

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**ITEM: 3.48**  
(ID # 26113)

**MEETING DATE:**

Tuesday, November 05, 2024

**FROM :** HOUSING AND WORKFORCE SOLUTIONS

**SUBJECT:** HOUSING AND WORKFORCE SOLUTIONS (HWS): Approve the Loan Agreement for the Use of American Rescue Plan Act (ARPA) Funds for Palm Villas at Millennium Housing Phase I Apartments by and between the County of Riverside and PD MILLENNIUM PARTNERS LP, a California Limited Partnership, and All Attachments Thereto, in the City of Palm Desert, Authorize the Chair of the Board to Execute the ARPA Loan Agreement and Covenant Agreement; and Authorize the Director of HWS, or Designee, to Execute Subsequent Subordination Agreements; District 4. [\$6,700,000 – 100% Federal ARPA Funds] [CEQA Exempt Pursuant to Section 15183](Clerk of the Board to File the Notice of Exemption)(4/5 Vote Required)

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Find, in its independent judgment and analysis as a Responsible Agency under the California Environmental Quality Act (CEQA) in issuing certain limited approvals, after it reviewed and considered the information in the previously adopted Notice of Exemption (NOE) by the City of Palm Desert, as lead agency, on August 16, 2022 (Planning Commission Resolution No. 2817) approving a Precise Plan (PP) 22-0003 and Tentative Parcel Map (TPM) 38366 for a 241-unit multifamily affordable housing project (Proposed Project) on a 10.49-acre site located at the northwest corner of General Ford Drive and Technology Drive, that the Proposed Project is exempt from CEQA and the State CEQA Guidelines (14. Cal. Code Regs §§15000 et seq.), specifically pursuant to Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning);

Continued on Page 2

**ACTION:Policy**

  
Heidi Marshall, Director 10/17/2024

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Jeffries, seconded by Supervisor Gutierrez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Gutierrez  
Nays: None  
Absent: None  
Date: November 5, 2024  
xc: HWS, Recorder, State Clearinghouse, OPR

Kimberly A. Rector  
Clerk of the Board

By:   
Deputy

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**RECOMMENDED MOTION:** That the Board of Supervisors:

2. Approve the allocation of \$6,700,000 from Fourth District’s ARPA allocation for Palm Villas at Millennium Housing Phase I Apartments, located in the City of Palm Desert, derived from County’s ARPA Allocation for the Proposed Project to assist low-income households and individuals disproportionately affected by the COVID-19 pandemic;
3. Approve the attached Loan Agreement for the Use of ARPA Funds, including all attachments thereto (ARPA Loan Agreement), the ARPA Deed of Trust and Assignment of Rents, ARPA Loan Promissory Note, ARPA Covenant Agreement, and Environmental Indemnity;
4. Authorize the Chair of the Board of Supervisors to execute the ARPA Loan Agreement and an ARPA Covenant Agreement;
5. Authorize the Director of Housing and Workforce Solutions (HWS), or designee, to negotiate and execute Subordination Agreements subordinating the ARPA Deed of Trust for the benefit of a Construction and/or Permanent Senior Lender(s) securing a loan for the Project for a not to exceed amount of \$40,000,000, subject to approval as to form by County Counsel;
6. Authorize the Director of HWS, or designee, to take all necessary steps to implement the ARPA Loan Agreement and Subordination Agreements, including but not limited to, signing amendments and subsequent necessary and relevant documents, subject to approval as to form by County Counsel;
7. Direct the Clerk of the Board to file the Notice of Exemption with the County Clerk and the State Clearinghouse at the Office of Planning and Research (OPR) within five (5) business days of approval; and
8. Approve and direct the Auditor-Controller to make the budget adjustment as detailed in the attached Schedule A.

| <b>FINANCIAL DATA</b>  | <b>Current Fiscal Year:</b> | <b>Next Fiscal Year:</b> | <b>Total Cost:</b>            | <b>Ongoing Cost</b> |
|--|-----------------------------|--------------------------|-------------------------------|---------------------|
| <b>COST</b>  | \$6,700,000                 | \$ 0                     | \$6,700,000                   | \$ 0                |
| <b>NET COUNTY COST</b>   | \$ 0                        | \$ 0                     | \$ 0                          | \$ 0                |
| <b>SOURCE OF FUNDS:</b> American Rescue Plan Act (ARPA) Funds (100%) |                             |                          | <b>Budget Adjustment:</b> Yes |                     |
|  |                             |                          | <b>For Fiscal Year:</b> 24/25 |                     |

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

On October 19, 2021 (Minute Order 3.5), the Board of Supervisors allocated \$50,000,000 in

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American Rescue Plan Act (ARPA) funds for the purpose of addressing housing and homelessness through the development of affordable housing and sheltering programs. The \$50,000,000 Board allocation was distributed equally to all five supervisorial districts. The funding allocated by the Board was the State and Local Fiscal Recovery Funds (SLFRF) allocated to the County as part of the American Rescue Plan Act of 2021 (Pub. L 117-2). These ARPA funds are to focus on projects and/or programs that serve to create affordable housing with necessary supporting infrastructure to assist low-income communities disproportionately affected by the COVID-19 pandemic. One of the eligible uses of ARPA funds include increasing the supply of affordable housing which is critical to addressing the lack of affordable housing for low-income residents.

On October 4, 2022 (Minute Order 3.44), the Board approved the 2<sup>nd</sup> installment allocation of ARPA funding. Of this 2<sup>nd</sup> ARPA allocation, \$33,000,000 was equally distributed to each district. The funding allocated by the Board was the State and Local Fiscal Recovery Funds (SLFRF) that the County was allocated as part of the American Rescue Plan Act (ARPA) of 2021 (Pub. L 117-2). These ARPA funds are to focus on projects and/or programs that serve as a pathway to create affordable housing with necessary supporting infrastructure to assist low-income communities disproportionately affected by the COVID-19 pandemic. One of the eligible uses of ARPA funds include the increase in the supply of affordable and permanent supportive housing which is critical to addressing homelessness.

Palm Communities, a California corporation and an affordable housing developer (Developer), has applied to the County of Riverside (County) for ARPA funding allocated from California's direct allocation of federal ARPA funds in the amount of \$6,700,000 (ARPA Loan) to pay a portion of the costs to develop and construct Phase I of the Palm Villas at Millennium Housing Project, a two phase, 241-unit affordable multifamily low-income housing project (Proposed Project). On June 11, 2024 (Minute Order 3.25), the Board approved Resolution No. 2024-128, which allocated \$6,700,000 in ARPA funding, subject to the satisfaction of certain conditions contained therein, including establishing a limited partnership in which Developer, or a limited liability company affiliate of Developer, acts as the managing general partner. The Developer is partnering with Aperto Property Management, Inc., for the Proposed Project's operations, including property management. If approved, the ARPA Loan will be evidenced by a Promissory Note in favor of the County (ARPA Loan Note), which would be secured by a Deed of Trust with Assignment of Leases and Rents, Security Agreement and Fixture Filing for the benefit of the County (ARPA Deed of Trust). The proposed ARPA Deed of Trust and ARPA Loan Note are exhibits to the Loan Agreement attached hereto.

The Proposed Project is an affordable multifamily rental housing project comprised of approximately two phases, Phase I and Phase II, and will be owned and operated by PD Millennium Partners LP, a California limited partnership. The Proposed Project is located on 10.49 acres of land located at the north side of Gerald Ford Drive between Cook Street and Dinah Shore Drive, in the City of Palm Desert, identified as Assessor's Parcel Number 694-120-028 and a portion of APN 694-120-029 (Property) which will be subdivided into two parcels, one for each phase. Phase I will consist of 120 affordable rental units within 5 three-story buildings

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including 15 one-bedrooms units, 75 two-bedroom units, and 30 three-bedroom units. In addition, 1 three-bedroom unit will be set aside for an on-site resident manager. Phase II will consist of 119 affordable rental units within 5 three-story buildings, including 15 one-bedroom units, 75 two-bedroom units, and 29 three-bedroom units. In addition, 1 three-bedroom unit will be set aside for an on-site resident manager. Under the County's ARPA program for Phase I of development, 49% of the rental units, or 59 units, will be restricted to households whose incomes do not exceed 60% of the area median income. Of those units, 25% of the units, or 15 units, will be restricted to households whose incomes do not exceed 30% of the area median income for the County of Riverside.

