



Real Estate Assets Department

SDC003

MG Stonewood Garden Apartments LP

Q389PM-1001-B00

Document Type

LEGAL DOCUMENTS



Sub - Category

AMENDMENTS



38

**SECOND AMENDMENT TO
PERCENTAGE GROUND LEASE**

THIS SECOND AMENDMENT TO PERCENTAGE GROUND LEASE ("Second Amendment"), is made and entered into by and between the CITY OF SAN DIEGO, a California municipal corporation ("CITY"), as Lessor, and MG STONEWOOD GARDEN APARTMENTS L.P., a California limited partnership ("LESSEE"), as Lessee, to be effective as of the date the Second Amendment is signed by the parties and approved by the San Diego City Attorney (the "Effective Date"), with reference to the following facts:

RECITALS

- A. CITY owns that certain real property consisting of approximately 8.06 acres of land (the "Property"), as more particularly described in **Exhibit A: Legal Description of Property**, attached to this Second Amendment. LESSEE owns and operates the improvements located at 3889 Midway Drive, San Diego, California, 92110, commonly known as "Stonewood Garden Apartments" (the "Improvements"), which are sited on the Property. The Property and the Improvements together are known as the "Premises."
- B. On August 2, 1978, City executed a Lease Agreement ("Lease Agreement") between CITY and Gentry & Coles, a general partnership, on file with the San Diego City Clerk as Document No. RR-763729, for the operation of two hundred fifty-three (253) apartment units, including twenty percent (20%) of the units (or 51 units) reserved for low-income residential rental units. The Lease Agreement was amended by the terms of that certain First Amendment to Lease Agreement dated January 18, 1980, and that certain Second Amendment to Lease Agreement dated September 12, 1991. The Lease Agreement was assigned to MG Stonewood Garden Apartments L.P., a California limited partnership, on August 27, 2003.
- C. At LESSEE's request, CITY and LESSEE entered into a new Percentage Ground Lease for the Property, approved by the City Council on May 17, 2016 by Resolution R-310427 ("Percentage Ground Lease"). The Percentage Ground Lease has a lease term of forty (40) years starting on the Commencement Date, as defined in the Percentage Ground Lease, which results in a lease term commencing on April 1, 2017 and running through March 31, 2057.
- D. At LESSEE's request, CITY and LESSEE entered into a First Amendment to the Percentage Ground Lease (collectively, the "Percentage Ground Lease") for the Property, approved by the City Council on March 7, 2017, by Resolution R-310969, that deleted in its entirety subsection 4.4 of Rider 1 attached to the Percentage Ground Lease, entitled "Mortgage of Leasehold, and amended and restated the subsection in its entirety under the First Amendment to the Percentage Ground Lease."

- E. LESSEE has requested that the term of the Percentage Ground Lease be extended by 20 years, so the Percentage Ground Lease expires on March 31, 2077, rather than on March 31, 2057. In exchange for this extension, LESSEE will increase the share of units within the Premises which are reserved as affordable units, for occupancy by low income households at an affordable rent, from 20% (corresponding to 51 units) to 30% (corresponding to 77 units).

NOW THEREFORE, in consideration of the above recitals, the mutual promises contained in this Second Amendment, and other valuable consideration the sufficiency and receipt of which is acknowledged, the parties agree as follows:

AGREEMENT

1. Paragraph (a) of Section 1.2 of SECTION 1: PREMISES; ALLOWED USES is amended to read as follows:

“(a) The Premises shall be used solely and exclusively for operating a residential apartment project consisting of two hundred fifty-five (255) multi-family residential rental units and for uses reasonably and customarily related thereto, including related retail leases and agreements which by way of example but not limitation may include laundry leases and cable, and internet services. Seventy-seven (77) of the rental units at the Property ("Affordable Units") will be made available to the San Diego Housing Commission or its successor ("Housing Commission") for occupancy by persons receiving assistance pursuant to Section 8 of the Housing Act of 1937 or another similar federal, state or local government program intended to provide rental subsidies for low-income households ("Eligible Resident(s)") during the entire term of this Lease. The Affordable Units shall be allocated throughout the Improvements according as follows:

Type of Unit	Total Number	Affordable Units
1 Bedroom	129	45
2 Bedroom	62	24
3 Bedroom	64	8
Total	255	77

The above allocation may be modified by amendment to this Lease, approved by the Mayor of San Diego pursuant to Section 1.5, whenever CITY and LESSEE reach agreement upon a mutually satisfactory reallocation.

2. Section 1.2.5. is added to SECTION 1: PREMISES; ALLOWED USES to read as follows:

“1.2.5. Implementation of Second Amendment. CITY and LESSEE recognize that this Second Amendment will cause the number of Affordable Units to increase from 51 to 77 as of the Effective Date, and this increase will be allocated to include an additional seventeen (17) one bedroom units and nine (9) two bedroom units ("Additional Affordable Units"). As of the Effective Date, the Premises may not have sufficient vacant units, or appropriately sized units, to allow LESSEE to immediately

notify the Housing Commission that the Additional Affordable Units are available. If that is the case, each appropriately sized vacant unit will be treated as an Affordable Unit until twenty-six (26) Additional Affordable Units are identified with the bedroom counts described above.”

3. Section 2.1 of SECTION 2: TERM AND COMMENCEMENT is deleted in its entirety and replaced with the following:

“2.1 Term. The term of this Percentage Ground Lease shall be sixty (60) years commencing on April 1, 2017 and expiring on March 31, 2077 (“Term”).”

4. Section 3.3.1 of SECTION 3: RENT is deleted in its entirety and replaced with the following:

“3.3.1 Percentage Rent. The Percentage Rent payable to the CITY shall be equal to seven and one quarter percent (7.25%) of all Gross Income (“Percentage Rent”), subject to adjustment as provided in Section 3.3.4. Notwithstanding the prior sentence, the Percentage Rent will be eight and four-tenths percent (8.4%) with respect to Gross Income for any month which predates the Effective Date in whole or part.”

