

## ASSIGNMENT OF LOAN AND LOAN DOCUMENTS

This **ASSIGNMENT OF LOAN AND LOAN DOCUMENTS** (this “*Assignment*”) is dated as of the \_\_\_\_ day of July, 2019, and is made by and between NEW MARKETS COMMUNITY CAPITAL X, LLC, a Delaware limited liability company (“*Assignor*”), and DESERT HOT SPRINGS INVESTMENT FUND, LLC, a Missouri limited liability company (“Investor Member”) (“*Assignee*”).

### RECITALS

A. Assignor previously made certain loans in the original aggregate principal amount of \$8,217,000 (collectively, the “*Loans*”) to Desert Hot Springs Health and Wellness Foundation, a California nonprofit public benefit corporation (the “*Borrower*”), as described in that certain loan agreement (the “*Loan Agreement*”) dated July 13, 2012, by and among (x) Assignor and LCD New Markets Fund XII, LLC, a Delaware limited liability company (“*LCD CDE*”), as co-lenders, and (y) Borrower, as borrower, as evidenced by three (3) promissory notes as follows: (i) Promissory Note (A-2) in the original principal amount of \$3,960,000 (“*Note A*”), (ii) Promissory Note (B-2) in the original principal amount of \$1,958,973 (“*Note B*”), and (iii) Promissory Note (C-2) in the original principal amount of \$2,298,027 (“*Note C*”), all executed by Borrower, as maker, to the order of Assignor, as payee (collectively, the “*Notes*”).

B. The Loan Agreement, Notes, and all other documents, instruments and agreement which evidence, secure or were otherwise executed in connection with Note A, Note B, and Note C including those listed on Exhibit A, shall be referred to herein as the “*Loan Documents*”).

C. Pursuant to that certain Redemption and Assignment Agreement being entered into concurrently with this Assignment (the “*Redemption Agreement*”), Assignor has agreed to assign to Assignee all of Assignor's right, title and interest in and to the Loans, consisting of the indebtedness evidenced by the Notes and the liens, claims, rights, and interests under or pursuant to the Loan Documents, excluding the Community Benefits Provisions (as defined in Exhibit A hereto) in the Loan Agreement (the “*Loan Assets*”), and Assignee has agreed to accept such assignment. Assignor and Assignee are entering into this Assignment to evidence such assignment and acceptance.

### AGREEMENT

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

## ARTICLE I

### ASSIGNMENT AND ASSUMPTION

**Section 1.01 Assignment and Acceptance..** Assignor hereby transfers, assigns, sets over and otherwise conveys, without recourse, to Assignee all of Assignor's right, title and interest associated with the Loan Assets (including without limitation all outstanding principal and accrued

and unpaid interest under the Notes, whether accruing before or since the last interest payment date) and the Loan Agreement, the Notes, and all of the other Loan Documents, and Assignee hereby accepts the same, in accordance with, and subject to, the Redemption Agreement. Without limiting the foregoing, Assignor hereby authorizes Assignee, its successors and assigns, to file any amendments, assignments, or terminations of any UCC financing statements previously filed in connection with the Loan Assets, without the consent or approval of Assignor.

**Section 1.02 Assumption.** Assignee hereby assumes all obligations and liabilities of Assignor and accepts the delegation to Assignee of all duties of Assignor, if any, under the Loan Documents, and Assignor shall have no further obligations under the Loan Documents.

## **ARTICLE II**

### **REPRESENTATIONS AND WARRANTIES, ACKNOWLEDGMENTS AND RELEASE**

**Section 2.01 Assignee Acknowledgments.** Assignee acknowledges and agrees that the assignment of the Loans and Loan Documents evidenced hereby is without recourse whatsoever, and Assignor makes no representation or warranty to Assignee whatsoever with respect to the Loans or Loan Documents or the transactions contemplated thereunder, except as set forth in the Redemption Agreement.

**Section 2.02 Assignor Representations and Warranties.** The representations and warranties of Assignor made in the Redemption Agreement are hereby incorporated by reference into this Assignment.

**Section 2.03 Assignee Representations and Warranties.** The representations and warranties of Assignee made in the Redemption Agreement are hereby incorporated by reference into this Assignment.

## **ARTICLE III**

### **MISCELLANEOUS PROVISIONS**

**Section 3.01 Rules of Construction.** The definitions contained in this Assignment are applicable to the singular as well as the plural, the past, the present, the future, the active and the passive forms of such terms. Any agreement defined or referred to herein means such agreement as from time to time amended, modified or supplemented and includes references to all attachments thereto and instruments incorporated therein; references to a “person” are also to its permitted successors and assigns. The terms “hereof,” “herein,” “hereby” or “hereunder,” unless otherwise modified by more specific reference, shall refer to this Assignment in its entirety as amended from time to time. The headings of sections and paragraphs contained in this Assignment are provided for convenience only. They form no part of this Assignment and shall not affect its construction or interpretation.

