

1       **h. Board of Commissioners.** This Fifth Amendment is subject to the approval of  
2       the Housing Authority's Board of Commissioners.  
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DRAFT

1 IN WITNESS WHEREOF, the Parties have executed this Amendment as of the dates written  
2 below.

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4 **HOUSING AUTHORITY:**

**DEVELOPER:**

5 HOUSING AUTHORITY OF THE COUNTY OF  
6 RIVERSIDE, a public entity, corporate and politic,  
7 in its capacity as housing successor to the former  
Coachella Redevelopment Agency

By: \_\_\_\_\_  
\_\_\_\_\_, Executive Director

8 By: \_\_\_\_\_  
9 Heidi Marshall,  
Executive Director

Date: \_\_\_\_\_

10 Date: \_\_\_\_\_  
11

12 **APPROVED AS TO FORM:**

13 GREGORY P. PRIAMOS  
14 COUNTY COUNSEL

15 By: \_\_\_\_\_  
16 Jhaila R. Brown, Deputy County Counsel  
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22 (HOUSING AUTHORITY and DEVELOPER signatures need to be notarized)  
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1 A notary public or other officer completing this certificate verifies only the identity of the  
2 individual who signed the document to which this certificate is attached, and not the truthfulness,  
3 accuracy, or validity of that document.

4 STATE OF CALIFORNIA )

5 COUNTY OF \_\_\_\_\_ )  
6

7 On \_\_\_\_\_ before me, \_\_\_\_\_, a  
8 Notary Public, personally appeared \_\_\_\_\_, who proved to me on  
9 the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the  
10 within instrument and acknowledged to me that he/she/they executed the same in his/her/their  
11 authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
12 the entity upon behalf of which the person(s) acted, executed the instrument.

11 I certify under PENALTY OF PERJURY under the laws of the State of California that the  
12 foregoing paragraph is true and correct.

13 WITNESS my hand and official seal.

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15 Signature \_\_\_\_\_ (Seal)  
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## **Attachment "2"**

### **LEGAL DESCRIPTION OF PROPERTY**

The land referred to in this Commitment is situated in the City of Hemet, County of Riverside, State of California, and is described as follows:

PARCELS 1 AND 2 AS SHOWN BY PARCEL MAP NO. 28501, ON FILE IN BOOK 194 PAGE(S) 5, 6 AND 7 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN: 439-060-036-5(Affects Parcel 1)

439-060-037-6(Affects Parcel 2)

## PROJECT DESCRIPTION HEMET VISTAS 1&2 APARTMENTS

### Attachment "3"

#### SCOPE OF DEVELOPMENT

##### A. Tenant Responsibilities

###### 1. General

This is the Scope of Development attached to the Fifth Amendment to the Disposition and Development Agreement ("DDA") by and between the Housing Authority of the County of Riverside ("Housing Authority") and Hemet Vistas 1&2R LP., a California limited partnership ("Developer") pertaining to Hemet Vistas Apartments, located at 225 W. Fruitvale, Hemet, CA 92544, more specifically APN's: 439-060-036-5 and 435-060-037-6. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the DDA.

Developer's plans, drawings and proposals submitted to the Housing Authority and City for approval shall describe in reasonable detail the architectural character intended for the Improvements.

###### 2. Improvements

Notwithstanding the generality of Section 1, above, the Tenant shall rehabilitate, or cause to be rehabilitated on the Property:

The proposed rehabilitation at Hemet Vistas will address numerous issues within the project that will ensure its continued service to the community for years to come. Every unit will receive upgrades along with improvements to the building systems, common areas and community spaces.

The landscaping will be upgraded with drought-tolerant materials to minimize water use. Exterior lighting will be replaced with energy efficient models. To improve the look of the buildings, the entire property will be painted. Any damaged stucco, wood trim, and fascia will be repaired and/or replaced.

Within the units, appliances, the HVAC system, and water heaters will be replaced with energy efficient models. Installation of new flooring and painting of interiors will be completed as needed. Ten percent of the units will be modified to meet full accessibility requirements, including new kitchen countertops that are adjustable.

The project's community rooms, laundry rooms, play areas, and pool area will be renovated and improved during the rehabilitation.

## PROJECT DESCRIPTION

### HEMET VISTAS 1&2 APARTMENTS

The following is a summary of the scope of development for the Project:

Site Area	390,298 sq. ft.
Floor Area Ratio (FAR)	42.97%
FAR Bonuses Proposed	N
Stories	2 stories
Type of Housing	Affordable Rental Apartments
Total Number of Units / Total Residential Square Feet	144/163,071 sqft
Types of Units (sizes)	2BR/ 1,077 sqft 3BR/ 1,228 sqft
Type of Parking-	286 spaces for residential
Assessor's Parcel Nos.	439-060-036-5 and 435-060-037-6

#### 3. Green Building (Correct as Needed)

The post-rehabilitated buildings will have a minimum energy efficiency improvement of at least 20% over existing conditions.

#### 4. Amenities (Correct as Needed)

The Project shall include the following amenities:

- Full-Time On-Site Property Management
- Laundry Facilities
- Assigned, Covered Parking
- Security System
- Tot Lot/Play Grounds
- Swimming Pool
- Community Building & Office Space Including:
  - Kitchen
  - Meeting Space
  - Restrooms

#### 6. Required Permits/Compliance with Laws

The Property shall be developed in accordance with any City of Hemet issued Conditions of Approval, and all applicable laws.

#### 7. Design Development and 100% Construction Drawings

The Developer shall submit for approval the final scope of Rehabilitation as prepared by Developer's Architect.

Attachment "4"  
METHOD OF FINANCING

This is the Method of Financing attached to the Fifth Amendment to Disposition and Development Agreement (DDA), for Hemet Vistas Apartments for the Recasting of former Redevelopment Agency Funds ("Agency Loan") by and between the Housing Authority of the County of Riverside ("Housing Authority") and Hemet Vistas 1&2R Partners LP, a California limited partnership ("Developer"), pertaining to the rehabilitation of a 144-unit multi-family housing project located on Assessor Parcel Numbers 439-060-036-5 and 439-060-037-6, in the City of Hemet, which shall be operated as rental housing that is affordable to extremely-low, very-low, low-income, any other income households ("Project"), as more specifically described in the DDA. DDA as used herein shall mean, refer to and include the DDA, as well as any riders, exhibits, addenda, implementation agreements, amendments and attachments thereto (which are hereby incorporated herein by this reference) or other documents expressly incorporated by reference in the DDA. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the DDA.

1. Development Costs. The parties estimate that the cost of rehabilitating the Property will be approximately \$18,430,195 during the construction financing period. The sources of financing during the construction financing period are set forth in Section 2 of this Method of Financing.

2. Sources of Financing. The parties anticipate that the costs of rehabilitation (the "Development Costs") shall be financed with a combination of loans and equity, as set forth in the following chart and as described below, which chart shall be updated if the costs of rehabilitation changes, or if the financing changes, all subject to the approval of the Housing Authority (as updated, the "Sources of Financing"):

Source of Funds	Construction	Permanent
Tax Credit Equity	\$888,165	\$ 5,921,103
JP Morgan Chase	\$10,882,161	\$6,727,300
County of Riverside HOME Loan-Recast	\$1,454,425	\$1,454,425
Low-Moderate Income Housing Asset Loan Fund-Recast	\$779,144	\$779,144
Deferred Developer Fee and Costs	\$1,721,885	\$208,730
Seller Carry	\$2,650,000	\$2,650,000
GP Equity	\$54,415	\$54,415
Prestabilization Income	\$0	\$635,079
TOTALS	\$18,430,195	\$18,430,195

2.1 Rehabilitation Period Financing

- a. Rehabilitation Loan Financing. The financing derived from the proceeds of a construction loan in the approximate original principal amount of \$10,882,161 during the construction period (the "Construction Loan") shall be used as part of the construction financing for the Project and shall be secured by one or more senior priority deeds of trust against the Property ( the "Senior Construction Lenders" and, together with the Senior Permanent Lenders described below, referred to as the "Senior Lenders").

