

MONROE STREET APARTMENTS
TERM SHEET FOR THE INCREASE TO THE CITY LOAN AMOUNT FOR THE WATER MAIN
UPGRADE

Date: _____,
2022

REQUEST: The owner, Monroe Street Housing Partners, L.P., a California limited partnership, has requested that the City of Santa Clara (“City”) increase its existing loan amount by up to \$3,000,000 (the “Additional Funds”), from \$6,500,000 to an amount not to exceed \$9,500,000 (“Transaction”) for the Monroe Street Apartments project located at 2330 Monroe Street Santa Clara identified as Assessor’s Parcel Number 224-37-068 (“Project”). The loan increase shall be used towards the cost to upgrade the water main serving the Project (“Water Main Upgrade”). Approval of the Transaction is subject to City Council approval.

PROJECT DESCRIPTION & FINANCING OVERVIEW

1. **PROJECT DESCRIPTION:** At completion, the Project will rent 16 units to 30% AMI households, 32 units to 50% AMI households, 8 units to 60% AMI households, 8 units to 80% AMI households and one (1) unrestricted manager’s unit. The 64 units are restricted by the City’s existing 55-year Affordable Housing Covenants and Restriction recorded against the Project.
2. **BORROWER:** The owner/borrower of the Project is Monroe Street Housing Partners, L.P., a California limited partnership (“Borrower”). The managing general partner of the Borrower is AHA Norcal MGP, LLC and the administrative general partner is Freebird Monroe LLC, an affiliate of the Sponsor. The current limited partner and tax credit investor is an affiliate formed by Raymond James Financial.
3. **EXISTING CITY LOAN:** On April 1, 2022, the City made a \$6,500,000 construction and permanent loan to the Borrower to construct and develop the Project (“City Loan”). The City Loan is evidenced by a promissory note dated April 1, 2022 secured by a leasehold deed of trust, a loan agreement, and other documents related to the City Loan (“City Loan Documents”). The promissory note bears no interest during construction and 3% simple interest commencing at Completion for a term of 55 years from Conversion (“Maturity Date”). The City will receive Net Cash Flow payments commencing on the Conversion Date.
4. **SELLER LOAN.** On April 1, 2022, the City made a \$5,200,000 loan to the Borrower as evidenced by a promissory note, secured by a deed of trust and a loan agreement (“Seller Loan”), the proceeds of which were used to prepay in advance the City’s lease payments pursuant to a 65-year ground lease between the City as the landlord and the Borrower as the lessee. The Seller Loan bears no interest during construction and 0.5% simple interest commencing at Completion for a term of 55 years from Conversion. The City will receive Net Cash Flow payments commencing on the Conversion Date.
5. **SPONSOR:** Freebird Development Company, LLC, a California limited liability company.
6. **BOND FINANCING AND CONSTRUCTION AND PERMANENT FINANCING:** The City Loan and the Seller Loan form a part of the financial structure used to acquire and develop the

Project. The construction and permanent financing for the development of the Project includes the syndication of the Property utilizing tax-exempt bond permanent financing, 4% Low Income Housing Tax Credits (“LIHTC”) tax credit equity, a loan from the County of Santa Clara and a loan from California Housing Finance Agency Mixed-Income Program (“CalHFA MIP”).

7. AMENDED AND RESTATED CITY LOAN: The revised City Loan terms are set forth in Exhibit A “Amendments to the Terms and Conditions of the Existing City Loan,” attached hereto. The City Loan Documents shall be amended and restated as set forth in Exhibit A.
8. DOCUMENTATION.
 - a. This Term Sheet is not intended to set all of the terms, conditions and documents required by the City for the Transaction, which shall include customary provisions and documents to be approved by City (including, but not limited to, all such documents mentioned in this Term Sheet and all City documents evidencing, securing or related to City documents related to this Project, shall in all respects be satisfactory to City.
 - b. Borrower shall promptly deliver to City any further documentation which may be required by City.
 - c. Expiration: The subject Term Sheet expires ___ days from the date written above. Please return a fully executed copy to the City by _____ 2022.