Staff recommends approval of ARPA funds for the Proposed Project to pay a portion of the development and construction costs in an amount not to exceed \$6,700,000 of ARPA funds approved for the Proposed Project.

The Property will consist of the amenities including a community center, picnic areas, laundry facilities, tot-lot/playground, and multi-purpose hard court. Service amenities will be conducted in the community buildings and available for all tenants free of charge. A program coordinator will be hired to provide family appropriate classes for the residents, as well as collaborate with outside nonprofits and agencies to expand program options. Residents will have input as to which classes and programs are offered at the center.

| <b>Permanent Sources</b>    | <b>Amount</b>       |
|-----------------------------|---------------------|
| Perm Bond Proceeds          | \$21,970,188        |
| Palm Desert Acq Land Loan   | \$1,965,539         |
| Riverside County Loan, ARPA | \$6,700,000         |
| Tax Credit Equity           | \$40,541,142        |
| Deferred Developer Fee      | \$5,709,766         |
| <b>Total</b>                | <b>\$76,886,635</b> |

County Counsel has reviewed and approved as to form the attached Loan Agreement for the Use of ARPA Funds, the ARPA Deed of Trust, the ARPA Loan Promissory Note, the ARPA Covenant Agreement, and the Environmental Indemnity. Staff recommends that the Chair of the Board execute the Loan Agreement for the Use of ARPA funds and ARPA Covenant Agreement. Staff further recommends authorizing Director of HWS, or designee, to negotiate and execute Subordination Agreements subordinating the ARPA Deed of Trust for the benefit of a construction and/or Permanent Senior Lender securing a loan for the Project for a not to exceed amount of \$40,000,000, subject to approval as to form by County Counsel.

Any potential significant effects of the Proposed Project have been addressed by the City of Palm Desert, as Lead Agency in its adoption of Planning Commission Resolution No. 2817 on August 16, 2022, approving Precise Plan (PP) 22-0003 and Tentative Parcel Map (TPM) 38366. Acting as the Responsible Agency, the County of Riverside Board of Supervisors will adopt the Notice of Exemption. The Proposed Project is exempt from CEQA and the State CEQA Guidelines (14. Cal. Code Regs §§15000 et seq.), specifically pursuant to Section 15183

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(Projects Consistent with a Community Plan, General Plan, or Zoning). See the Notice of Exemption for additional detail.

**Impact on Residents and Businesses**

The development of Palm Villas at Millennium Apartments will have a positive impact on residents and businesses through the creation of jobs and affordable housing in the Coachella Valley.

**Additional Fiscal Information**

There is no impact on the County's General Fund. The County's contribution to the Proposed Project will be fully funded through American Rescue Plan Act (ARPA) funds allocated from California's direct allocation of federal ARPA funds, with \$2,260,000 million coming from the first tranche and \$4,440,000 million from the second tranche.

**ATTACHMENTS:**

- Schedule A – Budget Adjustment
- Form of the Loan Agreement for the Use of ARPA Funds, including all exhibits - Forms of the ARPA Deed of Trust, ARPA Loan Promissory Note and ARPA Covenant Agreement
- Environmental Indemnity
- City of Palm Desert's Planning Commission Resolution No. 2817
- Notice of Exemption

  
Brett Austin, Supervising Accountant 10/31/2024

  
Brianna Lontajo, Principal Management Analyst 10/31/2024

  
Aaron Gettis, Chief of Deputy County Counsel 10/31/2024



FILED / POSTED

County of Riverside  
Peter Aldana  
Assessor-County Clerk-Recorder

E-202401187  
11/06/2024 10:01 AM Fee: \$ 50.00  
Page 1 of 1

Removed: \_\_\_\_\_ By: \_\_\_\_\_ Deputy

**Notice of Exemption**

To:  Office of Planning and Research  
For U.S Mail: Street Address: 1400 Tenth St.  
P.O: Box 3044 Sacramento, CA 95812-3044

From: Public  
Agency: County of Riverside  
Address: 4080 Lemon Street, Suite 400  
Riverside, CA 92501  
Contact: Annjanette Aguilar  
Phone: (951) 933-8572

County Clerk  
County of: Riverside  
2724 Gateway Drive  
P.O. Box 751  
Address: Riverside, CA 92502-0751

Lead Agency (if different from above):  
Address: \_\_\_\_\_  
Contact: Juan Garcia  
Phone: +19519558126

**SUBJECT: Filing of Notice of Determination in Compliance with Section 21108 or 21152 of the public Resources Code.**

State Clearinghouse Number (if submitted to State Clearinghouse): \_\_\_\_\_

Project Title: Loan Agreement for the Use of American Rescue Plan Act (ARPA) Funds for Palm Villas at Millennium

Project Location (include county): North side of Gerald Ford Drive between Cook Street and Dinah Shore Drive, in the City of Palm Desert, identified as Assessor's Parcel Number 694-120-028 and a portion of APN 694-120-029 (Property)

Project Description: The Proposed Project will consist of new construction of a two phase, 241-unit affordable multifamily low-income housing project (Proposed Project). The Proposed Project is located on 10.49 acres of land located at the north side of Gerald Ford Drive between Cook Street and Dinah Shore Drive, in the City of Palm Desert, identified as Assessor's Parcel Number 694-120-028 and a portion of APN 694-120-029 (Property) which will be subdivided into two parcels, one for each phase. Phase I will consist of 120 affordable rental units within 5 three-story buildings including 15 one-bedrooms units, 75 two-bedroom units, and 30 three-bedroom units. In addition, 1 three-bedroom unit will be set aside for an on-site resident manager. Phase II will consist of 119 affordable rental units within 5 three-story buildings, including 15 one-bedroom units, 75 two-bedroom units, and 29 three-bedroom units. Under the County's ARPA program for Phase I of development, 49% of the rental units, or 59 units, will be restricted to households whose incomes do not exceed 60% of the area median income. Of those units, 25% of the units, or 15 units, will be restricted to households whose incomes do not exceed 30% of the area median income for the County of Riverside. The use and occupancy restrictions will be set forth in a Covenant Agreement to be recorded in the Official Records of the County of Riverside.

Project Sponsor: County of Riverside

This is to advise that the County of Riverside Board of Supervisors approved the above project on

Lead agency or  Responsible Agency

November 5, 2024 and has made the following determinations regarding the above-described project:  
(Tentative date)

Find that the Loan Agreement for the Use of American Rescue Plan Act (ARPA) Funds does not constitute a project under California Environmental Quality Act (CEQA) and the State CEQA Guidelines (14. Cal. Code Regs §§15000 et seq.), specifically pursuant to Section 15183 Projects Consistent with a Community Plan, General Plan, or Zoning.