- (1) Tenant shall not refinance the Senior Loan and/or the Permanent Loan for the Project or place any additional financing on the Property except as set forth in this Method of Financing without the advanced and express written consent of the Housing Authority Executive Director or designee.

- b. Developer Equity. Equity from the Developer (the "Developer Equity") consisting of the following:

- (1) Approximately \$5,921,103, to be provided by the Tax Credit Equity Investor, derived from Low Income Housing Tax Credits, a portion of which shall be disbursed during construction period and a balance shall be disbursed to pay off the construction loan.
- (2) A deferred portion of the Developer Fee, in the amount of \$208,730 (the "Deferred Tenant Fee"), constituting that portion of the Tenant Fee to be paid to Tenant from operating revenues, before calculating residual receipts, with the balance of the Tenant Fee in the amount of \$ 1,783,103 payable to Developer during construction of the Project, in accordance with the following schedule of disbursements:
- i. \$450,000 upon Closing;
  - ii. \$300,000 upon C of O;
  - iii. \$983,103 upon Perm Conversion; and
  - iv. \$50,000 upon 8609.
- (3) Developer shall be responsible for providing any additional funds which may be needed to pay for cost overruns and contingencies not otherwise funded by the Sources of Financing described above.
- (4) Developer Equity described in this subsection (c) shall consist of funds provided by Tenant or borrowed funds, repayment of which shall not be secured by any deed of trust on the Leasehold and/or the Property.



- c. DIF. Development Impact Fee Program waiver in the approximate amount of \$\_\_\_\_\_.
- d. Recasting of HOME Investment Partnership Act Funds in the amount of \$1,454,425
- e. Recasting of Form Redevelopment Agency Funds in the amount of \$779,144
- 2.2 Permanent Sources of Financing
  - a. Recasting of HOME Investment Partnership Act Funds as described in Section (d) of 2.1 above.
  - b. Recasting of former Redevelopment Agency Funds as described in Section (e) of 2.1 above.
  - c. Developer Equity, as described in subsection (b) of Section 2.1, above.
  - d. TUMF financing sources, as described in subsection (c) of Section 2.1, above.
  - e. DIF financing sources, as described in subsection (d) of Section 2.1, above.
  - f. Land Value for TCAC application in the approximate amount of \$2,650,000.

### 3. Project Budget

The parties anticipate that all Development Costs shall be as set forth in the Project Budget as attached hereto titled "Permanent Sources and Uses of Funds incorporated herein by this reference. Any change order in excess of One Hundred Thousand Dollars (\$100,000) or any amendment to the total Project Budget in excess of One Hundred Thousand Dollars (\$100,000) (collectively referred to as a "Revision") shall require the written approval of the Executive Director or designee in addition to any approval required by any Senior Lender. Except as provided in the previous sentence, the Executive Director or designee shall not unreasonably withhold or delay approval of any requested Revision for which the Senior Lender's approval is not required, under the terms of the Senior Loan documents, or which has been approved by the Senior Lender if, within five (5) working days after receipt of the request, Housing Authority receives such explanation and/or back-up information as was received and relied upon by the Senior Lender in connection with its approval of the Revision, and if the following conditions are satisfied:

- a. to the extent the Revision is limited to a reallocation of budgeted funds among Project Budget line items without any increase in the total Project Budget, (i) the funds in the line item(s) to be reduced remain sufficient for completion of the Project, and (ii) the requested increase in one or more line item(s) is to be used to pay approved costs; and
- b. to the extent the Revision involves an increase in the total Project Budget,

(i) additional funds in an amount equal to the increase in the total Project Budget will be provided by Tenant, the Senior Lender or another funding source reasonably approved by the Housing Authority and (ii) the requested increase in the Project Budget is to be used to pay approved costs.

Upon written approval of any Revision, the Project Budget shall be replaced by the approved revised Project Budget.

4. Evidence of Financing

The sum of the Senior Sources of Financing described in Section 2 above shall be sufficient at all times to pay all Development Costs as set forth in the most recently approved Project Budget, and the sum of the permanent Senior Sources of Financing described in Section 2 above, shall be at least equal at all times to the sum of the construction Sources of Financing plus all other Development Costs. Within the time provided therefor in the Schedule of Performance as stated in Exhibit "\_\_\_\_\_" of the DDA, Developer shall submit for approval by the Executive Director or designee, evidence of such financing, including all documents required by the Construction Lender relating to the Construction Loan the Project and all documents evidencing the availability of permanent financing for the Project upon Completion. The Executive Director or designee shall not unreasonably withhold his or her approval. Developer shall provide written certification to the Housing Authority that such financing documents are correct copies of the actual documents to be executed by Developer on or before the Closing Date. To the extent that the sum of the Sources of Financing described in Section 2, 2.1 and 2.2 above is insufficient to pay all Development Costs, Developer shall demonstrate the availability prior to the Closing of increased Tenant's Equity equal to the shortfall.

**Permanent Sources and Uses of Funds:****Sources**

County of Riverside HOME Loan	\$	1,454,425
County of Riverside RDA Loan	\$	779,144
Perm Bond Proceeds	\$	6,727,300
Tax Credit Equity	\$	5,921,103
CDLAC Deposit Return	\$	54,415
Seller Carryback	\$	2,650,000
Project Prestabilization Income	\$	636,145
Deferred Developer Fee	\$	<u>216,041</u>
Total Sources	\$	18,438,573

**Uses:**

Land & Acquisition	\$	10,450,000
Insurance	\$	91,485
Architecture and Engineering	\$	90,000
Permit and Impact Fees	\$	20,000
Furniture Fixtures and Equipment	\$	80,000
Construction Contract	\$	3,659,400
Soft Cost	\$	613,613
Loan Fees and Interest	\$	536,846
Legal Costs	\$	150,000
Operating Reserves	\$	279,453
Developer Fee	\$	1,991,836
Project Contingency	\$	<u>475,940</u>
Total Uses	\$	18,438,573

The BORROWER will obtain a reservation of Federal/State tax credit award from the California Tax Credit Allocation Committee.

Attachment "6"

Schedule of Performance

1. Submission of Final Scope of Rehabilitation	November, 2016-Atleast one (1) week prior to close of escrow.
2. Acquisition of Project Site-Partnership shall acquire project site and provide evidence of a Grant Deed	January, 2017
3. Closing/Approval of Financing- Partnership shall have satisfied all conditions necessary to secure all financial commitments necessary for the development of Project	January, 2017.
3. Commencement of Rehabilitation	Within thirty (30) days of Closing of Tax Credits.
4. Completion of Construction	Within twenty-four (24) months of closing of Tax Credits
5. Construction Period Reporting	During the Construction period Partnership shall submit monthly reports to the County of Riverside due on the 15 <sup>th</sup> of each month reporting the progress of Construction.