5. SECTION 3: RENT is revised with the addition of Section 3.3.4 as follows:

“3.3.4 Percentage Rent Adjustment. For the period beginning on January 1, 2066 (“Adjustment Date”) and ending on the conclusion of the Term of this Lease, the rate used to calculate the payment of Percentage Rent to CITY (“Percentage Rent Rate”) shall be adjusted as provided in this Section.

- (a) *Appraiser*. Subject to paragraph (e), CITY shall adjust the Percentage Rent Rate to reflect the then-current fair market Percentage Rent Rate for the Premises and the Allowed Uses. The new Percentage Rent Rate shall be determined by a qualified professional independent real estate appraiser selected by CITY from the list of appraisers approved by CITY. CITY and LESSEE agree to equally share the cost of the selected appraiser. CITY and LESSEE agree to accept and be bound by the Percentage Rent Rate determined by the selected appraiser for the calculation of Percentage Rent owed under this Lease.
- (b) *Southern California Comparables*. In establishing the Percentage Rent Rate, the appraiser shall consider CITY’S interest in the Premises as a fee simple absolute estate that is vacant and available on the open market for the Allowed Uses on the first day of the Agreement Year on which the adjusted Percentage Rent will be applicable. The appraiser will be guided by prevailing market percentage rates for similar leases located within the geographic region comprised of Ventura County, Los Angeles County, Orange County, and San Diego County, California, to the extent available.

- (c) *Adjustment Effectiveness and Deficiencies.* The new Percentage Rent Rate shall be effective as of the Adjustment Date, regardless of when the appraisal is completed. If the appraisal is not completed in time to permit the Percentage Rent Rate adjustment to be made as of the Adjustment Date, LESSEE agrees to continue to pay Percentage Rent in accordance with the then-existing Percentage Rent Rate of seven and a quarter percent (7.25%) of Gross Income, and the adjustment, when determined, will be retroactive to the Adjustment Date. If a Percentage Rent deficiency occurs as a result of the Percentage Rent adjustment process, LESSEE shall pay to CITY all such Percentage Rent deficiencies within ninety (90) days after CITY's notice to LESSEE of the Percentage Rent Rate adjustment.
 - (d) *No Percentage Rent Rate Reduction.* In no event shall the Percentage Rent Rate resulting from the process described in this section result in a Percentage Rent Rate of less than seven and a quarter percent (7.25%) of Gross Income.
5. Section 7.1 of SECTION 7: INDEMNITY; HOLD HARMLESS; INSURANCE is deleted in its entirety and replaced with the following:
- “7.1 Indemnification & Hold Harmless. Lessee will protect, defend, indemnify, and hold City and its elected officials, officers, employees, representatives, and agents harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to Lessee's officers, employees, invitees, guests, agents, or contractors, which arise out of or are in any manner directly or indirectly connected with this Lease or Lessee's occupancy, use, development, maintenance, restoration, or improvement of the Premises, and all expenses of investigating and defending against same, including without limitation attorneys' fees and costs; provided, however, that Lessee's duty to indemnify and hold City harmless will not include any established liability arising from the sole negligence or willful misconduct of City and its elected officials, officers, employees, representatives, and agents. City may, at its own discretion, conduct the defense, or participate in the defense, of any claim related in any way to this indemnification. If City elects to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, Lessee will pay the City for all related costs, including, without limitation, reasonable attorneys' fees and costs.”
6. Section 9.1 of SECTION 9: GENERAL PROVISIONS is deleted in its entirety and replaced with the following:
- “9.1 Accessibility Assessment. In accordance with California Civil Code section 1938, City states that the Premises has not been inspected by a Certified Access Specialist (CASp).

Further, pursuant to California Civil Code section 1938(e), CITY is required to state: "A Certified Access Specialist (CASP) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."

7. Section 9.6 of SECTION 9: GENERAL PROVISIONS is deleted in its entirety and replaced with the following:

"9.6 Equal Benefits. Lessee will comply with San Diego Municipal Code sections 22.4301-22.4308, as may be amended from time to time, which require lessees of CITY-owned property to offer the same employment benefits to employees with spouses and employees with registered domestic partners. By signing this Lease, Lessee certifies that it will maintain such equal benefits throughout the term of this Lease. Lessee's failure to maintain equal benefits will be a default of this Lease."

8. Section 9.7 of SECTION 9: GENERAL PROVISIONS is deleted in its entirety and replaced with the following:

"9.7 Accessibility Compliance. Lessee will, as applicable to the Premises and Lessee's possession, use, and occupancy of the Premises, comply with all accessibility requirements under California Government Code sections 11135-11139.5; Title 24 of the California Code of Regulations; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (ADA); and all other applicable state and federal laws, rules, and regulations of competent governmental authority protecting the rights of individuals with disabilities. When a conflict exists between any federal or state accessibility requirements, Lessee will follow the most restrictive accessibility requirement (i.e., that which provides the most access). Lessee's compliance will include without limitation the following:

9.7.1 Lessee will not discriminate against qualified individuals with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.

9.7.2 No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of Lessee.

- 9.7.3 Lessee will include language in each sublease which indicates the sublessee's agreement to abide by the provisions of this section 9.7. Lessee and each of its sublessees will be individually responsible for their own ADA employment programs.
- 9.7.4 Lessee will post a statement addressing the requirements of the ADA in a prominent place at the work site.
- 9.7.5 Where required by law, all improvements, fixtures, structures, or installations on the Premises will comply with municipal, state, and federal accessibility requirements by bringing up to code and making accessible any areas of the Premises which deny access to individuals with disabilities. All improvements and alterations will be at Lessee's sole expense.
- 9.7.6 Lessee's failure to comply with the accessibility requirements of this section or submitting false information in response to these accessibility requirements, or both, will be a default of this Lease."