ACCEPTED BY:

Monroe Street Housing Partners, L.P., a California limited partnership

By: AHA Norcal MGP LLC,
a California limited liability company
its managing general partner

By: Affordable Housing Access, Inc.,
a California nonprofit public benefit
corporation
its manager

By: _____

Name _____

Title: _____

By: Freebird Monroe LLC,
a California limited liability company
its administrative general partner

By: Freebird Development Company LLC
a California limited liability company
its sole member manager

By: _____

Name: _____

Title: _____

[Signatures Continue on Following Page]

ACKNOWLEDGED BY:

The City of Santa Clara, a California municipal corporation

By: _____

Name: _____

Title: _____

Date: _____

DRAFT

EXHIBIT A
AMENDED TERMS AND CONDITIONS TO THE EXISTING CITY LOAN

1. **LOAN AMOUNT:** Up to \$9,500,000 (“Amended City Loan”).
2. **SOURCE:** The Loan increase is funded by the City Affordable Housing Fund is not an obligation of City’s General Fund.
3. **LOAN MATURITY DATE:** No change.
4. **INTEREST RATE:** No change.
5. **PROPERTY OWNERSHIP:** No change.
6. **ASSIGNMENTS OF CONTRACTS AND AGREEMENTS:** The Borrower will also enter into an Assignment of the Plans and Specifications and Civil Engineer Agreement and Assignment of the Construction Contract. The Assignment of the Construction Contract, Assignment of the Civil Engineer Agreement and Assignment of the Plans and Specifications, once acceptable to the City, will be subordinated to the senior construction and permanent loans.
7. **RESIDUAL RECEIPT SHARE:** City’s proportionate share of residual receipts shall be adjusted based on the Amended City Loan amount.
8. **PROJECT PRO FORMA:** Prior to the close of the Transaction, Borrower shall submit to City, and City will approve, an updated pro forma budget reflecting Borrower’s projections of the construction/permanent budget, sources and uses of funds and income and operating expense cash flow for the Project.
9. **ORGANIZATIONAL AGREEMENTS:** Borrower shall submit to City borrowing resolutions and such related documentation as City may request.
10. **CONSTRUCTION COMPLETION:** No change.
11. **PLANS AND SPECIFICATIONS:** Final plans and specifications for the Water Main Upgrade shall be subject to City’s approval prior to close of the Transaction. Any changes to the plans and specifications that are approved shall be governed by the City Loan Documents.
12. **CIVIL ENGINEER’S AGREEMENT:** The civil engineer’s agreement for the preparation of the plans and specifications and other services shall be subject to City’s approval. There shall be no material changes in the plans and specifications, nor any material deviation in construction of the Water Main Upgrade without City’s prior written consent. City may require an assignment of Borrower’s interest in and to the agreement as security for the Loan.
13. **PREVAILING WAGE REQUIREMENTS.** No change.
14. **CONSTRUCTION CONTINGENCY:** Borrower’s hard cost construction contingency related to the Water Main Upgrade shall not be less than 7%, excluding the contractor’s overhead, profit and general conditions and including insurance. The construction contingency related to the Water

Main Upgrade shall only be used for the Water Main Upgrade and shall be accounted for separately from any other contingency with respect to the Project.

