINAL LIABILITY OF MAKER AND ALL SUCH PERSONS LIABLE OR TO BECOME LIABLE FOR ALL OR ANY PART OF THIS INDEBTEDNESS, EITHER IN WHOLE OR IN PART. ANY DEED CONVEYING THE PROPERTY, OR ANY PART THEREOF, SHALL PROVIDE THAT THE GRANTEE THEREUNDER ASSUMES ALL OF THE GRANTOR'S OBLIGATIONS UNDER THE LOAN DOCUMENTS.

13. The unenforceability or invalidity of any provision or provisions of this Note as to any persons or circumstances shall not render that provision or those provisions unenforceable or invalid as to any other person or circumstances, and all provisions hereof, in all other respects, shall remain valid and enforceable.

14. This Note shall bind Maker and Maker's successors and assigns and the benefits hereof shall inure to Holder and Holder's successors and assigns.

15. The validity, interpretation and performance of this Note shall be governed by and construed in accordance with the laws of the State of California.

16. Time is of the essence of this Note.

17. Neither Maker nor its partners shall have personal liability for repayment of this Note, and the sole recourse of Holder with respect to the repayment of this Note shall be to the Project, Maker's interest in the Property and any other collateral held by Holder as security for this Note.



**MAKER:**

Holt & Main, LP, a California limited partnership

By: Holt & Main, LLC,  
Its administrative general partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: WCH Affordable LXIV, LLC  
Its managing general partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT "D"**  
**DEED OF TRUST**

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

City Clerk  
City of Pomona  
505 South Garey Ave.  
Pomona, CA 91766

No fee for recording pursuant to  
Government Code Section 27383

(For Recorder's Use Only)

### DEED OF TRUST WITH ASSIGNMENT OF RENTS

This Deed of Trust with Assignment of Rents (“**Deed of Trust**”), is made this [redacted] day of [redacted], 2024, between the Holt & Main, LP, a California limited partnership, herein called “**Trustor**” whose address is 11150 W. Olympic Blvd, Suite 620, Los Angeles, CA 90064, Fidelity National Title Company, herein called “**Trustee**,” and the City of Pomona, a California charter city and municipal corporation, herein called “**Beneficiary**.” Trustor irrevocably grants, transfers and assigns to Trustee in Trust, with Power of Sale that property in the City of Pomona, County of Los Angeles, State of California, described as follows:

See **Exhibit A-1**, attached hereto and incorporated herein by reference.

Together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits.

FOR THE PURPOSE OF SECURING (1) payment of the sum of \$2,996,260, with interest thereon according to the terms of a promissory note or notes of even date herewith made by Trustor, payable to order of Beneficiary, and extensions or renewals thereof, and as further described in that certain Development Impact Fee Deferral Agreement dated [redacted], 2024] between Trustor and Beneficiary (the “**Agreement**”); (2) the performance of each agreement of Trustor incorporated by reference or contained herein or reciting it is so secured; (3) payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or Trustor's successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

A. To protect the security of this Deed of Trust, and with respect to the property above-described Trustor agrees:

- (1) To keep said property in good condition and repair, not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor

performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of the law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

(2) To provide, maintain, and deliver to Beneficiary insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. Notwithstanding the foregoing, any insurance proceeds received as a result of damage to the property secured by this Deed of Trust from fire or other calamity and any the proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking, or for conveyance in lieu of condemnation, shall be first expended as required by the documents identified in paragraph 18 below evidencing the senior debt. In the event there is no outstanding senior debt, Trustor shall use all available insurance or condemnation proceeds to repair and restore the property or otherwise to repay the sums secured by this Deed of Trust.

(3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and reasonable attorney's fees in a reasonable sum, in any action or proceeding which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

(4) To pay prior to delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock, when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Deed of Trust.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation to do so and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as wither may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge, or lien which in the judgement of either appears to be prior or superior hereto, and in exercising any such powers, pay necessary expenses, employ counsel and pay his or her reasonable fees.

(5) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby, any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

(6) That any award of damages in connection with any condemnation for public use of or injury to said property of any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by them in the same manner and with the same effect as above provided for disposition or proceeds of fire or other insurance.

(7) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his or her right either to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.

(8) That at any time or from time to time, without liability therefore and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and said note for endorsement, and without affecting the personal liability or any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property, consent to the making of any map or plat thereof, join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

(9) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and said note to Trustee for cancellation and retention of any matters or facts shall be conclusive proof of the truthfulness hereof. The grantee to such reconveyance may be described as the person or persons legally entitled thereto.

(10) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a received to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property of any part thereof, in his or her own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(11) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder and expiration of any applicable notice and cure rights as described in the Agreement, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust, said note and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale,

either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Deed of Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled hereto.

(12) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of property substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, power and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.

(13) That this Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the note secured hereby, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or the neuter, and the singular number includes the plural.

(14) Trustee accepts this Deed of Trust, when duly executed and acknowledged, is a public record as provided by law. Trustee is not obliged to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

(15) Beneficiary may charge for a statement regarding the obligation secured hereby, provided the charge thereof does not exceed the maximum allowed by laws.

(16) Notwithstanding anything to the contrary contained herein, the Beneficiary hereby agrees that any cure of any default made or tendered by one or more of Trustor's limited partners shall be deemed to be a cure by Trustor and shall be accepted or rejected on the same basis as if made or tendered by Trustor.

(17) The obligations secured by this Deed of Trust are nonrecourse obligations of the Trustor. Neither the Trustor, nor any partner of Trustor shall have any personal liability for the repayment

of the obligations secured by this Deed of Trust. Beneficiary's sole recourse shall be to realize against the collateral described herein.

(18) Notwithstanding anything to the contrary set forth herein, Beneficiary acknowledges that this Deed of Trust shall at all times be subordinate to the Project's (as that term is defined in the Agreement) construction financing, California Tax Credit Allocation Committee documents, permanent financing, and associated regulatory agreements. All other potential encumbrances are subject to Beneficiary's approval, at its reasonable discretion.

The undersigned Trustor, requests that a copy of any notice of default and any notice of sale hereunder be mailed to him or her at his or her address hereinbefore set forth.

**TRUSTOR**

Holt & Main, LP, a California limited partnership

By: Holt & Main, LLC,  
Its administrative general partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: WCH Affordable LXIV, LLC  
Its managing general partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[SIGNATURES MUST BE NOTARIZED]**

**[INSERT CALIFORNIA NOTARY]**



**EXHIBIT A-1**

**LEGAL DESCRIPTION**

**LEGAL DESCRIPTION: 221 W HOLT AVE**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF POMONA IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS: LOTS 4 AND 5 OF THE SUBDIVISION OF MCCOMAS HOMESTEAD PLACE, IN THE CITY OF POMONA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 60, PAGE 50 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 8336-014-027

**LEGAL DESCRIPTION: 237 W HOLT AVE**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF POMONA IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS: LOT 6 AND THE EAST ONE-HALF OF LOT 7 OF THE SUBDIVISION OF THE MCCOMAS HOMESTEAD PLACE, IN THE CITY OF POMONA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 60, PAGE 50 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 8336-014-016 AND 8336-014-017