9. SECTION 9: GENERAL PROVISIONS is revised with the addition of Section 9.23 as follows:

- "9.23 Equal Pay Ordinance. Unless an exception applies, Lessee will comply with the Equal Pay Ordinance codified in San Diego Municipal Code sections 22.4801 through 22.4809. By signing this Lease, Lessee certifies that it will comply with the requirements of the Equal Pay Ordinance throughout the Term.
- 9.23.1 Lessee and Sublessee Requirement. The Equal Pay Ordinance applies to any sublessee of the Premises to the same extent as it would apply to Lessee. Lessee will require sublessees to certify compliance with the Equal Pay Ordinance in their subleases.
- 9.23.2 Notice Requirement. Lessee must post a notice informing its employees of their rights under the Equal Pay Ordinance in their workplace or job site."

IN WITNESS WHEREOF, this Second Amendment to the Percentage Ground Lease is effective as of the Effective Date.

MG STONEWOOD GARDEN
APARTMENTS L.P., a California
limited partnership

By: 
Mark Gleiberman
President of Gleiberman Investments,
Inc., a California corporation, General Partner

Date: 10/4/2022

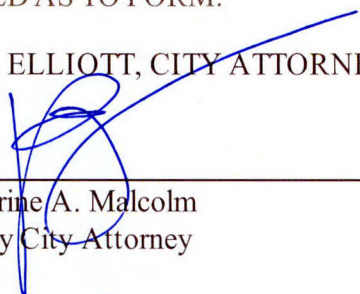
THE CITY OF SAN DIEGO, a California
municipal corporation

By: 
Penny Maus
Director,
Department of Real Estate and Airport
Management

Date: 7/11/2023

APPROVED AS TO FORM:

MARA W. ELLIOTT, CITY ATTORNEY

By: 
Katherine A. Malcolm
Deputy City Attorney

Date: 7/11/2023

Exhibit A: Legal Description of Premises

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN DIEGO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

LOT 47 OF BAY CREST, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 5334, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JANUARY 24, 1964.

EXCEPTING THAT PORTION LYING NORTHERLY OF A LINE WHICH BEARS NORTH 65°57'28" EAST FROM A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT DISTANT ALONG SAID SOUTHWESTERLY LINE NORTH 24°02'32" WEST 91.00 FEET FROM THE SOUTHERLY CORNER OF SAID LOT 47.

PARCEL 2:

THAT PORTION OF PUEBLO LOT 219 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN MAY 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, INCLUDED WITHIN THE FOLLOWING DESCRIBED BOUNDARIES:

COMMENCING AT THE MOST EASTERLY CORNER OF SAID PUEBLO LOT 219; THENCE SOUTH 36°17'20" WEST, ALONG THE SOUTHEASTERLY LINE OF SAID LOT, A DISTANCE OF 35.00 FEET TO AN INTERSECTION WITH THE SOUTHWESTERLY LINE OF MIDWAY DRIVE (INGRAHAM STREET), SAID INTERSECTION BEING THE TRUE POINT OF BEGINNING.

THENCE CONTINUING SOUTH 36°17'30" WEST ALONG THE SOUTHEASTERLY LINE OF SAID LOT, A DISTANCE OF 598.16 FEET TO THE NORTHWESTERLY-SOUTHEASTERLY CENTER LINE OF SAID LOT; THENCE NORTH 53°55'05" WEST ALONG THE NORTHEASTERLY-SOUTHEASTERLY CENTER LINE, A DISTANCE OF 660.11 FEET TO THE NORTHEASTERLY-SOUTHEASTERLY CENTER LINE OF SAID LOT; THENCE NORTH 36°03'30" EAST ALONG THE NORTHEASTERLY-SOUTHEASTERLY CENTER LINE, A DISTANCE OF 327.41 FEET TO AN INTERSECTION WITH THE SOUTHERLY LINE OF WEST POINT LOMA BOULEVARD; SAID INTERSECTION BEING ALSO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTH, HAVING A CENTRAL ANGLE OF 20°54'02", A RADIUS OF 2180.00 FEET AND THE CENTER OF WHICH SAID CURVE BEARS SOUTH 10°53'42" EAST; THENCE EASTERLY ALONG THE ARC OF SAID CURVE, BEING ALSO THE SOUTHERLY LINE OF SAID WEST POINT LOMA BOULEVARD, A DISTANCE OF 110.36 FEET TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHWESTERLY, HAVING A CENTRAL ANGLE OF 44°08' AND A RADIUS OF 683.34 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, BEING ALSO THE SOUTHERLY LINE OF SAID WEST POINT LOMA BOULEVARD, A DISTANCE OF 526.36 FEET; THENCE PARALLEL WITH THE NORTHEASTERLY LINE OF SAID LOT 219, A DISTANCE OF 107.54 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 8.00 ACRES, MORE OR LESS.

APN: 441-160-04, 441-370-21 AND 760-102-67

FIRST AMENDMENT TO
ADMINISTRATION AGREEMENT

Rental Units

Stonewood Garden Apartments/Pointe Lux Apartment Homes

This First Amendment to Administration Agreement ("First Amendment"), is made and entered into by and among the City of San Diego, a municipal corporation ("City"), San Diego Housing Commission, a public agency ("Administrator"), and MG Stonewood Garden Apartments L.P., a California limited partnership ("Participant"), to be effective as of the date the First Amendment is signed by the parties and approved by the San Diego City Attorney (the "Effective Date"), with reference to the following facts:

RECITALS

A. The Participant ground leases from the City certain real property in San Diego, California ("Property") under that certain City of San Diego Percentage Ground Lease between the City and Participant approved by the San Diego City Council on May 17, 2016 by Resolution R-310427, which was then amended by a First Amendment to Percentage Ground Lease approved by the San Diego City Council on March 7, 2017 by Resolution R-310969, and a Second Amendment to Percentage Ground Lease approved by the San Diego City Council on _____, 2023 by Resolution R-_____ (collectively, "Ground Lease").

