

ASSIGNMENT AND ASSUMPTION OF AGREEMENTS
(LaSalle Apartments – Parking)

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this “Assignment”), dated as of May 26, 2022 (“Effective Date”), is made by and among **The LaSalle Apartments, LLC**, an Indiana limited liability company (“Assignor”), **LaSalle Partners RA, LLC**, an Indiana limited liability company (“Assignee”) and the South Bend Redevelopment Commission, governing body of the Department of Redevelopment of the City of South Bend, Indiana (“Commission”).

W I T N E S S E T H:

WHEREAS, RealAmerica Development, LLC (“RealAmerica”) and each of the project owners that are signatories thereto, including Assignor, and Assignee, as a permitted assignee of TMO Acquisitions LLC, a New Jersey limited liability company, are parties to that certain Purchase and Sale Agreement dated as of October 6, 2021, as amended (the “Purchase Agreement”) pursuant to which Assignor has agreed to sell, and Assignee has agreed to purchase, among other properties, the property known as LaSalle Apartments located in South Bend, Indiana; and

WHEREAS, pursuant to the Purchase Agreement, Assignor has agreed to assign to Assignee that certain (i) Parking Lease dated April 21, 2015 by and between Assignor and the Commission, as amended by that certain First Amendment dated as of April 13, 2018 (“Parking Lease”), a copy of which is attached hereto as Exhibit A, and (ii) Option and Right of First Refusal Agreement dated April 21, 2015 by and between Assignor and the Commission (“ROFR”), a copy of which is attached hereto as Exhibit B, and Assignee has agreed to assume the Parking Lease and the ROFR pursuant to the terms hereof.

NOW, THEREFORE, in consideration of the foregoing premises and mutual covenants and agreements contained herein and, in the Purchase Agreement, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, Assignee and Assignor hereby agree as follows:

1. Recitals; Capitalized Terms. The recitals to this Assignment are fully incorporated by this reference as if set forth herein. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Purchase Agreement.

2. Assignment and Assumption.

(a) Effective as of the Effective Date, Assignor hereby transfers, assigns, conveys and delegates to Assignee all of Assignor’s right, title, and interest in, to and under the Parking Lease and the ROFR, respectively.

(b) Effective as of the Effective Date, Assignee hereby accepts such assignment and assumes from Assignor all liabilities and obligations under the Parking Lease and ROFR arising on the Effective Date and thereafter, and agrees to pay, perform, and discharge, when due, all of such liabilities and obligations thereunder.

3. Representations and Warranties.

(a) Each party hereto hereby represents and warrants to the other that it has been duly authorized to execute and deliver this Assignment and that this Assignment constitutes the legal, valid and binding obligation of such party and is enforceable against such party in accordance with its terms.

(b) Assignor hereby represents and warrants that as of the Effective Date: (i) no amount, fee or charge is due or outstanding under the Parking Lease and/or the ROFR, (ii) it is in compliance in all material respects with the terms of the Parking Lease and/or the ROFR, (iii) to the best of its knowledge, no default exists and no event has taken place which, with notice, the passage of time or both, would result in a default under the Parking Lease and/or the ROFR; and (iv) neither the Parking Lease nor the ROFR has been modified, amended or supplemented, except as attached hereto.

4. Modifications to the Parking Lease and ROFR.

(a) As of the Effective Date, Section 13 of the Parking Lease is modified to revise the notice address of the “Lessee” as follows:

Lessee: Via Overnight Mail:
LaSalle Partners RA, LLC
2 Cooper Street, 14th Floor
Camden, NJ 08102
Attn.: Kunal Chothani

Via Registered or Certified Mail:
LaSalle Partners RA, LLC
PO Box 90708
Camden, NJ 08101
Attn.: Kunal Chothani

With a copy to:
Levine, Staller, Sklar, Chan & Brown, P.A.
3030 Atlantic Avenue
Atlantic City, New Jersey 08401
Attention: Michael D. Sklar, Esq.