Signature: (Public Agency) Juan Garcia Title: Deputy Director

Date: 10/24/24 Date received for filing at OPR: \_\_\_\_\_

# Loan Agreement for the Use of American Rescue Plan Act (ARPA) funds for Palm Villas at Millennium

## Summary

**SCH Number**

2024110160

**Public Agency**

Riverside County

**Document Title**

Loan Agreement for the Use of American Rescue Plan Act (ARPA) funds for Palm Villas at Millennium

**Document Type**

NOE - Notice of Exemption

**Received**

11/6/2024

**Posted**

11/6/2024

**Document Description**

The Proposed Project will consist of new construction of a two phase, 241-unit affordable multifamily low-income housing project (Proposed Project). The Proposed Project is located on 10.49 acres of land located at the north side of Gerald Ford Drive between Cook Street and Dinah Shore Drive, in the City of Palm Desert, identified as Assessor's Parcel Number 694-120-028 and a portion of APN 694-120-029 (Property) which will be subdivided into two parcels, one for each phase. Phase I will consist of 120 affordable rental units within 5 three-story buildings including 15 one-bedroom units, 75 two bedroom units, and 30 three-bedroom units. In addition, 1 three-bedroom unit will be set aside for an on-site resident manager. Phase II will consist of 119 affordable rental units within 5 three-story buildings, including 15 one-bedroom units, 75 two bed-room units, and 29 three-bedroom units. Under the County's ARPA program for Phase I of development, 49% of the rental units, or 59 units, will be restricted to households, whose incomes do not exceed 60% of the area median income. Of those units, 25% of the units, or 15 units, will be restricted to households who incomes do not exceed 30% of the area median income for the County of Riverside. The use and occupancy restrictions will be set forth in a Covenant Agreement to be recorded in the Official Records of the County of Riverside.

## Contact Information

**Name**

Juan Garcia

1 NO FEE FOR RECORDING PURSUANT  
2 TO GOVERNMENT CODE SECTION 6103

3 Order No.  
4 Escrow No.  
5 Loan No.

6 RECORDING REQUESTED BY AND  
7 WHEN RECORDED MAIL TO:

8 County of Riverside  
9 Housing and Workforce Solutions  
10 3403 10<sup>th</sup> Street, Suite 300  
11 Riverside, CA 92501  
12 Attn: Juan Garcia

13 SPACE ABOVE THIS LINE FOR RECORDER'S USE

14 LOAN AGREEMENT FOR THE USE OF  
15 AMERICAN RESCUE PLAN ACT (ARPA) FUNDS  
16 (Palm Villas at Millenium Phase I Apartments)

17 This LOAN AGREEMENT FOR THE USE OF AMERICAN RESCUE PLAN ACT FUNDS  
18 ("Agreement") is made and entered into this 5 day of November 2024 by and between  
19 the COUNTY OF RIVERSIDE, a political subdivision of the State of California ("COUNTY")  
20 and PD MILLENNIUM PARTNERS LP, a California limited partnership ("BORROWER").  
21 The COUNTY and BORROWER may be individually referred to herein as a "Party" and  
22 collectively as the "Parties." This Agreement, for the use of funding under the American Rescue  
23 Plan Act of 2021 (Pub.L. 117-2), amending Title VI of the Social Security Act (42 U.S.C. 801  
24 et seq.), hereinafter "ARPA" or "Act", is made and entered into as of the Effective Date (defined  
25 herein).

26 WITNESSETH:

27 WHEREAS, the Act provides that ARPA funds may be used to cover costs that are  
28 necessary expenditures incurred due to the public health emergency with respect to the COVID-  
19 pandemic;

WHEREAS, on October 19, 2021, via Minute Order 3.5, the Board of Supervisors of the  
County of Riverside approved allocating \$50,000,000 in ARPA funds to increase shelter



1 capacity, permanent supportive housing units, and affordable housing to help address  
2 homelessness;

3 WHEREAS, the purpose of this Agreement is for COUNTY to provide financial  
4 assistance to BORROWER in the maximum amount of Six Million Seven Hundred Thousand  
5 Dollars (\$6,700,000) consisting of ARPA funds, to pay a portion of the costs to develop and  
6 construct the Palm Villas at Millennium Housing Project, a two phase, 241-unit affordable  
7 multifamily low-income housing project. Specifically, Phase I will consist of 120 affordable  
8 rental units within 5 three-story buildings including 15 one-bedrooms units, 75 two-bedroom  
9 units, and 30 three-bedroom units. In addition, 1 three-bedroom unit will be set aside for an on-  
10 site resident manager. Phase I is expected to be financed with 4% Low-Income Housing Tax  
11 Credits (“LIHTC”) and tax-exempt bonds. Phase II will consist of 119 affordable rental units  
12 within 5 three-story buildings, including 15 one-bedroom units, 75 two-bedroom units, and 29  
13 three-bedroom units. In addition, 1 three-bedroom unit will be set aside for an on-site resident  
14 manager. (collectively, the “Project”). The Project will be located on approximately 10.49 acres  
15 of land located at the north side of Gerald Ford Drive between Cook Street and Dinah Shore  
16 Drive, in the City of Palm Desert, identified as Assessor’s Parcel Number 694-120-028 and a  
17 portion of APN 694-120-029, as more specifically described in the legal description and depicted  
18 on the site map attached hereto as **Exhibit A** and incorporated herein by this reference  
19 (“Property”); and

20 WHEREAS, the ARPA-assisted activities described herein comply with the objectives  
21 required under the ARPA in that they are necessary to assist populations experiencing food and  
22 housing insecurity as a result of impacts due to the COVID-19 public health emergency.

23 NOW, THEREFORE, based upon the foregoing Recitals and for good and valuable  
24 consideration, the receipt and sufficiency of which is acknowledged by all Parties, the COUNTY  
25 and BORROWER hereby agree as follows:

26 1. PURPOSE. The aforementioned Recitals are true and correct and incorporated  
27 herein by this reference. COUNTY has agreed to lend up to no more than a maximum total  
28 amount of Six Million Seven Hundred Thousand Dollars (\$6,700,000) in ARPA Act funds

1 (“ARPA Loan”) to BORROWER for Phase I of the Project upon the satisfaction of the terms  
2 and conditions set forth herein, including but not limited to the conditions precedent to  
3 distribution of the ARPA Loan set forth in **Section 12** below. Subject also to **Section 48** below,  
4 BORROWER shall undertake and complete the ARPA activities required herein and as set forth  
5 in **Exhibits A and A-1**, and shall utilize the ARPA Loan, as required herein and pursuant to the  
6 Act, ARPA Final Rule that became effective April 1, 2022, and the regulations as set forth in 31  
7 CFR 35 (collectively, “ARPA Rules”). The Project will serve households as follows: 49% of  
8 the rental units will be restricted to households whose incomes do not exceed 60% of the area  
9 median income; of those units, 25% of the units will be restricted to households whose incomes  
10 do not exceed 30% of the area median income for the County of Riverside (“Qualified  
11 Population”).

12 2. BORROWER’S OBLIGATIONS. Upon the commencement of the Effective Date  
13 (defined in **Section 55** below), BORROWER hereby agrees to undertake and complete the  
14 following activities within the time period(s) set forth herein and in **Exhibit A-1**:

- 15 a. Satisfy the conditions precedent to distribution of the ARPA Loan set forth in  
16 **Section 12** below.
- 17 b. Develop and construct the Property in accordance with the timeline set forth  
18 in **Exhibit A and A-1**.
- 19 c. Operate the Project in such a manner so that it will remain available to  
20 Qualified Populations for the Affordability Period as defined in **Section 14**  
21 below without regard to (i) the term of the promissory note or (ii) transfer of  
22 ownership.
- 23 d. Maintain the Project in compliance with ARPA Rules, applicable local, state,  
24 federal laws, codes, and regulations as further described in **Section 17** below  
25 until the expiration of the Term of this Agreement set forth in **Section 7** below,  
26 and the Affordability Period set forth in **Section 14** below.

27 3. RESERVED.