B. On the Property, Participant operates 253 residential apartment units ("Project"). The Ground Lease requires a certain number of units ("Affordable Units") that will be exclusively available to low-income households ("Eligible Resident(s)") during the entire term of the Ground Lease.

C. The Second Amendment to Percentage Ground Lease increases the number of Affordable Units to be made available on the Property from 51 units to 77 units, and extends the term of the Ground Lease and the affordability controls from March 31, 2057 to March 31, 2077.

D. The parties entered into an Administration Agreement, dated as of April 2, 2018 ("Administration Agreement") that includes: (1) Administrator agreed to provide monitoring and reporting services to assure the Affordable Units are used in compliance with the Ground Lease; (2) Administrator agreed to provide periodic reports to City; and (3) Participant agreed to compensate Administrator for those services.

E. The Administration Agreement is based on the terms of the original Percentage Ground Lease, and the Administration Agreement must be updated to apply to the increased number of Affordable Units which are required by the Second Amendment to Percentage Ground Lease, particularly by replacing Exhibit A to the Administration Agreement with a new Exhibit A attached to this First Amendment.

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

1. Exhibit A.

Exhibit A to the Administration Agreement is deleted and replaced by Exhibit A to this First Amendment, which is attached hereto and incorporated herein by this reference.

2. Full Force and Effect

Except as amended by this First Amendment, all terms of the Administration Agreement remain in full force and effect.

3. Counterparts

This First Amendment may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, this First Amendment to the Administration Agreement is effective as of the Effective Date.

PARTICIPANT:
MG STONEWOOD GARDEN
APARTMENTS L.P., a California
limited partnership

CITY:
THE CITY OF SAN DIEGO, a California
municipal corporation

By: _____
Mark Gleiberman
President of Gleiberman Investments,
Inc., a California corporation, General Partner

By: _____
Penny Maus
Director,
Department of Real Estate and Airport
Management

Date: _____

Date: _____

APPROVED AS TO FORM:

MARA W. ELLIOTT, CITY ATTORNEY

By: _____
Katherine A. Malcolm
Deputy City Attorney

Date: _____

ADMINISTRATOR:
SAN DIEGO HOUSING COMMISSION,
a public agency

By: _____
Jeff Davis
Interim President and Chief Executive Officer

Date: _____

APPROVED AS TO FORM:
Christensen & Spath LLP

By: _____
Walter F. Spath III
Commission General Counsel

Date: _____

EXHIBIT A

QUALIFIED TENANT SCHEDULE

Stonewood Garden Apartments/Pointe Lux Apartment Homes

A "Qualified Tenant" shall be a person of Low Income, as defined in the Percentage Ground Lease, as amended. Qualified Tenants for 77 Affordable Units in the Project shall meet the income limits and shall not pay more than the rental rates identified and approved by the Housing Commission pursuant to Section 8 Program:

Seventy-seven (77) of the rental units at the Property (the "Affordable Units") will be made available to the San Diego Housing Commission or its successor (the "Housing Commission") for occupancy by persons receiving assistance pursuant to Section 8 of the Housing Act of 1937 or another similar federal, state or local government program intended to provide rental subsidies for low-income households ("Eligible Resident(s)") during the entire term of this Ground Lease. The 77 Affordable Units shall be allocated throughout the Improvements according to bedroom size as follows:

Type of Unit	Total Number	Affordable Units
1 Bedroom	129	45
2 Bedroom	62	24
3 Bedroom	64	8
Total	255	77

The above allocation may be modified by amendment to the Ground Lease, approved by the Mayor of San Diego pursuant to Section 1.5 of the Ground Lease, whenever City and Participant agreement upon a mutually satisfactory reallocation. Capitalized terms not defined in this this Exhibit A shall be defined as provided in the Administration Agreement.

Memorandum of Lease

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL
TO:

City of San Diego
1200 Third Avenue, MS-51A
San Diego, CA 92101
Attention: Department of Real Estate and Airport Management

MAIL TAX STATEMENTS TO:

MG Properties
10505 Sorrento Valley Rd, Ste 300
San Diego, CA 92121-1619

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MEMORANDUM OF LEASE

This Memorandum of Lease (the "**Memorandum**") is dated as of _____, 2023, between The City of San Diego, a California municipal corporation ("**City**"), and MG Stonewood Garden Apartments L.P., a California limited partnership ("**Lessee**") who agree as follows:

1. CITY currently leases the Property to LESSEE, under that certain LEASE AGREEMENT ("**Current Lease**") executed on August 2, 1978, between CITY and Gentry & Coles, a California general partnership, on file with the San Diego City Clerk as Document 763729, as amended by that certain First Amendment dated January 18, 1980, and that certain Second Amendment dated September 12, 1991, for the operation of two hundred fifty-three (253) residential apartment units. On August 27, 1980, Gentry & Coles assigned the Current Lease to Lessee.
2. City and Lessee entered into a new Percentage Ground Lease dated May 17, 2016, as amended by that certain First Amendment to the Percentage Ground Lease on March 7, 2017, and that certain Second Amendment to Percentage Ground Lease dated _____, 2023 (collectively, "**Lease**"), for a lease term running through March 31, 2077, and reserving thirty percent (30%) of the housing units for occupancy by low income households at an affordable rent. Under the Lease, City has leased the Property as described on Exhibit A, attached to this Memorandum of Lease, to Lessee and Lessee has accepted tenancy of the Property from City.
3. The provisions of the Lease to be performed by Lessee, whether affirmative or negative in nature, are intended to and shall bind Lessee and its successors and assigns at any time, and shall inure to the benefit of City and its successors and assigns.

4. The provisions of the Lease to be performed by City, whether affirmative or negative in nature, are intended to and shall bind City and its successors and assigns at any time, and shall inure to the benefit of Lessee and its successors and assigns.