(b) As of the Effective Date, Section 8 of the ROFR is modified to revise the notice address of the “Developer” as follows:

Developer: Via Overnight Mail:
LaSalle Partners RA, LLC
2 Cooper Street, 14th Floor
Camden, NJ 08102
Attn.: Kunal Chothani

Via Registered or Certified Mail:
LaSalle Partners RA, LLC
PO Box 90708
Camden, NJ 08101
Attn.: Kunal Chothani

With a copy to:
Levine, Staller, Sklar, Chan & Brown, P.A.
3030 Atlantic Avenue
Atlantic City, New Jersey 08401
Attention: Michael D. Sklar, Esq.

(c) As of the Effective Date, all references (i) in the Parking Lease to “Lessee” shall mean Assignee, and (ii) in the ROFR to “Developer” shall mean Assignee.

5. Consent. The Commission hereby consents to the assignment of the Parking Lease and the ROFR by Assignor to Assignee as of the Effective Date and agrees to recognize the Assignee as of the Effective Date as the "Lessee" under the Parking Lease, and as “Developer” under the ROFR.

6. Indemnification.

(a) Assignor shall indemnify, hold harmless and defend Assignee from and against any and all claims, demands, causes of action, liabilities, losses, costs, damages and expenses (including reasonable attorneys' fees and expenses and court costs incurred in defending any such claim or in enforcing this indemnity) that may be incurred by Assignee by reason of the assertion by the Commission under the Parking Lease and/or the ROFR that Assignor has failed to perform, observe and comply with its obligations under either agreement during the period before the Effective Date.

(b) Assignee shall indemnify, hold harmless and defend Assignor from and against any and all claims, demands, causes of action, liabilities, losses, costs, damages and expenses (including reasonable attorneys' fees and expenses and court costs incurred in defending any such claim or in enforcing this indemnity) that may be incurred by Assignor by reason of the failure of Assignee to perform, observe and comply with its obligations under the Parking Lease and/or ROFR arising or accruing during the period from and after the Effective Date.

7. Governing Law. The internal laws of the State of Indiana applicable to contracts made and wholly performed therein shall govern the validity, construction, performance and effect of this Assignment.

8. Successors and Assigns. This Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors in interest and assigns.

9. Headings. The subject headings or captions of the paragraphs in this Assignment are inserted for convenience of reference only and shall not affect the meaning, construction or

interpretation of any provisions contained herein. All terms herein are equally applicable to both the singular and plural forms of such terms.

10. Counterparts. This Assignment may be signed by facsimile or other electronic transmission and/or in one or multiple counterparts, with each counterpart having the same force and effect as if this single instrument were executed by each of the parties hereto and delivered to the other party.

11. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Assignment.

12. Severability. If any provision of this Assignment shall be held invalid, illegal, or unenforceable, the validity, legality or enforceability of the other provisions of this Assignment shall not be affected thereby, and there shall be deemed substituted for the provision at issue a valid, legal and enforceable provision as similar as possible to the provision at issue.

13. Further Assurances. The parties hereto agree to execute such further documents and agreements as may be necessary or appropriate to effectuate the purpose of this Assignment.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Assignment and Assumption Agreement to be executed as of the date first above written.

ASSIGNOR:

THE LASALLE APARTMENTS, LLC, an Indiana limited liability company

By: Executive Investments, LLC, its Managing Member

By: _____
Ronda Shrewsbury, President

ASSIGNEE:

LASALLE PARTNERS RA, LLC, an Indiana limited liability company

By: TMO IN Special Member LLC,
its Managing Member

By: TMO IN JV-Michaels LLC,
its Managing Member

By: _____
Kunal Chothani, Vice President

AGREED, ACKNOWLEDGED AND CONSENTED TO:

By its signature below, the Department of Redevelopment of the City of South Bend, Indiana (“Commission”) hereby contents to the assignments, assumptions, and terms contained in this Assignment and Assumption Agreement as of the date first above written.

COMMISSION:

SOUTH BEND REDEVELOPMENT COMMISSION,
governing body of the Department of Redevelopment of the
City of South Bend, Indiana

By: _____
Marcia I. Jones, President

Attest: _____
Troy Warner, Secretary

EXHIBIT A
Parking Lease and First Amendment

EXHIBIT B
Option and Right of First Refusal Agreement