28 4. ARPA ACT LOAN. Subject to BORROWER’s satisfaction of the conditions

1 precedent to disbursement of the ARPA Loan set forth in **Section 11** below, COUNTY shall  
2 provide financing to BORROWER in the form of a loan in the amount of \$6,700,000 (“ARPA  
3 Loan”), pursuant to the following terms and conditions:

4 a. Term of ARPA Loan. The maturity date of the ARPA Loan shall be the later  
5 to occur of (i) July 1, 2079, or (ii) fifty-five (55) years from the recordation of  
6 the Notice of Completion recorded in the Official Records for the last building  
7 constructed for the Phase I of the Project on the Property (the “Loan Term”).  
8 The term, “Official Records” used herein shall mean the Official Records of  
9 the Recorder’s Office of the County of Riverside.

10 b. Principal. The total amount of the ARPA Loan shall not exceed \$6,700,000,  
11 and shall be evidenced by a Promissory Note, substantially conforming in form  
12 and substance to the Promissory Note attached hereto and incorporated herein  
13 as **Exhibit C** (“ARPA Note”), which note shall be secured by a Deed of Trust,  
14 Security Agreement and Fixture Filing (with Assignment of Rents),  
15 substantially conforming in form and substance to the Deed of Trust, Security  
16 Agreement and Fixture Filing (with Assignment of Rents) attached hereto and  
17 incorporated herein as **Exhibit B** (“ARPA Deed of Trust”).

18 c. Interest. The interest rate shall be three percent (3%) simple interest per  
19 annum.

20 d. Repayment. The terms of the ARPA Note shall be as follows:

21 i. That the ARPA Loan will accrue simple interest at a rate of three  
22 percent (3%) per annum, except in the case of an event of default as  
23 hereinafter provided wherein a higher default interest rate shall apply  
24 as more specifically set forth in the Note, and shall be repaid on an  
25 annual basis from the Project’s Residual Receipts (defined in **Section**  
26 **4 (d)(iv)** below).

27 ii. Fifty percent (50%) of the Project’s Residual Receipts shall be paid to  
28 COUNTY and City of Palm Desert (pro rata with respect to the

1 amounts of their respective loans for the Project) annually in  
2 accordance with the terms set forth herein. The pro rata share split  
3 shall be twenty-two and sixty-eight hundredths percent (22.68%) to the  
4 City of Palm Desert, and seventy-seven and thirty-two hundredths  
5 percent (77.32%) to COUNTY (each, a "Pro Rata Share"). Such  
6 payment of the Pro Rata Share of fifty percent (50%) of the Project's  
7 Residual Receipts to City of Palm Desert, and COUNTY shall continue  
8 annually until the City of Palm Desert promissory note, and  
9 COUNTY's ARPA Note are repaid in full, respectively.

10 iii. Any remainder of the Project's Residual Receipts will be paid in  
11 accordance with the cash flow "waterfall" provisions of Borrower's  
12 limited partnership agreement.

13 iv. The term "Residual Receipts" used herein shall mean all money and  
14 income from the Project remaining annually after the payment of all  
15 normal and necessary expenses of operation of the Project, including  
16 but not limited to the following:

17 (1) payments of principal and interest and other mandatory  
18 payments on amortized loans and indebtedness senior to the  
19 Loan, which have been approved in writing by COUNTY  
20 (collectively, the "Senior Debt");

21 (2) utility fees and costs not paid by tenants;

22 (3) insurance on the Project;

23 (4) ad valorem taxes and assessment payments;

24 (5) property management fees;

25 (6) the cost of social programs;

26 (7) auditing and accounting fees;

27 (8) operating expenses (any expense reasonably and normally  
28 incurred in carrying out the Project's day-to-day activities,

1 which shall include administration, on-site management  
2 costs, utilities, on-site staff payroll, payroll taxes, and  
3 maintenance);

4 (9) reserves for repair and replacement of the Project, in an  
5 annual amount of \$350 per rental unit per year, increased  
6 annually by an amount not to exceed the greater of (i) three  
7 percent (3%) or (ii) the increase in CPI;

8 (10) required operating reserve replenishments in an amount up  
9 to \$175,000 per year;

10 (11) County's monitoring Fee in the total amount of \$12,000,  
11 increased annually by an amount equal to the increase of  
12 CPI, as more specifically discussed in **Section 28**;

13 (12) repayment of any operating deficit loans made by a partner  
14 to the BORROWER and payment of unpaid tax credit  
15 adjustment payments owed to a limited partner of  
16 BORROWER;

17 (13) partnership management fees up to \$25,000 annually  
18 payable to a partner of BORROWER, and asset management  
19 fees up to \$5,000 annually (increasingly annually by three  
20 (3%)) payable to a partner of BORROWER, and any accrued  
21 and unpaid fees from prior years;

22 (14) payment of deferred developer fees pursuant to  
23 BORROWER'S limited partnership agreement; and

24 (15) all other fees and expenses which may be permitted by the  
25 annual budget approved by the COUNTY.

26 v. Operating expenses will be considered "normal and necessary" if incurred  
27 generally for similarly structured, financed, and restricted rental properties  
28 operated by similar entities. At such time, payment of seventy-seven and

1 thirty-two hundredths percent (77.32%) of 50% of the Residual Receipts  
2 produced from the Project shall be made by the BORROWER to the  
3 COUNTY annually on July 15th of each year. Payment shall be applied  
4 first to accrued interest and thereafter to principal. BORROWER shall  
5 annually provide the COUNTY with an accounting acceptable to the  
6 COUNTY, documenting the calculation of Residual Receipts for the  
7 previous calendar year ending December 31. This accounting shall be  
8 made on or before July 15, together with the payment of Residual Receipts.

9 vi. Prepayment. Prepayment of principal and/or interest under the ARPA  
10 Note may occur at any time without penalty; provided, however (i) the  
11 requirements of **Section 17**, "Compliance with Laws and Regulations",  
12 shall remain in full force and effect for the term of the Agreement specified  
13 in **Section 7** below; and (ii) the requirements set forth in the Covenant  
14 Agreement, attached hereto as **Exhibit E**, shall remain in effect until the  
15 expiration of the Affordability Period.

16 5. Security. The Covenant Agreement, ARPA Deed of Trust, and this Agreement  
17 shall be respectively in the first, second, and third priority lien position, in relation  
18 to themselves, each for the benefit of COUNTY. Final Lien priority orders shall  
19 be established upon determination of final construction financing between all  
20 lenders, provided, however, that COUNTY's affordability restrictions set forth in  
21 the Covenant Agreement are preserved for the Qualified Population for the  
22 Affordability Period (defined below).

23 6. PRIOR COUNTY APPROVAL.

24 a. Except as otherwise expressly provided in this Agreement, approvals required  
25 of the COUNTY shall be deemed granted by the written approval of the  
26 Director of Housing and Workforce Solutions ("HWS"), or designee.  
27 Notwithstanding the foregoing, the Director may, in their sole discretion, refer  
28 to the governing body of the COUNTY any item requiring COUNTY

1 approval; otherwise, "COUNTY approval" means and refers to approval by  
2 the Director of HWS, or designee.

3 b. The Director of HWS, or designee, shall have the right to make changes to the  
4 attachments to this Agreement in order to ensure that all such attachments are  
5 consistent with the terms and provisions of this Agreement.

6 7. TERM OF AGREEMENT. This Term of this Agreement shall become effective  
7 upon the Effective Date, as defined in **Section 55** below, and unless terminated earlier pursuant  
8 to the terms hereof, shall continue in full force and effect until the later to occur of (i) July 1,  
9 2079 or (ii) fifty-five (55) years from the recordation of the Notice of Completion in the Official  
10 Records for the last building for which construction is completed for Phase I of the Project on  
11 the Property ("Term of Agreement").

12 8. BORROWER'S REPRESENTATIONS. BORROWER represents and warrants  
13 to COUNTY as follows:

14 a. Authority. BORROWER has full right, power, and lawful authority to enter  
15 into this Agreement and accept the ARPA Loan and undertake all obligations  
16 as provided herein. The execution, performance, and delivery of this  
17 Agreement by BORROWER have been fully authorized by all requisite  
18 actions on the part of BORROWER.