**Exhibit "A"**

**Second Amendment to Deed of Trust with Assignment of Rents**

EXEMPT RECORDING FEE CODE 6103  
RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

County of Riverside  
Economic Development Agency  
5555 Arlington Ave  
Riverside, CA 92504  
Attn: Stephanie Adams

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

**SECOND AMENDMENT TO DEED OF TRUST  
WITH ASSIGNMENT OF RENTS  
(HEMET VISTAS APARTMENTS IN THE CITY OF HEMET)**

This SECOND AMENDMENT TO DEED OF TRUST WITH ASSIGNMENT OF RENTS (HEMET VISTAS APARTMENTS IN THE CITY OF HEMET) ("Second Amendment to Deed of Trust") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between HEMET VISTAS 1&2R PARTNERS LP, a California limited partnership ("Trustor"), whose address is 100 Pacifica, Suite, 205, Irvine, CA 92618, successor in interest to Hemet Vistas II Limited Partnership ("Original Trustor"), \_\_\_\_\_ ("Trustee"), and the HOUSING AUTHORITY OF THE COUNTY OF RIVERSIDE, a public entity, corporate and politic, ("Beneficiary") in its capacity as housing successor to the former Redevelopment Agency for the County of Riverside ("Original Beneficiary") whose address is 5555 Arlington Avenue, Riverside, CA 92504, or such other place as County may provide in writing.

**I. [§100] PURPOSE OF SECOND AMENDMENT TO DEED OF TRUST**

Original Trustor previously executed and delivered to Beneficiary and Trustee, that certain Deed of Trust with Assignment of Rents for the benefit of the Agency dated July 5, 2000 and recorded in the Official Records of the County of Riverside ("Official Records") on July 28, 2000 as Instrument No. 2000-291496, as amended by that certain Fourth Amendment to Disposition and Development Agreement, Promissory Note and Deed of Trust with Assignment of Rents (Redevelopment Agency) executed by the Original Trustor and Original Beneficiary dated October 6, 2009 and recorded in the Official Records on December 30, 2009 as Instrument No. 2009-0668254 ("collectively, "Deed of Trust"). The Deed of Trust secures all payment and performance obligations contained in the Deed of Trust and that certain Promissory Note dated July 5, 2000, executed by Original Trustor for the benefit of Original Beneficiary, as amended by that certain Fourth Amendment to Disposition and Development Agreement, Promissory Note and Deed of Trust with Assignment of Rents (Redevelopment Agency) dated October 6, 2009 and recorded in the Official Records on December 30, 2009 as Instrument No. 2009-0668254, in the amount of One Million Five Hundred and Fifty Thousand Dollars (\$1,550,000) (collectively, the "Note").

Only a portion of the Note amount in the amount of One Million Two Hundred Dollars (\$1,200,000) was disbursed by Original Beneficiary to the Original Trustor.

The Note amount, evidenced by the Note and secured by the Deed of Trust, was issued to Original Trustor pursuant to that certain that certain Disposition and Development Agreement, dated as of November 14, 1995 and recorded in the Official Records of the County of Riverside ("Official Records") on May 17, 1996 as Instrument No. 183679, as amended by that certain Amendment to the Disposition and Development Agreement By and Between the Riverside County Redevelopment Agency and Palm Desert Development Company dated May 7, 1996, and recorded in the Official Records on May 17, 1996 as Instrument No. 183680, that certain unrecorded Second Amendment to Disposition and Development Agreement dated May 26, 1998, that certain unrecorded Third Amendment to Disposition and Development Agreement, dated November 30, 1999, and that certain Fourth Amendment to Disposition and Development Agreement, Promissory Note and Deed of Trust with Assignment of rents (Redevelopment Agency)("Fourth Amendment to DDA") dated October 6, 2009 and recorded in the Official Records on December 30, 2009 as Instrument No.2009-0668254 (collectively, the "DDA").

On February 15, 2013, all rights, title, interest, and obligations of the Original Beneficiary relating to its housing assets, including, but not limited to the DDA, Deed of Trust, and Note, were assumed by Beneficiary.

On \_\_\_\_\_, 2016, a Certificate of Limited Partnership was filed with the California Secretary of State's Office creating Hemet Vistas 1&2R Partners LP, a California limited partnership. On \_\_\_\_\_, 2016, Trustor and Original Trustor executed that certain Assignment and Assumption Agreement wherein Original Trustor assigned its rights, duties and obligations under the DDA and any and all related agreements and documents, including, but not limited to the Note and Deed of Trust.

Pursuant to the DDA, as amended, Trustor executed that certain Amended and Restated Promissory Note dated on or about the date hereof, which, among other things, amends the borrower thereunder from "Hemet Vistas II, Limited Partnership" to "Hemet Vistas 1&2R Partners LP", reduces the note amount from One Million Five Hundred and Fifty Thousand Dollars (\$1,550,000) to One Million Two Hundred Thousand Dollars (\$1,200,000), amends the method for calculating residual receipts, and other necessary amendments to the loan repayment terms.

The purpose of this Second Amendment to Deed of Trust is to provide for the following revisions to the Deed of Trust, (1) reflect Hemet Vistas 1&2R Partners LP, as the new trustor under the Deed of Trust, (2) amend the legal description of the "Property" set forth in the Deed of Trust to refer to the entire Site as defined in the DDA; (3) delete references to "\$1,550,000" as the amount of indebtedness secured thereunder and replace with the new reduced principal balance of "\$1,200,000;" (4) amend the secured obligations under the Deed of Trust to also include the Amended and Restated Promissory Note, DDA, and the Covenant Agreement, as amended (as defined in the DDA).

II. [§ 200] EFFECT OF SECOND AMENDMENT TO DEED OF TRUST

Except as expressly provided otherwise in this Second Amendment to Deed of Trust, the Deed of Trust remains in full force and effect, enforceable in accordance with its terms, without diminution or waiver of any kind of any right or remedy of the Beneficiary thereunder. In addition, except as expressly provided herein, nothing in this Second Amendment to Deed of Trust shall be deemed to waive or modify any of the other provisions of the Deed of Trust. In the event of any conflict between this Second Amendment to Deed of Trust and the Deed of Trust, the terms of this Second Amendment to Deed of Trust shall prevail.

III. [§300] AMENDMENT TO LEGAL DESCRIPTION

Exhibit "A" titled, "Legal Description of Property," is hereby deleted in its entirety and replaced with the Amended Legal Description of Property attached to this Second Amendment to Deed of Trust as Attachment No. 1 and incorporated herein by this reference.

IV. [§400] AMENDMENT TO INTRODUCTORY PARAGRAPH

The introductory paragraph of the Deed of Trust is hereby deleted in its entirety and replaced with the following:

" This DEED OF TRUST ("Security Instrument") is made this 5<sup>th</sup> day of July, 2000 by HEMET VISTAS 1&2R PARTNERS LP, a California limited partnership, (hereinafter referred to as "Trustor" or "Borrower"), whose address is 100 Pacifica, Suite, 205, Irvine, CA 92618, to \_\_\_\_\_ Title Company, (hereinafter called "Trustee"), for the benefit of the HOUSING AUTHORITY OF THE COUNTY OF RIVERSIDE, a public entity corporate and politic, in its capacity as housing successor to the Redevelopment Agency of the County of Riverside, (hereinafter called "Beneficiary" or "Lender"), whose address is 5555 Arlington Avenue, Riverside, CA 92504. Trustor owes Beneficiary the principal sum of One Million Two Hundred Thousand Dollars (\$1,200,000) which loan is evidenced by that certain Amended and Restated Promissory Note executed by Trustor in favor of Beneficiary dated on or about the date hereof ("Note")."