15. CONSTRUCTION CONSULTANT: The City will engage a construction inspector (“Construction Inspector”) for the purposes of reviewing construction documents, monitoring construction draws, reporting on construction progress and inspecting Water Main Upgrade. Prior to closing on the Transaction, City will provide Borrower with the Construction Inspector budget. The cost of the Construction Inspector shall be invoiced to and paid by the Project. The City shall approve all construction draws.
16. CONSTRUCTION CONTRACT: The construction contract ("Contract") and the general contractor ("Contractor"), to be retained by Borrower to construct the Water Main Upgrade, shall all be subject to City's approval. City shall require an assignment of Borrower's interest in and to the Contract as security for the City Loan subject to any subordinations of that assignment approved by City. Change Orders will require City approval as provided for in the City Loan Documents. Borrower shall obtain at least 3 bids for the Contract and provide copies thereof to the City.
17. FORM OF CONSTRUCTION CONTRACT: The contract type used should be Cost Plus a Fee with a Guaranteed Maximum Price. Contract must be in the most recent form provided by the American Institute of Architects (“AIA”), as may be modified by the Borrower but subject to approval by the City. The savings clause in the contract must indicate that 100% of the construction cost savings associated with the Water Main Upgrade will be returned to the Borrower. Construction cost savings calculation shall be received and reviewed by the City prior to the permanent loan closing. If the contractor for the Water Main Upgrade is the same contractor for the Project, then the Contract may be in the form of a change order to the existing contract for the Project, subject to the same conditions and approvals herein and the City Loan Documents.
18. CONSTRUCTION COMPLETION BOND: Performance and payment bonds for the construction contract naming the City as co-obligee shall be required for the contractor, acceptable to the City. Any surety for purposes of bonding, including, but not limited to, performance or completion bonds, must be a corporation duly authorized and admitted to transact business and issue surety bonds in the State of California. If the contractor for the Water Main Upgrade is the same contractor for the Project, and if the Contract is in the form of a change order to the existing contract for the Project, then City acknowledges that the form of the existing payment and performance bond that was already approved for the Project satisfies this condition, provided that the amount thereof shall be adjusted to reflect the Contract.
19. PROJECT COST SAVINGS: 100% of the cost savings attributable to the Water Main Upgrade, if any, shall be paid to the City on the same schedule as the Project Cost Savings under the City Loan Documents.
20. DISBURSEMENT: The Additional Funds shall be disbursed after Borrower has utilized all other sources of construction financing shown in the updated project pro forma (including, without limitation, any equity and funds from Senior Loans), and shall be available on a monthly draw down basis pursuant to commercially standard construction loan terms. City’s written approval is required for all existing construction disbursements including disbursements incurred towards the Water Main Upgrade. City shall require Borrower to provide documentation supporting the request for each disbursement. City reserves the right to conduct inspections of the Water Main Upgrade prior to approving disbursements. The Additional Funds shall be used only for the Water Main Upgrade, and shall not be used to otherwise finance the Project.

21. TITLE INSURANCE: Borrower shall procure and deliver to the City an endorsement to its ALTA Extended Policy of Title Insurance (or reissuance thereof if such endorsement is not available), together with such other endorsements as City may require, in an amount equal to the amended principal amount of the City Loan, insuring that City Loan's Deed of Trust constitutes a junior lien or charge upon the Project subject only to such items as shall have been approved by City. There shall be no exceptions permitted for mechanics' liens. Such policy shall be issued by Old Republic Title Company, or another title insurer approved by the City.
22. CITY EXPENSES: Borrower shall make prompt payment of all expenses of City and other parties' incidentals to the Transaction including, without limitation, expenses incurred for third-party expenses, architectural and engineering review, appraisal or appraisal review, toxic review, inspections, and legal services. Borrower shall also pay closing expenses including, without limitation, escrow fees, title insurance, liability and other insurance and architect's and engineer's fees, as well as charges for such items as surveys, recordation, filing and documentary or stamp taxes. If this Transaction does not close, Borrower shall pay City's reasonable expenses incurred. The City shall provide a summary of such costs and expenses prior to closing on the Transaction.
23. INDEMNIFICATION: The Borrower shall indemnify, hold harmless the City from and against any and all loss, costs, damage, actions and liabilities directly or indirectly resulting from this Transaction, including negative impacts that may arise from prevailing wage, tax credits and bond financing.
24. COMPLIANCE/NO DEFAULT: Prior to closing, the Borrower must be in compliance with the ongoing construction of the Project with the City, the senior lender, the County, CalHFA and the tax investor (collectively, "Stakeholders") and that the Borrower is not in default under any of the Stakeholders' documents.
25. OTHER REQUIREMENTS: Borrower shall procure and deliver to City evidence satisfactory to City that Borrower has obtained all the necessary consents and approvals from the Stakeholders. City shall have the right to impose any additional requirements that are commercially reasonable or required by applicable law of City policy.
26. All other terms and conditions under the existing City Loan Documents shall remain unchanged.