19 b. No Conflict. To the best of BORROWER's knowledge, BORROWER's  
20 execution, delivery, and performance of its obligations under this Agreement  
21 will not constitute a default or a breach under contract, agreement or order to  
22 which BORROWER is a party or by which it is bound.

23 c. No Bankruptcy. BORROWER is not the subject of a bankruptcy proceeding.

24 d. Prior to Closing. BORROWER shall, upon learning of any fact or condition  
25 which would cause any of the warranties and representations in this **Section 8**  
26 not to be true as of close of escrow, immediately give written notice of such  
27 fact or condition to COUNTY. Such exception(s) to a representation shall not  
28 be deemed a breach by BORROWER hereunder, but shall constitute an

1 exception which COUNTY shall have the right to approve or disapprove if  
2 such exception would have an effect on the value and/or operation of the  
3 Project.

4 e. CEQA. BORROWER represents and warrants that the Project will be  
5 developed in full compliance with all applicable requirements of the California  
6 Environmental Quality Act (“CEQA”) concerning this Agreement, including  
7 without limitation any challenge to CEQA compliance.

8 9. COMPLETION SCHEDULE. BORROWER shall proceed consistent with the  
9 Implementation Schedule set forth in **Exhibit A-1**, as such schedule may be amended pursuant  
10 to **Section 11**, and subject to Force Majeure Delays as defined in **Section 10**.

11 10. FORCE MAJEURE DELAYS. “Force Majeure” means event(s) beyond the  
12 reasonable control of BORROWER, and which could not have been reasonably anticipated,  
13 which prevent(s) BORROWER from complying with any of its obligations under this  
14 Agreement, including, but not limited to: acts of God, acts of war, acts or threats of terrorism,  
15 civil disorders, strikes, labor disputes, pandemics such as COVID-19, flood, fire, explosion,  
16 earthquake or other similar acts.

17 “Force Majeure Delay” is delay due to Force Majeure that, in each case, (i)  
18 materially adversely affects the performance by BORROWER of its obligations hereunder, (ii)  
19 is not reasonably foreseeable and is beyond BORROWER's reasonable control, (iii) despite the  
20 exercise of reasonable diligence, cannot be prevented, avoided or removed by BORROWER and  
21 is not attributable to the negligence, willful misconduct or bad faith of BORROWER, and (iv) is  
22 not the result of the failure of BORROWER to perform any of its obligations under this  
23 Agreement. Notwithstanding the foregoing, a Force Majeure Delay shall not be deemed to have  
24 occurred unless BORROWER has notified COUNTY in writing of such occurrence within thirty  
25 (30) days after such occurrence, and has provided COUNTY with the details of such event and  
26 the length of the anticipated delay within an additional fifteen (15) days thereafter.  
27 BORROWER shall diligently attempt to remove, resolve, or otherwise eliminate such event,  
28 keep COUNTY advised with respect thereto, and shall commence performance of its obligations



1 hereunder immediately upon such removal, resolution or elimination. During the occurrence  
2 and continuance of a Force Majeure Delay, BORROWER shall be excused from performance of  
3 its obligations under this Agreement to the extent the Force Majeure prevents BORROWER  
4 from performing such obligations.

5 11. EXTENSION OF TIME. COUNTY may grant an extension to the  
6 Implementation Schedule set forth in **Exhibit A-1** for the purpose of completing BORROWER's  
7 activities which cannot be completed as outlined in **Exhibit A-1**. BORROWER shall request  
8 said extension in writing, stating the reasons therefore, which extension must be first approved  
9 in writing by the COUNTY in its reasonable discretion. The Director of HWS, or designee, may  
10 extend all pending deadlines in the Implementation Schedule on two (2) or fewer occasions, so  
11 long as the aggregate duration of such administrative time extensions is no greater than ninety  
12 (90) days and so long as any extensions are within any deadlines set forth in the ARPA Rules.  
13 Every term, condition, covenant, and requirement of this Agreement shall continue in full force  
14 and effect during the period of any such extension.

15 12. CONDITIONS PRECEDENT TO DISTRIBUTION OF ARPA ACT LOAN  
16 FUNDS. COUNTY, through its Department of HWS, shall: (1) make payments of the ARPA  
17 Loan funds to BORROWER in accordance with Section 13 below subject to Borrower's  
18 satisfaction of the conditions precedent set forth below, and (2) monitor the Project to ensure  
19 compliance with applicable federal regulations and the terms of this Agreement. COUNTY shall  
20 not disburse any ARPA Loan funds pursuant to this Agreement until the following conditions  
21 precedent have been satisfied:

- 22 a. BORROWER has completed the National Environmental Policy Act  
23 ("NEPA") process, including the Environmental Assessment ("EA") Report  
24 and Findings incorporated in the EA and in the Finding of No Significant  
25 Impact ("FONSI") for the Project, and has been approved by COUNTY as the  
26 responsible entity for purposes of the subject NEPA review;
- 27 b. BORROWER executes this Agreement and delivers it to COUNTY for  
28 recordation in the Official Records;

- 1 c. BORROWER provides COUNTY with evidence of insurance as required  
2 herein;
- 3 d. BORROWER executes the ARPA Deed of Trust, substantially conforming in  
4 form and substance to the Deed of Trust, Security Agreement and Fixture  
5 Filing (with Assignment of Rents) attached hereto as **Exhibit B**, in recordable  
6 form, and delivers such document to the County of Riverside for recordation  
7 in the Official Records;
- 8 e. BORROWER executes the ARPA Note, substantially conforming in form and  
9 substance to the Promissory Note attached hereto as **Exhibit C** and delivers to  
10 COUNTY;
- 11 f. BORROWER executes the Covenant Agreement, substantially conforming in  
12 form and substance to the Covenant Agreement attached hereto and  
13 incorporated herein as **Exhibit E**, in recordable form, and delivers to the  
14 County of Riverside for recordation in the Official Records;
- 15 g. COUNTY executes and records in the Official Records the Requests for Notice  
16 of Default, conforming in form and substance to **Exhibit F** attached hereto;
- 17 h. BORROWER provides, at its expense, an American Land Title Association  
18 (“ALTA”) lender’s policy in favor of COUNTY, insuring the Covenant  
19 Agreement as a lien against the Property; and
- 20 i. BORROWER is not in default under the terms of this Agreement or any other  
21 agreement related to the financing of the Project;
- 22 j. If Davis Bacon and/or prevailing wages are required to be paid, BORROWER  
23 hires a qualified professional firm to review and monitor Davis Bacon and/or  
24 prevailing wage compliance for all submissions of contractors certified  
25 payrolls to COUNTY. In the event that the Project requires prevailing wages,  
26 BORROWER shall comply with, and shall require its contractors and  
27 subcontractors performing work on the Project, to pay prevailing wages, use a  
28 skilled and trained workforce, and adhere to any applicable labor regulations

1 and all State laws in connection with the construction of the Project, including  
2 but not limited to Chapter 1 (commencing with Section 1720) of Part 7 of  
3 Division 2 of the Labor Code, and Chapter 2.9 (commencing with Section  
4 2600) of Part 1 of Division 2 of the Public Contract Code. BORROWER  
5 agrees and acknowledges that it is the responsibility of BORROWER to obtain  
6 a legal determination, at BORROWER's sole cost and expense, as to whether  
7 prevailing wages must be paid during the construction of the Project. If the  
8 Project is subject to prevailing wages, then BORROWER shall be solely  
9 responsible to pay its contractors and subcontractors the required prevailing  
10 wage rates. BORROWER agrees to indemnify, defend, and hold COUNTY  
11 harmless from and against any and all liability arising out of and related to  
12 BORROWER's failure to comply with any and all applicable Davis Bacon  
13 and/or State prevailing wage requirements;

14 k. BORROWER agrees to verify that BORROWER, and its principals, or any/all  
15 persons, contractors, consultants, businesses, etc. ("Developer Associates"),  
16 that BORROWER is conducting business with, are not presently debarred,  
17 proposed for debarment, suspended, declared "ineligible, or voluntarily  
18 excluded from participation or from receiving federal contracts or federally  
19 approved subcontracts or from certain types of federal financial and  
20 nonfinancial assistance and benefits with the Excluded Parties Listing System  
21 ("EPLS"). EPLS records are located at [www.sam.gov](http://www.sam.gov); and

22 i. BORROWER shall search and provide a single comprehensive list of  
23 Developer Associates (individuals and firms) and print and maintain evidence  
24 of the search results of each Developer Associate as verification of compliance  
25 with this requirement, as provided in **Exhibit G**, "Contractor Debarment  
26 Certification Form", which is attached hereto and incorporated herein by this  
27 reference.