V. [§500] DELETION OF SECOND PARAGRAPH

The second paragraph of the Deed of Trust commencing with the words, "The Note provides for:" and ending with the words, "following the close of the project fiscal year" is hereby deleted in its entirety.



VI. [§600]

AMENDMENT TO SECURED OBLIGATIONS

The fourth paragraph of the Deed of Trust commencing with the words, "The Security Instrument Secures to Lender:" and ending with the words, "which is further described in Exhibit A attached hereto;" is hereby deleted in its entirety and replaced with the following:

"WITNESSETH: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to Trustee, its successors and assigns, in Trust, with POWER OF SALE TOGETHER WITH RIGHT OF ENTRY AND POSSESSION the following property (the "Trust Estate"):

(A) That certain real property located in the County of Riverside, State of California, more particularly described in the legal Description of Property attached hereto as Exhibit "A" and incorporated herein by this reference ("Subject Property");

(B) All buildings, structures and other improvements now or in the future located or to be constructed on the Subject Property (the "Improvements");

(C) All tenements, hereditaments, appurtenances, privileges, franchises and other rights and interests now or in the future benefiting or otherwise relating to the Subject Property or the Improvements, including easements, rights-of-way and development rights (the "Appurtenances"). (The Appurtenances, together with the Subject Property and the Improvements, are hereafter referred to as the "Real Property");

(D) All rents, issues, income, revenues, royalties and profits now or in the future payable with respect to or otherwise derived from the Trust Estate or the ownership, use, management, operation leasing or occupancy of the Trust Estate, including those past due and unpaid (the "Rents");

(E) All present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code (the "UCC"), and whether existing now or in the future) now or in the future located at, upon or about, or affixed or attached to or installed in, the Real Property, or used or to be used in connection with or otherwise relating to the Real Property or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property, including furniture, furnishings, theater equipment, seating, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property, but not including personal property that is donated to Trustor (the "Goods," and together with the Real Property, the "Property"); and

(F) All present and future right, title and interest of Trustor in and to all accounts, general intangibles, chattel paper, deposit accounts, money, instruments and

documents (as those terms are defined in the UCC) and all other agreements, obligations, rights and written material (in each case whether existing now or in the future) now or in the future relating to or otherwise arising in connection with or derived from the Property or any other part of the Trust Estate or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing, occupancy, sale or financing of the property or any other part of the Trust Estate, including (to the extent applicable to the Property or any other portion of the Trust Estate) (i) permits, approvals and other governmental authorizations, (ii) improvement plans and specifications and architectural drawings, (iii) agreements with contractors, subcontractors, suppliers, project managers, supervisors, designers, architects, engineers, sales agents, leasing agents, consultants and property managers, (iv) takeout, refinancing and permanent loan commitments, (v) warranties, guaranties, indemnities and insurance policies, together with insurance payments and unearned insurance premiums, (vi) claims, demands, awards, settlements, and other payments arising or resulting from or otherwise relating to any insurance or any loss or destruction of, injury or damage to, trespass on or taking, condemnation (or conveyance in lieu of condemnation) or public use of any of the Property, (vii) license agreements, service and maintenance agreements, purchase and sale agreements and purchase options, together with advance payments, security deposits and other amounts paid to or deposited with Trustor under any such agreements, (viii) reserves, deposits, bonds, deferred payments, refunds, rebates, discounts, cost savings, escrow proceeds, sale proceeds and other rights to the payment of money, trade names, trademarks, goodwill and all other types of intangible personal property of any kind or nature, and (ix) all supplements, modifications, amendments, renewals, extensions, proceeds, replacements and substitutions of or to any of such property (the "Intangibles").

Trustor further grants to Trustee and Beneficiary, pursuant to the UCC, a security interest in all present and future right, title and interest of Trustor in and to all Goods and Intangibles and all of the Trust Estates described above in which a security interest may be created under the UCC (collectively, the "Personal Property"). This Deed of Trust constitutes a security agreement under the UCC, conveying a security interest in the Personal Property to Trustee and Beneficiary. Trustee and Beneficiary shall have, in addition to all rights and remedies provided herein, all the rights and remedies of a "secured party" under the UCC and other applicable California law. Trustor covenants and agrees that this Deed of Trust constitutes a fixture filing under Section 9334 and 9502(b) of the UCC.

FOR THE PURPOSE OF SECURING, in such order of priority as Beneficiary may elect, the following:

1. due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained herein or contained in the following:
  - (a) that certain Amended and Restated Promissory Note in favor of the Beneficiary ("HACR" therein) executed by Trustor ("Borrower" therein) of even date herewith ("Note");
  - (b) that certain Disposition and Development Agreement, entered into between the former Redevelopment Agency of the County of Riverside ("RDA"), predecessor in interest to Beneficiary, and Palm Desert Development Company, predecessor in interest to

Trustor, dated as of November 14, 1995 and recorded in the Official Records of the County of Riverside ("Official Records") on May 17, 1996 as Instrument No. 183679, as amended by that certain Amendment to the Disposition and Development Agreement By and Between the Riverside County Redevelopment Agency and Palm Desert Development Company dated May 7, 1996, and recorded in the Official Records on May 17, 1996 as Instrument No. 183680, that certain unrecorded Second Amendment to Disposition and Development Agreement dated May 26, 1998, that certain unrecorded Third Amendment to Disposition and Development Agreement, dated November 30, 1999, that certain Fourth Amendment to Disposition and Development Agreement, Promissory Note and Deed of Trust with Assignment of rents (Redevelopment Agency)("Fourth Amendment to DDA") dated October 6, 2009 and recorded in the Official Records on December 30, 2009 as Instrument No.2009-0668254, and that certain Fifth Amendment to Disposition and Development Agreement dated on or about the date hereof and recorded concurrently herewith in the Official Records (collectively, the "DDA");

(c) that certain Covenant Agreement between Hemet Vistas II, Limited Partnership, a California limited partnership, predecessor in interest to Trustor, and the former RDA, predecessor in interest to Beneficiary, dated October 6, 2009 and recorded in the Official Records on December 30, 2009 as Instrument No. 2009-0668253, as amended by that certain Amendment to Covenant Agreement dated on or about the date hereof and recorded concurrently herewith in the Official Records (collectively, "Covenant Agreement"); and

2. payment of indebtedness of the Trustor to the Beneficiary in the amount of ONE MILLION TWO HUNDRED THOUSAND DOLLARS AND NO CENTS (\$1,200,000) ("Agency Loan") according to the terms of the Note.

Said Note, DDA and Covenant Agreement (collectively, referred to as the "Secured Obligations") and all of their terms are incorporated herein by reference and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof however evidenced, and additional advances evidenced by any note reciting that it is secured hereby. The Note, DDA and Covenant Agreement as used herein shall mean, refer to and include the Note, DDA and Covenant Agreement, as well as any riders, exhibits, addenda, implementation agreements, amendments, or attachments thereto (which are hereby incorporated herein by this reference). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the DDA."

## VII. [§700] AMENDMENT TO UNIFORM COVENANTS

The Deed of Trust is hereby amended to add the following new paragraphs under the section header, "Uniform Covenants Borrower and Lender covenant and agree as follows:"

" 2A. **Uses.** That Trustor shall not permit or suffer the use of any of the property for any purpose other than the uses set forth in the DDA, and Covenant Agreement.