5. This Memorandum is prepared for the purpose of recordation only and it in no way modifies any of the provisions of the Lease.

6. Reference is made to the entire Lease for any and all purposes. A true copy of the Lease is on file in the office of the San Diego City Clerk, 202 C Street, 2nd Floor, San Diego, California 92101, as Document Number RR-_____.

IN WITNESS WHEREOF, the City and the Lessee have executed this Memorandum as of the date first set forth above.

CITY

LESSEE

THE CITY OF SAN DIEGO

MG STONEWOOD GARDEN APARTMENTS L.P.,
a California limited partnership

By: _____
Penny Maus, Director
Real Estate Assets Department

By: _____
Mark Gleiberman
President of Gleiberman Investment, Inc.,
a California corporation, General Partner

Approved as to form this _____ day of _____, 2023.

MARA W. ELLIOTT, CITY ATTORNEY

By: _____
Katherine A. Malcolm
Deputy City Attorney

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 _____, before me, _____, Notary Public in and for said State, 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 forgoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

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 _____, before me, _____, Notary Public in and for said State, 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 forgoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

TO MEMORANDUM OF
LEASE

Exhibit A

Legal Description of Premises

RESOLUTION NUMBER R- 314828

DATE OF FINAL PASSAGE MAY 25 2023

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING A SECOND AMENDMENT TO GROUND LEASE BETWEEN THE CITY OF SAN DIEGO AND MG STONEWOOD GARDEN APARTMENTS, L.P. FOR THE POINTE LUXE APARTMENTS LOCATED AT 3889 MIDWAY DRIVE IN SAN DIEGO, AND MAKING A RELATED FINDING THAT THE SECOND AMENDMENT SERVES A VALID PUBLIC PURPOSE.

WHEREAS, the City of San Diego (City) owns approximately 8.06 acres of real property located at 3889 Midway Drive, San Diego, California (Property); and

WHEREAS, since 2016, the City has leased the Property to MG Stonewood Garden Apartments, L.P., a California limited partnership (Lessee), under a lease on file with the San Diego City Clerk as Document No. RR-310427, as amended on March 7, 2017, on file with the San Diego City Clerk as Document No. RR-310969 (collectively, Current Lease), for the construction and operation of 255 residential rental units, commonly known as Pointe Luxe Apartments (formerly, Stonewood Garden Apartments); and

WHEREAS, the Current Lease is for a 40-year term expiring March 31, 2057; and

WHEREAS, the City and Lessee now propose entering into a Second Amendment to the Current Lease (Second Amendment), a copy of which is included in the docket materials accompanying this Resolution; and

WHEREAS, the Second Amendment will extend the Current Lease for an additional 20 years, expiring on March 31, 2077; and

WHEREAS, the Current Lease requires 20 percent of the residential units on the Property to be made available for rent and occupied by households whose aggregate gross annual income does not exceed 80 percent of local area median income (51 units), and the Second

Amendment requires an additional 10 percent of the residential units on the Property, for an additional 26 units, to be subject to the same affordable rent restrictions; and

WHEREAS, Paragraph S on page 15 of Council Policy 700-10 (Paragraph S) provides that, when the City grants a lease extension during the last 20 percent of the remaining lease term, the City shall receive compensation from the lessee equal to the change in present value attributable to the City's deferral of its reversionary interest in the leasehold improvements; and

WHEREAS, the Current Lease is not in the last 20 percent of the remaining term, so Paragraph S does not apply to the Second Amendment transaction; and

WHEREAS, in addition to the City receiving adequate consideration in the Second Amendment transaction, the Council will make a finding in this Resolution that the Second Amendment serves a valid public purpose by continuing the effectiveness of the existing affordable rent restrictions governing 20 percent of the residential units (51 units) on the Property and imposing affordable rent restrictions with respect to an additional 10 percent of the residential units (26 units) on the Property, all of which restrictions will apply for the entire term of the Second Amendment, expiring March 31, 2077; and

WHEREAS, Lessee recently invested \$20.7 million in improvements on the Property to meet the demand for higher quality apartments in the area; and

WHEREAS, the Second Amendment adjusts the percentage rent (of all gross income) payable to the City from 8.4 percent (the current rate) to 7.25 percent (the new rate), which reflects current market rent, as explained in the docket materials accompanying this Resolution; and

WHEREAS, as amended by Assembly Bill 1486 effective January 1, 2020, the Surplus Land Act (SLA), California Government Code sections 54220-54234, is generally intended to

make a local agency's surplus land (i.e., land not needed for the local agency's use) available for potential acquisition by affordable housing sponsors or other local public entities; and

WHEREAS, in April 2021, the California Department of Housing and Community Development (HCD) issued the final SLA Guidelines to assist with implementation of the SLA, as amended by Assembly Bill 1486; and

WHEREAS, Section 102(h) of the SLA Guidelines states HCD's view that the SLA process applies to lease transactions, except for (1) any lease of land on which no development or demolition will occur and (2) any lease which has a term that is less than five years, including any extensions, amendments, or options; and

WHEREAS, HCD has confirmed that, under clause (1) above, the SLA process does not apply to lease transactions that involve renovation or rehabilitation activities, with no demolition or consolidation of existing residential units; and

WHEREAS, the Second Amendment involves renovations and upgrades to the existing facilities on the Property and will not result in the demolition or consolidation of any existing residential units, and therefore, the Second Amendment is not subject to the SLA process; and

WHEREAS, the Office of the City Attorney has drafted this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, as follows:

1. The Council finds that the Second Amendment serves the valid public purpose of continuing the effectiveness of the existing affordable rent restrictions governing 20 percent of the residential units (51 units) on the Property and imposing affordable rent restrictions with

respect to an additional 10 percent of the residential units (26 units) on the Property, all of which restrictions will apply for the entire term of the Second Amendment.