28 BORROWER agrees to submit the following documentation to COUNTY, 180 days from

1 close of escrow:

- 2 1) Service Plan;
- 3 2) Management Plan; and
- 4 3) Funding commitments and sources ad uses for the proposed modifications to
- 5 the existing buildings for the proposed intended use.

6 13. DISBURSEMENT OF FUNDS AND RETENTION. County's Board of  
7 Supervisors shall determine the final disbursement and distribution of all funds received by  
8 COUNTY under the ARPA Act. Upon and after the Closing, COUNTY shall disburse the ARPA  
9 Loan funds specified in **Section 1** in accordance herewith and under the ARPA Act.  
10 Disbursement of ARPA Loan funds shall occur upon the receipt of copies of invoices and  
11 conditional (upon receipt of payment) lien releases for construction costs to be paid with the  
12 proceeds of the ARPA Loan. Any disbursement of funds is expressly conditioned upon the  
13 satisfaction of conditions set forth in **Section 12**. COUNTY shall disburse to BORROWER the  
ARPA Loan funds above on a "cost-as-incurred" basis as follows:

- 14 a. Up to ninety percent (90%) of the ARPA Loan may be disbursed at
- 15 Closing.
- 16 b. COUNTY shall release final draw down of ten percent (10%) of
- 17 the ARPA Loan following receipt of all of the items listed below,
- 18 in such form as is satisfactory to COUNTY; or shall release prior
- 19 to December 31, 2026, whichever comes first:
  - 20 1) Conditional lien release from general contractor;
  - 21 2) recorded Notice of Completion;
  - 22 3) Permanent Certificate of Occupancy;
  - 23 4) architect certification identifying units that are accessible to
  - 24 individuals with mobility impairments and units that are
  - 25 accessible to individuals with sensory impairments in
  - 26 compliance with Applicable California law;
  - 27 5) if applicable, submission of documentation that shows
  - 28 compliance with the Uniform Relocation Assistance and Real

1 Property Acquisition Policies Act of 1970 and 24 CFR Part  
2 42;

- 3 6) submission of a Project completion report including Tenant  
4 Checklist which is attached hereto and by this reference  
5 incorporated herein;  
6 7) Tenant Selection Policy;  
7 8) Management Plan;  
8 9) Certified statement of final development costs; and  
9 10) Certified statement of final sources and uses of funds for the  
10 Project.

11 14. TERMS OF AFFORDABILITY. The Project shall remain occupied and available  
12 to Qualified Populations, pursuant to **Section 18** below, **Exhibit A**, and the Covenant Agreement  
13 attached hereto as **Exhibit E**, until the later of (i) fifty-five (55) years from recordation of the  
14 Notice of Completion in the Official Records for the last building for which construction is  
15 completed for Phase I of the Project on the Property , or (ii) July 1, 2079 (“Affordability Period”).

16 15. INSURANCE. Without limiting or diminishing BORROWER’S obligation to  
17 indemnify or hold COUNTY harmless, BORROWER or its general contractor for the Project  
18 (“General Contractor”), shall procure and maintain or cause to be maintained, at its sole cost and  
19 expense, the following insurance coverages during the Term of this Agreement.

- 20 a. Builder’s All Risk (Course of Construction) Insurance. BORROWER shall  
21 cause General Contractor to provide a policy of Builder’s All Risk (Course of  
22 Construction) insurance coverage including (if the work is located in an  
23 earthquake or flood zone or if required on financed or bond financing  
24 arrangements) coverage for earthquake and flood, covering the COUNTY,  
25 BORROWER, General Contractor and every subcontractor, of every tier, for  
26 the entire Project, including property to be used in the construction of the work  
27 while such property is at off-site storage locations or while in transit or  
28 temporary off-site storage. Such policy shall include, but not be limited to,

1 coverage for fire, collapse, faulty workmanship, debris removal, expediting  
2 expense, fire department service charges, valuable papers and records, trees,  
3 grass, shrubbery and plants. If scaffolding, false work and temporary buildings  
4 are insured separately by the General Contractor or others, evidence of such  
5 separate coverage shall be provided to COUNTY prior to the start of the work.  
6 Such policy shall be written on a completed value form. Such policy shall also  
7 provide coverage for temporary structures (on-site offices, etc.), fixtures,  
8 machinery and equipment being installed as part of the work. BORROWER  
9 shall require that General Contractor shall be responsible for any and all  
10 deductibles under such policy. Upon request by COUNTY, BORROWER ,  
11 on behalf of General Contractor, shall declare all terms, conditions, coverages  
12 and limits of such policy. If the COUNTY so provides, in its sole discretion,  
13 the All Risk (Course of Construction) insurance for the Project, then  
14 BORROWER shall cause the General Contractor to assume the cost of any and  
15 all applicable policy deductibles (currently, \$50,000 per occurrence) and shall  
16 insure its own machinery, equipment, tools, etc. from any loss of any nature  
17 whatsoever.

18 b. Workers' Compensation Insurance. If BORROWER or General Contractor  
19 have employees as defined by the State of California, BORROWER or General  
20 Contractor, as applicable, shall maintain statutory Workers' Compensation  
21 Insurance (Coverage A) as prescribed by the laws of the State of California.  
22 Policy shall include Employers' Liability (Coverage B) including  
23 Occupational Disease with limits not less than \$1,000,000 per person per  
24 accident. The policy shall be endorsed to waive subrogation in favor of The  
25 County of Riverside.

26 c. Commercial General Liability Insurance. Borrower shall maintain  
27 Commercial General Liability insurance coverage, including but not limited  
28 to, premises liability, contractual liability, products and completed operations

1 liability, personal and advertising injury, and cross liability coverage, covering  
2 claims which may arise from or out of BORROWER'S performance of its  
3 obligations hereunder. Policy shall name the County of Riverside, its  
4 Agencies, Boards, Districts, Special Districts, and Departments, their  
5 respective directors, officers, Board of Supervisors, employees, elected or  
6 appointed officials, agents or representatives as Additional Insured. Policy's  
7 limit of liability shall not be less than \$2,000,000 per occurrence combined  
8 single limit. If such insurance contains a general aggregate limit, it shall apply  
9 separately to this agreement or be no less than two (2) times the occurrence  
10 limit.

11 d. Vehicle Liability Insurance. If vehicles or mobile equipment are used in the  
12 performance of the obligations under this Agreement, then BORROWER shall  
13 maintain liability insurance for all owned, non-owned or hired vehicles so used  
14 in an amount not less than \$1,000,000 per occurrence combined single limit.  
15 If such insurance contains a general aggregate limit, it shall apply separately  
16 to this agreement or be no less than two (2) times the occurrence limit. Policy  
17 shall name the County of Riverside, its Agencies, Boards, Districts, Special  
18 Districts, and Departments, their respective directors, officers, Board of  
19 Supervisors, employees, elected or appointed officials, agents or  
20 representatives as Additional Insured or provide similar evidence of coverage  
21 approved by COUNTY's Risk Manager.