2B. **Secured Obligations.** That the Secured Obligations are incorporated in and made a part of the Deed of Trust. Upon default of a Secured Obligation, and after the giving of notice

and the expiration of any applicable cure period, the Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be due and payable.

2C. **Assignment of Rents.** Subject to the lien of the Senior lender, all rents, profits and income from the property covered by this Deed of Trust are hereby assigned to the Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor so long as no default exists hereunder after the giving of notice and the expiration of any applicable cure period, to collect such rents, profits and income for use in accordance with the provisions of the DDA and the Covenant Agreement.

2D. **Receiver.** That upon default hereunder or under the aforementioned agreements, and after the giving of notice and the expiration of any applicable cure period, Beneficiary shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom.

2E. **Reconveyance.** Upon written request of Beneficiary stating that all sums secured hereby have been paid and all obligations secured hereby have been satisfied, and upon surrender of this Deed of Trust to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder, provided, however, notwithstanding full repayment of the Agency Loan amount, including outstanding principle and interest, and reconveyance of this Deed of Trust, the Covenant Agreement shall remain in effect for the duration of the term set forth therein. The recitals in such reconveyance of any matters or fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

2F. **Extended Low-Income Housing Commitment.** Notwithstanding anything to the contrary contained herein or in any documents secured by this Deed of Trust or contained in any subordination agreement, the Beneficiary acknowledges and agrees that in the event of a foreclosure or deed-in-lieu of foreclosure (collectively, "Foreclosure") with respect to the property encumbered by this Deed of Trust, the following rule contained in Section 42(h)(6)(E)(ii) of the Internal Revenue Code of 1986, as amended, shall apply: for a period of three (3) years from the date of Foreclosure, with respect to any unit that had been regulated by the regulatory agreement with the California Tax Credit Allocation Committee ("Extended Use Agreement"), (i) none of the tenants occupying those units at the time of Foreclosure may be evicted or their tenancy terminated (other than for good cause), (ii) nor may any rent be increased except as otherwise permitted under Section 42 of the Code. Trustor acknowledges and agrees that any default, event of default, or breach (however such terms may be defined) under the Extended Use Agreement shall be an event of default under this Deed of Trust and that any costs, damages or other amounts, including reasonable attorneys' fees incurred by Beneficiary as a result of an event of default by Trustor, and any amounts paid by Beneficiary to cure any default under the Extended Use Agreement shall be an obligation of Trustor and become a part of the debt secured by this Deed of Trust."

VIII. [§800] DUPLICATE ORIGINALS

This Second Amendment to Deed of Trust may be signed in counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

[SIGNATURES ON THE NEXT PAGE]

IN WITNESS WHEREOF, Beneficiary and Trustor have caused this instrument to be executed on their behalf by their respective officers hereunto duly authorized on the dates set forth below.

TRUSTOR:

HEMET VISTAS 1&2R PARTNERS LP,  
a California limited partnership

By: PC Hemet Vistas 1&2R Developers LLC,  
a California limited liability company,  
its Administrative General Partner

By: \_\_\_\_\_  
Danavon L. Horn, [insert title]

Date: \_\_\_\_\_

By: Las Palmas Foundation,  
a California non-profit public benefit corporation,  
its Managing General Partner

By: \_\_\_\_\_  
Joseph M. Michaels, President

Date: \_\_\_\_\_

BENEFICIERY:

HOUSING AUTHORITY OF THE  
COUNTY OF RIVERSIDE, a public entity,  
corporate and politic, in its capacity as  
housing successor to the former  
Redevelopment Agency for the County of  
Riverside

By: \_\_\_\_\_  
Heidi Marshall,  
Deputy Executive Director

Date: \_\_\_\_\_

APPROVED AS TO FORM:  
Gregory P. Priamos, County Counsel

By: \_\_\_\_\_  
Jhaila R. Brown,  
Deputy County Counsel

# **ATTACHMENT NO. 1**

## **Amended** **EXHIBIT "A"**

### LEGAL DESCRIPTION OF PROPERTY

All that real property located in the County of Riverside, State of California, legally described as follows:

PARCELS 1 AND 2 AS SHOWN BY PARCEL MAP NO. 28501, ON FILE IN BOOK 194 PAGE(S) 5, 6 AND 7 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN: 439-060-036-5(Affects Parcel 1)

439-060-037-6(Affects Parcel 2)

**Exhibit "B"**

**Amended and Restated Promissory Note**



AMENDED AND RESTATED PROMISSORY NOTE

(Hemet Vistas Apartments in the City of Hemet)

\$1,200,000

Riverside, CA

1.0 % Interest

Date: \_\_\_\_\_, 2016

In installments as hereafter stated, for value received, Hemet Vistas 1&2R Partners LP., a California limited partnership ("Borrower"), promises to pay to the Housing Authority of the County of Riverside, a public entity, corporate and politic, in its capacity as housing successor to the former Redevelopment Agency for the County of Riverside, ("Lender" or "HACR"), or order, at 5555 Arlington Avenue, Riverside, CA 92504, the sum of One Million Two Hundred Thousand Dollars and No/100 Dollars (U.S. \$1,200,000.00) (the "Agency Loan") which at the time of payment is lawful for the payment of public and private debts. This Amended and Restated Promissory Note shall supersede in its entirety that certain Promissory Note dated July 5, 2000 as amended by that certain Promissory Note, dated October 6, 2009 and recorded in the Office of the Recorder of the County of Riverside ("Official Records") as Document Number 2009-0668254 as secured by that certain Deed of Trust with Assignment of Rents, dated July 5, 2000 and recorded in the Official Records on July 5, 2000 as Document No. 2000-291496, as amended by that certain Amendment to Deed of Trust with Assignment of Rents, dated October 6, 2009 and recorded in the Official Records on December 30, 2009 as Document No. 2009-0668254 (collectively "Deed of Trust").

This Amended and Restated Promissory Note (HEMET VISTAS APARTMENTS IN THE CITY OF HEMET) ("Note") is given pursuant to that certain Disposition and Development Agreement, dated November 14, 1995 and recorded in the Official Records on May 17, 1996 as Document No. 183679, as amended by that certain Amendment to Disposition and Development Agreement, dated May 7, 1996 and recorded in the Official Records as Document No. 183680 on May 17, 1996, a amended by that certain Second Amendment to Disposition and Development Agreement, dated May 26, 1998, as amended by that certain Third Amendment to Disposition and Development Agreement, dated November 30, 1999, as amended by that certain Fourth Amendment to Disposition and Development Agreement, dated October 6, 2009 and recorded in the Official Records on December 30, 2009 as Document No. 2009-0668254, as amended by that certain Fifth Amendment to Disposition and Development Agreement, dated \_\_\_\_\_, 2016 and recorded in the Official Records on \_\_\_\_\_ as Document No. \_\_\_\_\_ (collectively the "DDA").

All capitalized terms not otherwise defined herein shall have the meaning ascribed to such term in the DDA. In the event of any conflict between this Note and the DDA, the terms of this Note shall prevail. The rights and obligations of the Borrower and HACR under this Note shall be governed by the DDA and the following terms:

- (1) The Agency Loan will accrue simple interest at a rate of one percent (1.0%) simple interest per annum commencing from the date of the Certificate of Occupancy, and in the case of default as hereinafter provided, the entire outstanding principal balance of the Agency Loan shall become immediately due and payable to the HACR at the option of the HACR.

