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**Title:** CONSIDER APPROVING THE FIRST AMENDMENT TO COVENANT AND AGREEMENT FOR CARSON GARDENS APARTMENTS, MODIFYING THE AGE-RELATED OCCUPANCY RESTRICTION FROM 62+ YEARS OF AGE FOR ALL OCCUPANTS TO 62+ YEARS OF AGE FOR ALL HEADS OF HOUSEHOLDS (CITY COUNCIL)

**Sponsors:**

**Indexes:**

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**Attachments:** 1. Exhibit 1\_Carson Gardens\_Existing Covenant, 2. Exhibit 2\_Carson Gardents First Amendment, 3. Exhibit 3\_Supporting Documents

Date	Ver.	Action By	Action	Result
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**Report to Mayor and City Council**

Tuesday, May 16, 2023

Consent

**SUBJECT:**

**CONSIDER APPROVING THE FIRST AMENDMENT TO COVENANT AND AGREEMENT FOR CARSON GARDENS APARTMENTS, MODIFYING THE AGE-RELATED OCCUPANCY RESTRICTION FROM 62+ YEARS OF AGE FOR ALL OCCUPANTS TO 62+ YEARS OF AGE FOR ALL HEADS OF HOUSEHOLDS (CITY COUNCIL)**

**I. SUMMARY**

Carson Gardens Apartments (the "Project") located at 21811 South Main Street is an affordable housing community with 100 of the 101 units designated for persons who are at least sixty-two years old. The Project is currently assisted by a project-based Section 8 Housing Assistance Payment ("HAP") contract covering 99% of the 100 units.

On June 18, 1979, a Covenant and Agreement (the "Agreement") was executed by the Owner and the City and subsequently recorded in the Official Records of Los Angeles County, California on June 29, 1979 as Instrument No. 79-716187, Exhibit 1. The Agreement restricts occupancy at the Property to persons who are at least sixty-two (62) years old. The Owner has requested that the City agree to amend the Agreement so that the age restriction described in the Agreement be applicable to the heads of households

only, Exhibit 2.

Under the proposed amendment, the eighth paragraph of the Agreement would be amended as follows, as the only modification:

“IT IS AGREED that in consideration of the approval of the change of zone of the subject property from the CN Zone to the RM-25-D Zone by the City Council of the City, the Covenantor promises, covenants and agrees that the occupancy of all dwelling units in any residential development located on the subject property shall be restricted to persons **heads of households** who are at least sixty-two years old with no age restriction on other members of the household with the exception of one dwelling unit which may be occupied by management personnel who are less than sixty-two years old.”

The Owner proposes repairs and upgrades to the Project’s interior, exterior and common areas. Interior unit renovations will include new kitchen cabinets, countertops, flooring and appliances, as well as accessibility upgrades. Exterior upgrades will include repairs to the driveway and walkways, fencing, and parapet walls, as well as accessibility upgrades to the parking lot. Additionally, renovations will include an upgraded fitness center, business center, barbeque area, and community room. Recital D is proposed to be amended as follows:

***“In order to obtain a HUD loan to facilitate repairs and upgrades to the Project’s interior, exterior and common areas. Interior unit renovations will include new kitchen cabinets, countertops, flooring and appliances, as well as accessibility upgrades. Exterior upgrades will include repairs to the driveway and walkways, fencing, and parapet walls, as well as accessibility upgrades to the parking lot. Additionally, renovations will include an upgraded fitness center, business center, barbeque area, and community room, the Owner has requested that the City agree to amend the Agreement to clarify that the age restriction described in the Agreement be applicable to the heads of household, and has assured the City that if the amendment is approved such renovations will be completed, that the amendment is necessary to comply with HUD regulations and will not affect residents’ income qualifications or rent obligations, and that amendment will not cause or allow for a change in the HUD program applicable to the project (Section 8 HAP), and the City has agreed to the amendment in reliance on those promises.”***

In all other respects, the Agreement shall remain in full force and effect.

## II. RECOMMENDATION

**TAKE** the following actions:

1. **APPROVE** the first amendment to covenant and agreement for Carson Gardens (Exhibit No. 2); and
2. **AUTHORIZE** the Mayor to execute the first amendment to covenant and agreement for

Carson Gardens, following approval as to form by the City Attorney.

### III. ALTERNATIVES

**TAKE** any other action the City deems appropriate

### IV. BACKGROUND

Carson Gardens Apartments was originally constructed in 1980, and the Project consists of one 2 and 3-story building that features 100 one-bedroom apartments and 1 two-bedroom apartment located on 3.52 acres of land. The Project is currently assisted by a project-based Section 8 Housing Assistance Payment (“HAP”) contract covering 99% of the units. Amenities include a community room, laundry facilities, gated access, surveillance cameras, covered parking, and a picnic area.

Redwood Housing has formed a new entity (the “Partnership”) for the purposes of acquiring, rehabilitating, and operating the Project. The Project is anticipated to be purchased with conventional equity and an FHA 223(f) loan that will support the renovation.

On June 18, 1979, the City of Carson and Kimberly Development Company entered into a covenant and agreement (the “Existing Covenant”) restricting the permitted occupancy at the Project. The Existing Covenant was entered into in consideration of the approval of a zone change that was granted by the City for the project. The Existing Covenant states that “the occupancy of all dwelling units in any residential development located on the subject property shall be restricted to persons who are at least sixty-two years old with the exception of one dwelling unit which may be occupied by management personnel who are less than sixty-two years old.” The proposed amendment (the “Amendment”) modifies this restriction to “heads of households who are at least sixty-two years old with no age restriction on other members of the household with the exception of one dwelling unit which may be occupied by management personnel who are less than sixty-two years old.”

The Amendment is consistent with the United States Department of Housing and Urban Development’s (“HUD”) Occupancy Handbook Section 3-23, which prohibits Occupancy Standards that do not pertain to the head of household. Furthermore, HUD’s Office of General Counsel (“OGC”) has reviewed the Amendment and confirmed that it is legally acceptable.

Exhibit 3 provides the documents supporting the proposed amendment including the owner’s request, HUD correspondence, and information supporting the following:

- 1) The existing HUD subsidy contract at Carson Gardens guarantees tenants will only pay 30% of their income as rent and HUD will cover the rest up to the contract amount commencing May 1, 2021 for a period of 10 years.
- 2) The new HUD subsidy contract at Carson Gardens extends the existing agreement for an additional 20 years and guarantees tenants will only pay 30% of their income as rent and HUD will cover the rest up to the new contract amount commencing June 1, 2023 for a period of 20 years.
- 3) A notice was distributed by the owner to all tenants explaining that while the contract rent will be increasing, the portion of that contract rent that tenants will be responsible

for will remain the same, i.e. 30% of their income.

With the Amendment in place, the Project will continue to operate as an age- restricted community. The existing waitlist at the Project includes 117 applicants who are at least sixty-two years old with no children or grandchildren. Historically, turnover has been approximately two units per year and new qualifying residents will be admitted from the existing waitlist. As an additional mechanism to ensure that the Project remains age-restricted, HUD has strict occupancy standards that limit family size under the terms of the Tenant Selection Plan.

The modification to the Existing Covenant will align the Project's occupancy restrictions with HUD requirements and qualify the project for the FHA financing needed to enact a meaningful rehabilitation and preserve the Project as high-quality, affordable age-restricted designated housing indefinitely.

## **V. FISCAL IMPACT**

### **None. VI. EXHIBITS**

1. Existing 1979 Covenant Agreement (pgs. 5-8)
2. First Amendment to Covenant and Agreement (pgs. 9-14)
3. Supporting Documents (pgs. 15-52)

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