22 e. General Insurance Provisions – All Lines.

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

1 (ii) BORROWER, or Borrower on behalf of General Contractor, must  
2 declare its insurance self-insured retentions. If such self-insured  
3 retentions exceed \$500,000 per occurrence such retentions shall have  
4 the prior written consent of COUNTY Risk Manager before the  
5 commencement of operations under this Agreement. Upon notification  
6 of self-insured retention unacceptable to COUNTY, and at the election  
7 of COUNTY's Risk Manager, BORROWER's or General  
8 Contractor's, as applicable, carriers shall either: (a) reduce or eliminate  
9 such self-insured retention as respects this Agreement with COUNTY,  
10 or (b) procure a bond which guarantees payment of losses and related  
11 investigations, claims administration, and defense costs and expenses.

12 (iii) BORROWER shall cause BORROWER's and General Contractor's  
13 insurance carrier(s) to furnish the County of Riverside with copies of  
14 the Certificate(s) of Insurance and Endorsements effecting coverage as  
15 required herein, and 2) if requested to do so orally or in writing by  
16 COUNTY Risk Manager, provide copies of policies including all  
17 Endorsements and all attachments thereto, showing such insurance is  
18 in full force and effect. Further, said Certificate(s) and policies of  
19 insurance shall contain the covenant of the insurance carrier(s) that  
20 thirty (30) days written notice shall be given to the County of Riverside  
21 prior to any material modification, cancellation, expiration or reduction  
22 in coverage of such insurance. In the event of a material modification,  
23 cancellation, expiration, or reduction in coverage, this Agreement shall  
24 terminate forthwith, unless the County of Riverside receives, prior to  
25 such effective date, another Certificate of Insurance and copies of  
26 endorsements, including all endorsements and attachments thereto  
27 evidencing coverages set forth herein and the insurance required herein  
28 is in full force and effect. BORROWER shall not commence or



1 continue construction of the Project until COUNTY has been furnished  
2 Certificate(s) of Insurance and copies of endorsements and if  
3 requested, copies of policies of insurance including all endorsements  
4 and any and all other attachments as required in this Section. An  
5 individual authorized by the insurance carrier on its behalf shall sign  
6 the original endorsements for each policy and the Certificate of  
7 Insurance.

8 (iv) It is understood and agreed to by the parties hereto that BORROWER's  
9 insurance shall be construed as primary insurance, and COUNTY's  
10 insurance and/or deductibles and/or self-insured retentions or self-  
11 insured programs shall not be construed as contributory.

12 (v) If, during the term of this Agreement or any extension thereof, there is  
13 a material change in the scope of services; or, there is a material change  
14 in the equipment to be used in the performance of the scope of work  
15 which will add additional exposures (such as the use of aircraft,  
16 watercraft, cranes, etc.); or, the term of this Agreement, including any  
17 extensions thereof, exceeds five (5) years, COUNTY reserves the right  
18 to adjust the types of insurance required under this Agreement and the  
19 monetary limits of liability for the insurance coverages currently  
20 required herein, if, in COUNTY Risk Manager's reasonable judgment,  
21 the amount or type of insurance carried by BORROWER has become  
22 inadequate.

23 (vi) BORROWER shall pass down the insurance obligations contained  
24 herein to all tiers of subcontractors working under this Agreement.

25 (vii) The insurance requirements contained in this Agreement may be  
26 met with a program(s) of self-insurance acceptable to COUNTY.  
27  
28

1 (viii) BORROWER agrees to notify COUNTY of any claim by a third  
2 party or any incident or event that may give rise to a claim arising from  
3 the performance of this Agreement.

4 16. FINANCIAL AND PROJECT RECORDS. BORROWER shall maintain financial,  
5 programmatic, statistical, and other supporting records of its operations and financial activities  
6 sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended,  
7 (42 U.S.C. 801(d)), in accordance with the requirements of the Act, the ARPA Rules, and the  
8 regulations as amended and promulgated thereunder, which records shall be open to inspection  
9 and audit by authorized representatives of COUNTY, the California Department of Finance, and  
10 the United States Department of the Treasury Office of Inspector General, during regular working  
11 hours. COUNTY, state, and federal representatives have the right of access, with at least forty-  
12 eight (48) hours prior notice, to any pertinent books, documents, papers, or other records of  
13 BORROWER, in order to make audits, examinations, excerpts, and transcripts. Said records shall  
14 be retained for such time as may be required by the ARPA, but in no event no less than five (5)  
15 years after the Project completion date as evidenced by recordation of the Notice of Completion,  
16 or after final payment is made, whichever is later, to support reported expenditures and to  
17 participate in COUNTY, state, and federal audits; except that records of individual income  
18 verifications, Project rents, and Project inspections must be retained for the most recent five (5)  
19 year period, until five (5) years after the Affordability Period terminates. If any litigation, claim,  
20 negotiation, audit, or other action has been started before the expiration of the regular period  
21 specified, the records must be retained until completion of the action and resolution of all issues  
22 which arise from it, or until the end of the regular period, whichever is later.

23 17. COMPLIANCE WITH LAWS AND REGULATIONS. By executing this  
24 Agreement, BORROWER hereby certifies that it will adhere to and comply with ARPA Rules  
25 and all federal, state, and local laws, regulations and ordinances. In particular, BORROWER  
26 shall comply with the following as they may be applicable to BORROWER in connection with  
27 the ARPA Loan:  
28

- 1 a. Compliance with Executive Order 11246 of September 24, 1965, entitled  
2 "Equal Employment Opportunity", as amended by Executive Order 11375 of  
3 October 13, 1967, and as supplemented in Department of Labor Regulations  
4 (41 CFR Part 60). The BORROWER will not discriminate against any  
5 employee or applicant for employment because of race, color, religion, sex, or  
6 national origin. BORROWER shall ensure that all qualified applicants will  
7 receive consideration for employment without regard to race, color, religion,  
8 sex or national origin. The BORROWER will take affirmative action to ensure  
9 that applicants are employed and the employees are treated during employment,  
10 without regard to their race color, religion, sex, or national origin. Such actions  
11 shall include, but are not limited to, the following: employment, up-grading,  
12 demotion, or transfer; recruitment or recruitment advertising; rates of pay or  
13 other forms of compensation; and selection for training, including  
14 apprenticeship. The BORROWER agrees to post in a conspicuous place,  
15 available to employees and applicants for employment, notices to be provided  
16 by the County setting forth the provisions of this non-discrimination clause;
- 17 b. Executive Order 11063, as amended by Executive Order 12259, and  
18 implementing regulations at 24 CFR Part 107;
- 19 c. Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended,  
20 and implementing regulations;
- 21 d. The Age Discrimination Act of 1975 (Pub. L. 94-135), as amended, and  
22 implementing regulations;
- 23 e. The regulations, policies, guidelines and requirements of the Uniform  
24 Administrative Requirements, Cost Principles, and Audit Requirements for  
25 Federal Awards (2 CFR Part 200) as they relate to the acceptance and use of  
26 federal funds under the federally-assigned program;
- 27 f. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) and implementing  
28 regulations issued at 24 CFR Part 1;