The DDA evidenced by this Note shall be repaid on an annual basis from the Project's Residual Receipts as defined herein. All outstanding principal under the Agency Loan shall occur at the rate of one percent (1%) per annum due and payable on the first to occur of (i) July 1, 2075 or (ii) fifty-five (55) years from the recordation of the last Notice of Completion for the project. The first payment shall be due on, the first July 1<sup>st</sup> in the first full calendar year following the date of the recordation of the Notice of Completion, to the extent of available Residual Receipts, less the following: auditing and accounting fees; a reasonable property management fee not to exceed \$55 per unit per month, increased annually by an amount equal to the increase in Consumer Price Index (CPI), for the Los Angeles-Riverside-Orange County, CA Area; operating expenses; replacement reserves in an amount up to \$13,650; deferred developer fee; operating reserves in an annual amount up to \$84,795; a Managing General Partner management fee in the initial amount of \$25,000 and increased annually by an amount equal to the increase in Consumer Price Index (CPI), for the Los Angeles-Riverside-Orange County, CA Area; a limited partner asset management fee not to exceed \$4,000 per year increased annually by an amount equal to the increase in Consumer Price Index (CPI), for the Los Angeles-Riverside-Orange County, CA Area; payments on principal and interest on amortized loans and indebtedness senior to the Agency Loan; and the HACR's annual monitoring fee in the amount of \$14,400, increased annually by an amount equal to the increase in Consumer Price Index (CPI), for the Los Angeles-Riverside-Orange County, CA Area.

- (2) The DDA evidenced by this Note is secured by that certain Deed of Trust and that certain Agreement Containing Covenants, dated \_\_\_\_\_ and recorded in the Official Records as Document No. \_\_\_\_\_.
- (3) This Note may be prepaid in whole or in part by the undersigned at any time without prepayment penalty or premium.
- (4) The Borrower and its partners, officers, directors, employees, and agents shall not have any direct or indirect personal liability for payment of the principal of, or interest on, the DDA or the performance of the Borrower's obligations under the DDA documents. Except as otherwise provided herein, the sole recourse of HACR with respect to payment of the principal of, or interest on, the DDA Loan, shall be to the Project. No money judgment (or execution on a money judgment) entered in any action (whether legal or equitable) on the DDA documents shall be enforced personally against the Borrower or its partners, officers, directors, employees, and agents, but shall be enforced only against the Project and such other property as may from time to time be hypothecated in connection with the Borrower's obligations under the DDA documents. This non-recourse provision does not limit or impair the enforcement against all such security for the Agency Loan of all the rights and remedies of HACR, nor does it impair the right of

HACR to assert the unpaid principal amount of the DDA as a demand for money within the meaning of California Code of Civil Procedure Section 431.70 or any successor provision. In addition, this non-recourse provision does not relieve the Borrower of personal liability for damage to or loss suffered by HACR as a result of any of the following (i) fraud or willful misrepresentation; (ii) any misappropriation of rental proceeds resulting in the failure to pay taxes, assessments, or other charges that could create statutory liens on the Project and that are payable or applicable prior to any foreclosure under the Deed of Trust; (iii) the fair market value of any personal property or fixtures removed or disposed of by the Borrower other than in accordance with the Deed of Trust; (iv) the misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss, or destruction to any portion of the Project (to the extent of the misapplied proceeds or awards); and (v) any rental income or other income arising with respect to the Project received by the Borrower after HACR has properly exercised its rights under the Deed of Trust to receive such income upon an Event of Default (as defined under the Deed of Trust).

- (5) The occurrence of any of the following events shall constitute an "Event of Default" under this Note after notice and opportunity to cure pursuant to the terms set forth in the DDA and all outstanding principal due under this Note shall be immediately due and payable to the HACR:

- a. Monetary Default. (1) Borrower's failure to pay when due any sums payable under the DDA Note or any advances made by HACR under the DDA, (2) Borrower's or any agent of Borrower's use of Agency funds for costs other than costs or for uses inconsistent with terms and restrictions set forth in the DDA, (3) Borrower's or any agent of Borrower's failure to make any other payment of any assessment or tax due under the DDA, and /or (4) default under the terms of any loan documents junior in lien priority to the DDA, any Senior Loan documents or any other document or instrument secured against the Property, or any portion thereof;
- b. Non-Monetary Default - Operation. (1) Discrimination by Borrower or Borrower's agent on the basis of characteristics prohibited by the DDA or applicable law, (2) the imposition of any encumbrances or liens on the Project without HACR's prior written approval, including, but not limited to those liens or encumbrances expressly prohibited under the DDA or that have the effect of reducing the priority or invalidating the Deed of Trust, (3) Borrower's failure to obtain and maintain the insurance coverage required under the DDA, (4) any default under the DDA and/or Covenant Agreement, and/or (5) default under the terms of any loan documents junior in lien priority to the DDA, any Senior Loan documents or any other document or instrument secured against the Property, or any portion thereof;

- c. General Performance of Loan Obligations. Any substantial or continuous or repeated breach by Borrower or Borrower's agents of any material obligations on Borrower imposed in the DDA; and
  - d. General Performance of Other Obligations. Any substantial or continuous or repeated breach by Borrower or Borrower's agents of any material obligations on the Project imposed by any other agreement with respect to the financing, development, or operation of the Project; whether or not HACR is a party to such agreement.
- (6) HACR shall give written notice of default to Borrower, specifying the default complained of by the HACR. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.
  - (7) Any failures or delays by HACR in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by HACR in asserting any of its rights and remedies shall not deprive HACR of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.
  - (8) If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid.
  - (9) Borrower waives presentment for payment, demand, protest, and notices of dishonor and of protest; the benefits of all waivable exemptions; and all defenses and pleas on the ground of any extension or extensions of the time of payment or of any due date under this Note, in whole or in part, whether before or after maturity and with or without notice. Borrower hereby agrees to pay all costs and expenses, including reasonable attorneys' fees, which may be incurred by the holder hereof, in the enforcement of this Note, the Deed of Trust or any term or provision of either thereof.
  - (10) Should default be made in payment of principal and interest when due and such default shall continue beyond the applicable notice and cure period provided in the DDA, the whole sum of principal and interest shall become immediately due at the option of the holder of this Note. Principal and interest are payable in lawful money of the United States. If action be instituted on this Note, the undersigned promises to pay such sums as the Court may fix as attorney's fees.
  - (11) This Note has been negotiated and entered in the State of California, and shall be governed by, construed and enforced in accordance with the internal laws of the State of California, applied to contracts made in California by California domiciliaries to be wholly performed in California. Any action at law or in equity arising under this Note or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Note shall be filed in the Superior Courts of Riverside

County, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.