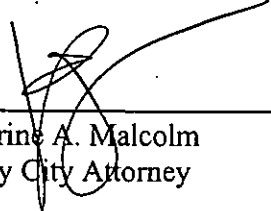
2. The Council approves the Second Amendment.

3. The Mayor or designee is authorized and directed, on the City's behalf, to sign the Second Amendment. A copy of the Second Amendment, when fully signed, shall be placed on file in the Office of the City Clerk as Document No. RR- 314828.

4. The Mayor or designee is authorized, on the City's behalf, to sign all additional documents necessary to implement the terms and conditions of the Second Amendment.

APPROVED: MARA W. ELLIOTT, City Attorney

By



Katherine A. Malcolm
Deputy City Attorney

KAM:cc

4/11/2023

Or.Dept: Dept of Real Estate and Airport Management

Doc. No.: 3275241

Companion to R-2023-612

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego at this meeting of MAY 16 2023.

DIANA J.S. FUENTES
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 5/24/23
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on MAY 16 2023, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	☒	☐	☐	☐
Jennifer Campbell	☒	☐	☐	☐
Stephen Whitburn	☒	☐	☐	☐
Monica Montgomery Steppe	☒	☐	☐	☐
Marni von Wilpert	☒	☐	☐	☐
Kent Lee	☒	☐	☐	☐
Raul A. Campillo	☒	☐	☐	☐
Vivian Moreno	☒	☐	☐	☐
Sean Elo-Rivera	☒	☐	☐	☐

Date of final passage MAY 25 2023

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Connie Patterson Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 314828

Passed by the Council of The City of San Diego on May 16, 2023, by the following vote:

YEAS: LACAVA, CAMPBELL, WHITBURN, MONTGOMERY STEPPE, VON
WILPERT, LEE, CAMPILLO, MORENO, & ELO-RIVERA.

NAYS: NONE.

NOT PRESENT: NONE.

RECUSED: NONE.

AUTHENTICATED BY:

TODD GLORIA

Mayor of The City of San Diego, California

DIANA J. S. FUENTES

City Clerk of The City of San Diego, California

(Seal)

By: Matthew R. Hilario, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of
RESOLUTION NO. R-314828 approved on May 16, 2023. The date of final passage
is May 25, 2023.

DIANA J. S. FUENTES

City Clerk of the City of San Diego, California

(Seal)

By: , Deputy

RESOLUTION NUMBER R- 314827

DATE OF FINAL PASSAGE MAY 25 2023

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO DETERMINING THAT THE RENOVATION
OF THE POINTE LUXE APARTMENTS LOCATED AT
3889 MIDWAY DRIVE IN SAN DIEGO IS
CATEGORICALLY EXEMPT FROM THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT UNDER GUIDELINES
SECTION 15301.

WHEREAS, the Council of the City of San Diego (City Council) is considering the approval of a Second Amendment to the Percentage Ground Lease Agreement (Second Amendment) between the City of San Diego (City) and MG Stonewood Garden Apartments, L.P., a California limited partnership (Lessee), related to the improved real property, commonly known as Pointe Luxe Apartments, located at 3889 Midway Drive in San Diego (Property); and

WHEREAS, within the California Environmental Quality Act (CEQA), Public Resources Code section 21084, states that the CEQA Guidelines shall list those classes of projects which have been determined not to have a significant effect on the environment and which shall be exempt from CEQA; and

WHEREAS, under that authority, CEQA Guidelines sections 15300-15333 list the categorical exemptions promulgated by the California Office of Planning and Research for those classes of projects which have been determined not to have a significant effect on the environment; and

WHEREAS, the City Council has considered the potential environmental effects of renovating the Property as envisioned by the Second Amendment (Project); and

WHEREAS, the City Council considered the written record for the Project as well as public comment; and

WHEREAS, the City Council, using its independent judgment, has determined that the Project will not have a significant effect on the environment and is categorically exempt from CEQA under CEQA Guidelines section 15301 (involving minor alterations to existing facilities) because the Project includes repairing and renovating affordable housing units, including a solar photovoltaic system and other energy efficient upgrades; and

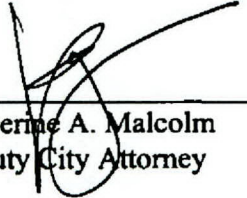
WHEREAS, the Office of the City Attorney has drafted this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. The Project is categorically exempt from CEQA under CEQA Guidelines section 15301.
2. An exception to the exemption as set forth in CEQA Guidelines section 15300.2 does not apply.

APPROVED: MARA W. ELLIOTT, City Attorney

By


Katherine A. Malcolm
Deputy City Attorney

KAM:cc

4/12/2023

Or.Dept: Dept of Real Estate and Airport Management

Doc.No: 3275714

Companion Item to R-2023-611

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at its meeting of MAY 16 2023.

DIANA J.S. FUENTES
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 5/24/23
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on MAY 16 2023, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	☒	☐	☐	☐
Jennifer Campbell	☒	☐	☐	☐
Stephen Whitburn	☒	☐	☐	☐
Monica Montgomery Steppe	☒	☐	☐	☐
Marni von Wilpert	☒	☐	☐	☐
Kent Lee	☒	☐	☐	☐
Raul A. Campillo	☒	☐	☐	☐
Vivian Moreno	☒	☐	☐	☐
Sean Elo-Rivera	☒	☐	☐	☐

Date of final passage MAY 25 2023.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

DIANA I.S. FUENTES
City Clerk of The City of San Diego, California.