**Section 3.02 Further Assurances and Corrective Instruments.** The parties agree that they will from time-to-time execute, acknowledge and deliver or cause to be executed,

acknowledged and delivered such supplements hereto and such further instruments as may be required for carrying out the intention of this Assignment.

**Section 3.03 Binding Effect.** This Assignment shall be binding upon the parties hereto and their respective permitted successors, assignees and transferees.

**Section 3.04 Severability.** If any clause, provision or section of this Assignment shall be ruled invalid or unenforceable by any court of competent jurisdiction, the invalidity or unenforceability of such clause, provision or section shall not affect any of the remaining clauses, provisions or sections.

**Section 3.05 Execution in Counterparts.** This Assignment may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 3.06 Governing Law.** This Assignment shall be governed by and interpreted in accordance with the internal laws of the State of California, without regard to conflicts of laws principles.

*(Signatures contained on following page)*

**IN WITNESS THEREOF**, the parties hereto have caused this Assignment to be executed by their duly authorized representatives as of the day and year first set forth above.

**ASSIGNOR:**

**NEW MARKETS COMMUNITY CAPITAL X,  
LLC,**  
a Delaware limited liability company

By: New Markets Community Capital, LLC,  
a Delaware limited liability company  
its managing member

By: \_\_\_\_\_  
José Villalobos  
Senior Vice President

*(Signatures contained on following page)*

**IN WITNESS THEREOF**, the parties hereto have caused this Assignment to be executed by their duly authorized representatives as of the day and year first set forth above.

**ASSIGNEE:**

**DESERT HOT SPRINGS INVESTMENT  
FUND, LLC**, a Missouri limited liability company

By: U.S. Bancorp Community Development  
Corporation, a Minnesota corporation,  
its Manager

By: \_\_\_\_\_  
Vedad Alagic  
Assistant Vice President

*(Signatures contained on following page)*

## **ACKNOWLEDGEMENT AND RELEASE OF BORROWER**

Desert Hot Springs Health and Wellness Foundation, a California nonprofit public benefit corporation, as Borrower under the Loan Documents, hereby (i) acknowledges the foregoing Assignment and recognizes the Assignee as the “Lender” under the Loan Documents for all purposes from and after the date of the Assignment, and (ii) hereby releases and forever discharges Assignor, as lender, from any and all claims, demands, obligations, losses, defaults, liabilities, damages, costs, expenses, contributions or reimbursements (the “Losses”) of any kind and nature arising under or in any manner related to the Loan or the Loan Documents, except to the extent that the Losses arise from the gross negligence or intentional misconduct of Assignor.

**DESERT HOT SPRINGS HEALTH AND  
WELLNESS FOUNDATION**, a California  
nonprofit public benefit corporation

By: \_\_\_\_\_  
Name: Charles Maynard  
Title: City Manager

EXHIBIT A  
LOAN DOCUMENTS

- (i) Loan Agreement by and among the Assignor, LCD CDE, and Borrower, dated July 13, 2012;
- (ii) Promissory Note (A-2) in the original principal amount of \$3,960,000, executed by Borrower, as maker, to the order of Assignor, as payee, dated July 13, 2012;
- (iii) Promissory Note (B-2) in the original principal amount of \$1,958,973, executed by Borrower, as maker, to the order of Assignor, as payee, dated July 13, 2012;
- (iv) Promissory Note (C-2) in the original principal amount of \$2,298,027, executed by Borrower, as maker, to the order of Assignor, as payee, dated July 13, 2012;
- (v) Construction Deed of Trust (with Assignment of Rents, Security Agreement, and Fixture Filing) dated July 13, 2012, by Borrower for the benefit of the Assignor and LCD CDE;
- (vi) Assignment of Contracts, Ancillary Documents and Other Rights, dated July 13, 2012, made by Borrower in favor of the Assignor and LCD CDE;
- (vii) Unconditional Guaranty of Construction Completion and Excess Development Costs made by Guarantor, dated July 13, 2012, to and for the benefit of the Assignor and LCD CDE;
- (viii) Payment Guaranty made by Guarantor, dated July 13, 2012, to and for the benefit of the Assignor and LCD CDE;
- (ix) Certificate and Indemnity Regarding Hazardous Substances made by Borrower and Guarantor, dated July 13, 2012, to and for the benefit of the Assignor and LCD CDE;
- (x) Disbursing Agreement, dated July 13, 2012, made by and among Borrower, the Assignor, LCD CDE, and U.S. Bancorp Community Development Corporation;
- (xi) Bank Account Pledge Agreement, dated July 13, 2012, entered into by and among Borrower, Assignor, and LCD CDE;
- (xii) Account Control Agreement, dated July 13, 2012, entered into by and among Borrower, Assignor, LCD CDE and U.S. Bank National Association;
- (xiii) Account Control Agreement, dated July 13, 2012, entered into by and among Borrower, Assignor, and U.S. Bank National Association; and
- (xiv) UCC-1 Financing Statements.