- (12) No modification, rescission, waiver, release or amendment of any provision of this Note shall be made except by a written agreement executed by Borrower and the duly authorized representative of the HACR.
- (13) The HACR may, in its sole and absolute discretion, assign its rights under this Note and its right to receive repayment of the Note amount without obtaining the consent of Borrower.
- (14) In no event shall Borrower assign or transfer any portion of this Note or any rights herein without the prior express written consent of the HACR, which consent the HACR may give or withhold in its sole and absolute discretion. In the absence of specific written agreement by the HACR, no unauthorized assignment or transfer, or approval thereof by the HACR, shall be deemed to relieve Borrower or any other party from any obligations under the DDA or this Note. This provision shall not affect or diminish the HACR's assignment rights under this Note.
- (15) Except as to the permitted Deeds of Trust identified herein, Borrower shall not encumber the Property for the purpose of securing financing either senior or junior in priority or subordinated to the Deed of Trust without the prior written approval of the HACR in its sole and absolute discretion.
- (16) The relationship of Borrower and the HACR pursuant to this Note is that of debtor and creditor and shall not be, or be construed to be, a joint venture, equity venture, partnership or other relationship.
- (17)
  - (a) Formal notices, demands and communications between the HACR and Borrower shall be deemed sufficiently given if made in writing and dispatched by any of the following methods to the addresses of the HACR and Borrower as set forth below: (i) registered or certified mail, postage prepaid, return receipt requested (in which event, the notice shall be deemed delivered on the date of receipt thereof); (ii) electronic facsimile transmission, followed on the same day by delivery of a "hard" copy via first-class mail, postage prepaid (in which event, the notice shall be deemed delivered on the date of its successful facsimile transmission as evidenced by a facsimile confirmation or "kick-out" sheet); or (iii) personal delivery, including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service (in which event, the notice shall be deemed delivered on the documented date of receipt). Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail.
  - (b) The address of the HACR for purposes of receiving notices pursuant to this Note shall be 5555 Arlington Avenue, Riverside, California 92504, Attention: Deputy Executive Director.
  - (c) The address of Borrower for purposes of receiving notices pursuant to this Note is 100 Pacifica, Suite 205, Irvine, CA 92618 Attention: Danavon Horn, President.

- (18) The captions and headings in this Note are for convenience only and are not to be used to interpret or define the provisions hereof.
- (19) The undersigned, if comprising more than one person or entity, shall be jointly and severally liable hereunder.
- (20) This Note shall be binding upon Borrower and its heirs, successors and assigns, and shall benefit the HACR and its successors and assigns.

(SIGNATURES CONTINUE ON NEXT PAGE)

**"BORROWER"**

**Hemet Vistas 1&2R Partners LP,**  
a California limited partnership

By: PC Hemet Vistas 1&2R Developers LLC  
a California limited liability company,  
its Administrative General Partner

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Danavon Horn, President

By: Las Palmas Foundation  
a California nonprofit public benefit corporation,  
its Managing General Partner

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

# **Exhibit "C"**

## **Covenant Agreement**



NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE SECTION 6103

Order No.

Escrow No.

Loan No.

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:  
Housing Authority of the County of Riverside  
5555 Arlington Avenue  
Riverside, CA 92504

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## **AMENDMENT TO COVENANT AGREEMENT**

### **(Hemet Vistas Apartments)**

This Second Amendment to Covenant Agreement (Hemet Vistas Apartments) ("Covenant") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by and between the Housing Authority of the County of Riverside, a public entity, corporate and politic, in its capacity as housing successor to the former Redevelopment Agency for the County of Riverside ("HOUSING AUTHORITY"), and Hemet Vistas 1&2R Partners LP, a California Limited Partnership ("Partnership") whose administrative general partner is PC Hemet Vistas 1&2R Developers LLC ("Hemet Vistas, LLC"), a California limited liability corporation and managing general partner is Las Palmas Foundation, a California nonprofit corporation.

### **RECITALS**

WHEREAS, Palm Desert Development Company entered into that Certain Disposition and Development Agreement, dated November 14, 1995 with the Redevelopment Agency for the County of Riverside ("RDA") recorded in the Office of the Recorder of the County of Riverside ("Official Records") as Document No. 183679 on May 17, 1996, as amended by that certain Amendment to Disposition and Development Agreement, dated May 7, 1996 and recorded in the Official Records on May 17, 1996 as Document No. 183680, as amended by that certain Second Amendment to Disposition and Development Agreement, dated May 26, 1998, as amended by that certain Third Amendment to Disposition and Development Agreement, dated November 30, 1999 which was not recorded in the Official Records, as amended by that Fourth Amendment to

Disposition and Development Agreement, dated October 6, 2009, as recorded in the Official Records on December 30, 2009 as Document No. 2009-0668254 (collectively, the "DDA") relating to, among other things, financing a portion of the development of that certain real property described in the legal description attached hereto as **Exhibit A** and incorporated herein by this reference ("hereinafter referred to as Project Site);

WHEREAS, on May 17, 1996 a Grant Deed was recorded in the Official Records as Document No. 183682, granting Project site from the RDA to Palm Desert Development Company;

WHEREAS, Palm Desert Development Company and RDA entered into that certain Covenant Agreement, dated November 14, 1995 and recorded in the Official Records on May 17, 1996 as Document No. 183681 and that certain Covenant Agreement, dated October 6, 2009 and recorded in the Official Records as Document No. 2009-0668254 (collectively "Covenant Agreement");

WHEREAS, Palm Desert Development Company formed two partnerships, Hemet Vistas I Limited Partnership and Hemet Vistas II Limited Partnership to develop the two-phase 144-unit, multi-family housing complex, located at 225 W. Fruitvale, Hemet, CA, more specifically Assessor Parcel Numbers, 439-060-037-6 and 439-060-036-5 ("Project");

WHEREAS, on \_\_\_\_\_, 2016, Palm Communities, a California corporation formerly known as Palm Desert Development Company and Hemet Vistas I Limited Partnership, a California limited partnership executed that certain Assignment and Assumption Agreement wherein Palm Desert Development Company assigned its rights, duties and obligations under the DDA and any and all related agreements and documents, including, but not limited to the Original RDA Promissory Note and Deed of Trust to Hemet Vistas I Limited Partnership;

WHEREAS, on \_\_\_\_\_, 2016, Palm Communities, a California corporation formerly known as Palm Desert Development Company and Hemet Vistas II Limited Partnership, a California limited partnership executed that certain Assignment and Assumption Agreement wherein Palm Desert Development Company assigned its rights, duties

and obligations under the DDA and any and all related agreements and documents, including, but not limited to the Original RDA Promissory Note and Deed of Trust to Hemet Vistas II Limited Partnership;

WHEREAS, on \_\_\_\_\_, 2016, Hemet Vistas I Limited Partnership, a California limited partnership and Hemet Vistas I&2R Partners LP, a California limited partnership executed that certain Assignment and Assumption Agreement wherein Hemet Vistas I Limited Partnership assigned its rights, duties and obligations under the DDA and any and all related agreements and documents, including, but not limited to the Original RDA Promissory Note, Covenant Agreement and Deed of Trust to Hemet Vistas I&2R Partners LP;

WHEREAS, on \_\_\_\_\_, 2016, Hemet Vistas II Limited Partnership, a California limited partnership and Hemet Vistas I&2R Partners LP, a California limited partnership executed that certain Assignment and Assumption Agreement wherein Hemet Vistas II Limited Partnership assigned its rights, duties and obligations under the DDA and any and all related agreements and documents, including, but not limited to the Original RDA Promissory Note, Covenant Agreement and Deed of Trust to Hemet Vistas I&2R Partners LP;

WHEREAS, on February 15, 2013, the DDA and all related documents were assigned to the Housing Authority of the County of Riverside as Housing Successor Agency to the former Redevelopment Agency; and

WHEREAS, Partnership desires to rehabilitate Project and extend Covenant Agreement to a period of not less than fifty-five (55) years. The fifty-five (55) year period shall be the later of (i) July 1, 2073 or (ii) fifty five (55) years from the recordation of the last Notice of Completion for Project.