By Connie Patterson Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- **314827**

Memorandum of Lease

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL
TO:

City of San Diego
1200 Third Avenue, MS-51A
San Diego, CA 92101
Attention: Department of Real Estate and Airport Management

MAIL TAX STATEMENTS TO:

MG Properties
10505 Sorrento Valley Rd, Ste 300
San Diego, CA 92121-1619

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MEMORANDUM OF LEASE

This Memorandum of Lease (the "Memorandum") is dated as of 7/11/2023, 2023, between The City of San Diego, a California municipal corporation ("City"), and MG Stonewood Garden Apartments L.P., a California limited partnership ("Lessee") who agree as follows:

1. CITY currently leases the Property to LESSEE, under that certain LEASE AGREEMENT ("Current Lease") executed on August 2, 1978, between CITY and Gentry & Coles, a California general partnership, on file with the San Diego City Clerk as Document 763729, as amended by that certain First Amendment dated January 18, 1980, and that certain Second Amendment dated September 12, 1991, for the operation of two hundred fifty-three (253) residential apartment units. On August 27, 1980, Gentry & Coles assigned the Current Lease to Lessee.
2. City and Lessee entered into a new Percentage Ground Lease dated May 17, 2016, as amended by that certain First Amendment to the Percentage Ground Lease on March 7, 2017, and that certain Second Amendment to Percentage Ground Lease dated 7/11/2023, 2023 (collectively, "Lease"), for a lease term running through March 31, 2077, and reserving thirty percent (30%) of the housing units for occupancy by low income households at an affordable rent. Under the Lease, City has leased the Property as described on Exhibit A, attached to this Memorandum of Lease, to Lessee and Lessee has accepted tenancy of the Property from City.
3. The provisions of the Lease to be performed by Lessee, whether affirmative or negative in nature, are intended to and shall bind Lessee and its successors and assigns at any time, and shall inure to the benefit of City and its successors and assigns.

4. The provisions of the Lease to be performed by City, whether affirmative or negative in nature, are intended to and shall bind City and its successors and assigns at any time, and shall inure to the benefit of Lessee and its successors and assigns.

5. This Memorandum is prepared for the purpose of recordation only and it in no way modifies any of the provisions of the Lease.

6. Reference is made to the entire Lease for any and all purposes. A true copy of the Lease is on file in the office of the San Diego City Clerk, 202 C Street, 2nd Floor, San Diego, California 92101, as Document Number RR-314828.

IN WITNESS WHEREOF, the City and the Lessee have executed this Memorandum as of the date first set forth above.

CITY

LESSEE

THE CITY OF SAN DIEGO

MG STONEWOOD GARDEN APARTMENTS L.P.,
a California limited partnership

By:



Penny Maus
Director, Department of Real Estate and
Airport Management

By:

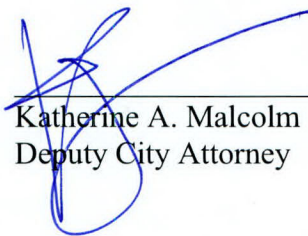


Mark Gleiberman
President of Gleiberman Investment, Inc.,
a California corporation, General Partner

Approved as to form this 11th day of July, 2023.

MARA W. ELLIOTT, CITY ATTORNEY

By:



Katherine A. Malcolm
Deputy City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

CIVIL CODE §1189

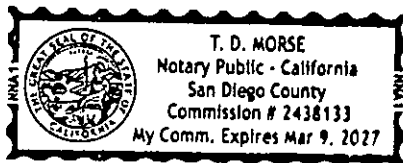
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) §
COUNTY OF San Diego)

On June 28, 2023 before me, T.D. Morse, Notary Public,
Date Insert Name and Title of Officer Here

personally appeared Penny Maus
Name of Signer

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 she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



I certify under the 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.

Place Notary Seal Above

Signature S. D. Muse

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 June 22, 2023, before me, Janel Karen Spaulding Martinez, Notary Public in and for said State, personally appeared Mark Gleiberman, 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 executed the same in his authorized capacity, and that by his 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 forgoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Janel K Martinez



TO MEMORANDUM OF
LEASE

Exhibit A

Legal Description of Premises

Exhibit A: Legal Description of Premises

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN DIEGO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

LOT 47 OF BAY CREST, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 5334, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JANUARY 24, 1964.

EXCEPTING THAT PORTION LYING NORTHERLY OF A LINE WHICH BEARS NORTH 65°57'28" EAST FROM A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT DISTANT ALONG SAID SOUTHWESTERLY LINE NORTH 24°02'32" WEST 91.00 FEET FROM THE SOUTHERLY CORNER OF SAID LOT 47.

PARCEL 2:

THAT PORTION OF PUEBLO LOT 219 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN MAY 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, INCLUDED WITHIN THE FOLLOWING DESCRIBED BOUNDARIES:

COMMENCING AT THE MOST EASTERLY CORNER OF SAID PUEBLO LOT 219; THENCE SOUTH 36°17'20" WEST, ALONG THE SOUTHEASTERLY LINE OF SAID LOT, A DISTANCE OF 35.00 FEET TO AN INTERSECTION WITH THE SOUTHWESTERLY LINE OF MIDWAY DRIVE (INGRAHAM STREET), SAID INTERSECTION BEING THE TRUE POINT OF BEGINNING.

THENCE CONTINUING SOUTH 36°17'30" WEST ALONG THE SOUTHEASTERLY LINE OF SAID LOT, A DISTANCE OF 598.16 FEET TO THE NORTHWESTERLY-SOUTHEASTERLY CENTER LINE OF SAID LOT; THENCE NORTH 53°55'05" WEST ALONG THE NORTHEASTERLY-SOUTHEASTERLY CENTER LINE, A DISTANCE OF 660.11 FEET TO THE NORTHEASTERLY-SOUTHEASTERLY CENTER LINE OF SAID LOT; THENCE NORTH 36°03'30" EAST ALONG THE NORTHEASTERLY-SOUTHEASTERLY CENTER LINE, A DISTANCE OF 327.41 FEET TO AN INTERSECTION WITH THE SOUTHERLY LINE OF WEST POINT LOMA BOULEVARD; SAID INTERSECTION BEING ALSO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTH, HAVING A CENTRAL ANGLE OF 20°54'02", A RADIUS OF 2180.00 FEET AND THE CENTER OF WHICH SAID CURVE BEARS SOUTH 10°53'42" EAST; THENCE EASTERLY ALONG THE ARC OF SAID CURVE, BEING ALSO THE SOUTHERLY LINE OF SAID WEST POINT LOMA BOULEVARD, A DISTANCE OF 110.36 FEET TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHWESTERLY, HAVING A CENTRAL ANGLE OF 44°08' AND A RADIUS OF 683.34 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, BEING ALSO THE SOUTHERLY LINE OF SAID WEST POINT LOMA BOULEVARD, A DISTANCE OF 526.36 FEET; THENCE PARALLEL WITH THE NORTHEASTERLY LINE OF SAID LOT 219, A DISTANCE OF 107.54 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 8.00 ACRES, MORE OR LESS.