NOW, THEREFORE, the Covenant Agreement is hereby amended as follows:

1. All references to Palm Desert Development Company, Hemet Vistas I Limited Partnership and Hemet Vistas II Limited Partnership are hereby deleted and replaced in their entirety with reference to "Hemet Vistas I&2R Partners LP, a California Limited Partnership" (hereinafter referred to as "Partnership").

2. Section "c", on page 2 of Covenant Agreement, dated October 6, 2009 and recorded in the Official Records as Document No. 2009-0668253 shall be deleted in its entirety and replaced with the following:

**Affordability Period:** Partnership agrees that all Assisted Units in the Project will remain affordable, as defined in California Redevelopment Law for a period of not less than fifty-five (55) years. The fifty-five (55) year period shall be the later of (i) July 1, 2073 or (ii) fifty five (55) years from the recordation of the last Notice of Completion for Project.

3. Section "4" on page "4" of Covenant Agreement, dated October 6, 2009 and recorded in the Official Records as Document No. 2009-0668253 shall be deleted in its entirety and replaced with the following:

**Notices: NOTICES.** All Notices provided for in this Covenant Agreement shall be deemed received when personally delivered, or two (2) days following mailing by certified mail, return receipt requested. All mailing shall be addressed to the respective parties at their addresses set forth below, or at such other address as each party may designate in writing and give to the other party:

If to the Housing Authority: Housing Authority of the County of Riverside  
c/o Executive Director  
5555 Arlington Avenue  
Riverside, CA 92504

If to Limited Partnerhsip: Hemet Vistas 1&2R Partners LP  
c/o PC Hemet Vistas 1&2R Developers LLC  
100 Pacifica Suite 205  
Irvine, CA 92618  
Attn: Danavon Horn

with a copy to: Investor, etc.

**THE FOLLOWING SECTIONS SHALL BE ADDED IN THEIR ENTIRITY TO COVENANT AGREEMENT:**

1. **Insurance:** Without limiting or diminishing PARTNERSHIP'S obligation to indemnify or hold HOUSING AUTHORITY harmless, PARTNERSHIP shall procure and maintain or cause

to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Covenant Agreement.

1. Worker's Compensation Insurance.

If PARTNERSHIP has employees as defined by the State of California, PARTNERSHIP shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the HOUSING AUTHORITY, and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

2. Commercial General Liability Insurance.

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of PARTNERSHIP'S performance of its obligations hereunder. Policy shall name the HOUSING AUTHORITY, its Agencies, Boards, Districts, Special Districts, and Departments, their respective directors, officers, Board of Commissioners, employees, elected or appointed officials, agents or representatives as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

3. Vehicle Liability Insurance.

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then PARTNERSHIP shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the HOUSING AUTHORITY, its agencies, Boards, Districts, Special Districts, and Departments, their respective directors, officers, Board of Commissioners, employees, elected or appointed officials, agents or representatives as Additional Insured or provide similar evidence of coverage approved by HOUSING AUTHORITY's Risk Manager.

4. General Insurance Provisions – All Lines.

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by HOUSING AUTHORITY Risk Manager. If HOUSING AUTHORITY'S Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

2) PARTNERSHIP's insurance carrier(s) must declare its insurance self-insured retentions. If such self-insured retentions exceed \$500,000 per occurrence such retentions shall have the prior written consent of HOSUING AUTHORITY Risk Manager before the commencement of operations under this Covenant Agreement. Upon notification

of self-insured retention unacceptable to HOUSING AUTHORITY, and at the election of HOUSING AUTHORITY'S Risk Manager, PARTNERSHIP's carriers shall either: (a) reduce or eliminate such self-insured retention as respects this Covenant Agreement with HOUSING AUTHORITY, or (b) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) PARTNERSHIP shall cause PARTNERSHIP's insurance carrier(s) to furnish the HOUSING AUTHORITY with copies of the Certificate(s) of Insurance and Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by HOUSING AUTHORITY Risk Manager, provide copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the HOUSING AUTHORITY prior to any material modification, cancellation, expiration or reduction in coverage of such insurance.

4) It is understood and agreed to by the parties hereto that PARTNERSHIP's insurance shall be construed as primary insurance, and HOUSING AUTHORITY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Covenant Agreement or any extension thereof, there is a material change in the scope of

services; or, there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.) HACR reserves the right to adjust the types of insurance required under this Covenant Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if; in HOUSING AUTHORITY'S Risk Manager's reasonable judgment, the amount or type of insurance carried by PARTNERSHIP has become inadequate.

6) PARTNERSHIP shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Covenant Agreement.

7) The insurance requirements contained in this Covenant Agreement may be met with a program(s) of self-insurance acceptable to HOUSING AUTHORITY.

8) PARTNERSHIP agrees to notify HOUSING AUTHORITY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Covenant Agreement.

**2. SENIOR POSITION OF COVENANT AGREEMENT:** This Covenant Agreement shall be recorded in the first position senior to all liens and encumbrances against the Property including, but not limited to the construction loan documents from \_\_\_\_\_, the construction lender and the permanent loan documents from \_\_\_\_\_, the permanent lender.

**4. COUNTERPARTS:** This Covenant may be signed by the different parties hereto in counterparts, each of which shall be an original, but all of which together shall constitute one and



the same agreement.

**5. ENTIRE AGREEMENT:** This Covenant Agreement and the DDA set forth and contain the entire understanding and agreement of the parties hereto. There are no oral or written representations, understandings, or ancillary covenants, undertakings or agreements, which are not contained or expressly referred to within this Covenant Agreement, and the DDA, including all amendments and modifications to the DDA.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

(SIGNATURES ON THE NEXT PAGE)

IN WITNESS WHEREOF, HOUSING AUTHORITY and HEMET VISTAS 1&2R PARTNERS LP., have executed this Covenant Agreement as of the dates written below.

<p><b>HOUSING AUTHORITY:</b> HOUSING AUTHORITY OF THE COUNTY OF RIVERSIDE, a public entity, corporate and politic, in its capacity as housing successor to the former Redevelopment Agency for the County of Riverside</p> <p>By: _____ John J. Benoit, Chairman Board of Commissioners</p> <p>Date: _____</p> <p><b>ATTEST:</b> Kecia Harper-Ihem Clerk of the Board</p> <p>By: _____ Deputy</p> <p><b>APPROVED AS TO FORM:</b> GREGORY P. PRIAMOS, County Counsel</p> <p>By: _____ Jhaila Brown Deputy County Counsel</p>	<p><b>BORROWER:</b> Hemet Vistas 1&amp;2R Partners LP, a California limited partnership</p> <p>By: PC Hemet Vistas 1&amp;2R Developers LLC, a California limited liability company, its Administrative General Partner</p> <p>By: _____ Danavon L. Horn</p> <p>Date: _____</p> <p>By: Las Palmas Foundation, a California non-profit public benefit corporation, its Managing General Partner</p> <p>By: _____ Joseph M. Michaels, President</p> <p>Date: _____</p>
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(Covenant Agreement Signatures to be notarized)

## **EXHIBIT "A"**

### **LEGAL DESCRIPTION OF PROPERTY**

The land referred to in this Commitment is situated in the City of Hemet, County of Riverside, State of California, and is described as follows:

PARCELS 1 AND 2 AS SHOWN BY PARCEL MAP NO. 28501, ON FILE IN BOOK 194 PAGE(S) 5, 6 AND 7 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN: 439-060-036-5(Affects Parcel 1)

439-060-037-6(Affects Parcel 2)