APN: 441-160-04, 441-370-21 AND 760-102-67

**FIRST AMENDMENT TO
ADMINISTRATION AGREEMENT**

Rental Units

Stonewood Garden Apartments/Pointe Lux Apartment Homes

This First Amendment to Administration Agreement ("First Amendment"), is made and entered into by and among the City of San Diego, a municipal corporation ("City"), San Diego Housing Commission, a public agency ("Administrator"), and MG Stonewood Garden Apartments L.P., a California limited partnership ("Participant"), to be effective as of the date the First Amendment is signed by the parties and approved by the San Diego City Attorney (the "Effective Date"), with reference to the following facts:

RECITALS

A. The Participant ground leases from the City certain real property in San Diego, California ("Property") under that certain City of San Diego Percentage Ground Lease between the City and Participant approved by the San Diego City Council on May 17, 2016 by Resolution R-310427, which was then amended by a First Amendment to Percentage Ground Lease approved by the San Diego City Council on March 7, 2017 by Resolution R-310969, and a Second Amendment to Percentage Ground Lease approved by the San Diego City Council on MAY 16, 2023 by Resolution R- 314827 (collectively, "Ground Lease").

B. On the Property, Participant operates 255 residential apartment units ("Project"). The Ground Lease requires a certain number of units ("Affordable Units") that will be exclusively available to low-income households ("Eligible Resident(s)") during the entire term of the Ground Lease.

C. The Second Amendment to Percentage Ground Lease increases the number of Affordable Units to be made available on the Property from 51 units to 77 units, and extends the term of the Ground Lease and the affordability controls from March 31, 2057 to March 31, 2077.

D. The parties entered into an Administration Agreement, dated as of April 2, 2018 ("Administration Agreement") that includes: (1) Administrator agreed to provide monitoring and reporting services to assure the Affordable Units are used in compliance with the Ground Lease; (2) Administrator agreed to provide periodic reports to City; and (3) Participant agreed to compensate Administrator for those services.

E. The Administration Agreement is based on the terms of the original Percentage Ground Lease, and the Administration Agreement must be updated to apply to the increased number of Affordable Units which are required by the Second Amendment to Percentage Ground Lease, particularly by replacing Exhibit A to the Administration Agreement with a new Exhibit A attached to this First Amendment.

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

1. Exhibit A.

Exhibit A to the Administration Agreement is deleted and replaced by Exhibit A to this First Amendment, which is attached hereto and incorporated herein by this reference.

2. Full Force and Effect

Except as amended by this First Amendment, all terms of the Administration Agreement remain in full force and effect.

3. Counterparts

This First Amendment may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, this First Amendment to the Administration Agreement is effective as of the Effective Date.

PARTICIPANT:

MG STONEWOOD GARDEN
APARTMENTS L.P., a California
limited partnership

By: _____

Mark Gleiberman
President of Gleiberman Investments,
Inc., a California corporation, General Partner

Date: _____

10/4/2022

CITY:

THE CITY OF SAN DIEGO, a California
municipal corporation

By: _____

Penny Maus
Director,
Department of Real Estate and Airport
Management

Date: _____

7/11/2023

APPROVED AS TO FORM:

MARA W. ELLIOTT, CITY ATTORNEY

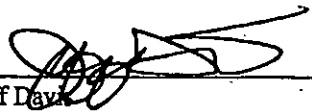
By: _____

Katherine A. Malcolm
Deputy City Attorney

Date: _____

7/11/2023

ADMINISTRATOR:
SAN DIEGO HOUSING COMMISSION,
a public agency

By: 
Jeff Davis
Interim President and Chief Executive Officer

Date: 7-24-2023

APPROVED AS TO FORM:
Christensen & Spath LLP

By: 
Walter F. Spath III
Commission General Counsel

Date: 7/24/23

EXHIBIT A

QUALIFIED TENANT SCHEDULE

Stonewood Garden Apartments/Pointe Lux Apartment Homes

A "Qualified Tenant" shall be a person of Low Income, as defined in the Percentage Ground Lease, as amended. Qualified Tenants for 77 Affordable Units in the Project shall meet the income limits and shall not pay more than the rental rates identified and approved by the Housing Commission pursuant to Section 8 Program:

Seventy-seven (77) of the rental units at the Property (the "Affordable Units") will be made available to the San Diego Housing Commission or its successor (the "Housing Commission") for occupancy by persons receiving assistance pursuant to Section 8 of the Housing Act of 1937 or another similar federal, state or local government program intended to provide rental subsidies for low-income households ("Eligible Resident(s)") during the entire term of this Ground Lease. The 77 Affordable Units shall be allocated throughout the Improvements according to bedroom size as follows:

Type of Unit	Total Number	Affordable Units
1 Bedroom	129	45
2 Bedroom	62	24
3 Bedroom	64	8
Total	255	77

The above allocation may be modified by amendment to the Ground Lease, approved by the Mayor of San Diego pursuant to Section 1.5 of the Ground Lease, whenever City and Participant agreement upon a mutually satisfactory reallocation. Capitalized terms not defined in this this Exhibit A shall be defined as provided in the Administration Agreement.