- 1 g. Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284) as amended;
- 2 h. *Rights to Data and Copyrights*: Contractors and consultants agree to comply
- 3 with all applicable provisions pertaining to the use of data and copyrights
- 4 pursuant to 48 CFR Part 27.404-3, Federal Acquisition Regulations (FAR).
- 5 i. *Air Pollution Prevention and Control* (formally known as the *Clean Air Act*)
- 6 (*42 U.S.C.A. 7401 et seq.*) and the *Federal Water Pollution Control Act* (*33*
- 7 *U.S.C.A. Section 1251 et seq.*), as amended: Contracts and subgrants of
- 8 amounts in excess of \$100,000 shall contain a provision that requires the
- 9 recipient to agree to comply with all applicable standards, orders or regulations
- 10 issued pursuant to the *Clean Air Act* (*42 U.S.C.A. 7401 et seq.*) and the *Federal*
- 11 *Water Pollution Control Act* as amended (*33 U.S.C.A. Section 1251 et seq.*).
- 12 Violations shall be reported to the Federal awarding agency and the Regional
- 13 Office of the Environmental Protection Agency (EPA).
- 14 j. *Anti-Lobbying Certification* (*31 U.S.C.A. 1352*): The language of the
- 15 certification set forth below shall be required in all contracts or subcontracts
- 16 entered into in connection with this grant activity and all BORROWERS shall
- 17 certify and disclose accordingly. This certification is a material representation
- 18 of fact upon which reliance was placed when this transaction was made or
- 19 entered into. Submission of this certification is a prerequisite for making or
- 20 entering into this transaction imposed by. Section 1352, Title 31, U.S. code.
- 21 Any person who fails to file the required certification shall be subject to a civil
- 22 penalty of not less than \$10,000 and no more than \$100,000 for such failure.
- 23 “The undersigned certifies, to the best of his or her knowledge or belief, that:
- 24 No Federal appropriated funds have been paid or will be paid, by or on behalf
- 25 of it, to any person for influencing or attempting to influence an officer or
- 26 employee of any agency, a Member of Congress, an officer or employee of
- 27 Congress, or an employee of a Member of Congress in connection with the
- 28 awarding of any Federal contract, the making of any Federal grant, the making

1 of any Federal loan, the entering into of any cooperative agreement, and the  
2 extension, continuation, renewal, amendment, or modification of any Federal  
3 contract, grant, loan, or cooperative agreement;

4 If any funds other than Federal appropriated funds have been paid or will be  
5 paid to any person for influencing or attempting to influence an officer or  
6 employee of any agency, a Member of Congress, an officer or employee of  
7 Congress, or an employee of a Member of Congress in connection with this  
8 Federal contract, grant loan or cooperative agreement, he/she will complete and  
9 submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in  
10 accordance with its instructions.”

11 k. *Debarment and Suspension (Executive Orders (E.O.) 12549 and 12689)*: No  
12 contract award shall be made to parties listed on the governmentwide exclusions  
13 in the System for Award Management (SAM), in accordance with OMB  
14 guidelines at 2 CFR 180 that implement Executive Orders (E.O.s) 12549 and  
15 12689, “Debarment and Suspension.” SAM Exclusions contains the names of  
16 parties debarred, suspended, or otherwise excluded by agencies, as well as  
17 parties declared ineligible under statutory or regulatory authority other than  
18 E.O. 12549. Contractors with awards that exceed the small purchase threshold  
19 shall provide the required certification regarding its exclusion status and that of  
20 its principal employees.

21 l. *Drug-Free Workplace Requirements*: The Anti-Drug Abuse Act of 1988 (41  
22 U.S.C.A. Section 8101-8103) requires grantees (including individuals) of  
23 federal agencies, as a prior condition of being awarded a grant, to certify that  
24 they will provide drug-free workplaces. Each potential recipient must certify  
25 that it will comply with drug-free workplace requirements in accordance with  
26 the Act and with HUD's rules at 2 CFR Part 2424.

27 m. *Access to Records and Records Retention*: The BORROWER or Contractor,  
28 and any sub-consultants or sub-contractors, shall allow all duly authorized

1 Federal, State, and/or County officials or authorized representatives access to  
2 the work area, as well as all books, documents, materials, papers, and records  
3 of the BORROWER or Contractor, and any sub-consultants or sub-contractors,  
4 that are directly pertinent to a specific program for the purpose of making  
5 audits, examinations, excerpts, and transcriptions. The BORROWER or  
6 Contractor, and any sub-consultants or sub-contractors, further agree to  
7 maintain and keep such books, documents, materials, papers, and records, on a  
8 current basis, recording all transactions pertaining to this agreement in a form  
9 in accordance with generally acceptable accounting principles. All such books  
10 and records shall be retained for such periods of time as required by law,  
11 provided, however, notwithstanding any shorter periods of retention, all books,  
12 records, and supporting detail shall be retained for a period of at least five (5)  
13 years after the expiration of the term of this Agreement, or final payment is  
14 made, whichever is later.

- 15 n. *Federal Employee Benefit Clause*: No member of or delegate to the Congress  
16 of the United States, and no Resident Commissioner shall be admitted to any  
17 share or part of this agreement or to any benefit to arise from the same.
- 18 o. *Energy Efficiency*: Mandatory standards and policies relating to energy  
19 efficiency which are contained in the State energy conservation plan issued in  
20 compliance with the Energy Policy and Conservation Act (Pub. L. 94 - 163,  
21 Dec. 22, 1975; 42 U.S.C.A. Section 6201, et. seq., 89 Stat.871).
- 22 p. *Procurement of Recovered Materials (2 CFR 200.322.)*: A non-Federal entity  
23 that is a state agency or agency of a political subdivision of a state and its  
24 contractors must comply with 42 U.S.C. Section 6002 of the Solid Waste  
25 Disposal Act, as amended by the Resource Conservation and Recovery Act.  
26 The requirements of Section 6002 include procuring only items designated in  
27 guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247  
28 that contain the highest percentage of recovered materials practicable,

1 consistent with maintaining a satisfactory level of competition, where the  
2 purchase price of the item exceeds \$10,000 or the value of the quantity acquired  
3 by the preceding fiscal year exceeded \$10,000; procuring solid waste  
4 management services in a manner that maximizes energy and resource  
5 recovery; and establishing an affirmative procurement program for  
6 procurement of recovered materials identified in the EPA guidelines. The  
7 requirements of 2 CFR 200.322, as amended effective November 12, 2020, are  
8 hereby included in this Agreement as appropriate and to the extent consistent  
9 with law.

10 q. Other Federal requirements and nondiscrimination. As set forth in 24 CFR part  
11 5, sub part A, BORROWER is required to include the following requirements:  
12 nondiscrimination and equal opportunity under Section 282 of the Act;  
13 disclosure; debarred, suspended, or ineligible contractors; and drug-free  
14 workplace.

15 r. Affirmative marketing and minority outreach program. BORROWER must  
16 adopt affirmative marketing procedures and requirements. These must include:

17 (i) Methods for informing the public, owners, and potential tenants about  
18 Federal fair housing laws and the affirmative marketing policy (e.g.,  
19 the use of the Equal Housing Opportunity logotype or slogan in press  
20 releases and solicitations for owners, and written communication to fair  
21 housing and other groups).

22 (ii) Requirements and practices that BORROWER must adhere to in order  
23 to carry out the affirmative marketing procedures and requirements  
24 (e.g., use of commercial media, use of community contacts, use of the  
25 Equal Housing Opportunity logotype or slogan, and display of fair  
26 housing poster).

27 (iii) Procedures to be used by BORROWER to inform and solicit  
28 applications from persons in the housing market area who are not likely

1 to apply without special outreach (e.g., use of community  
2 organizations, employment centers, fair housing groups, or housing  
3 counseling agencies).

4 (iv) Records that will be kept describing actions taken by BORROWER to  
5 affirmatively market units and records to assess the results of these  
6 actions.

7 (v) A description of how BORROWER will annually assess the success of  
8 affirmative marketing actions and what corrective actions will be taken  
9 where affirmative marketing requirements are not met.

10 (vi) BORROWER must prescribe procedures to establish and oversee a  
11 minority outreach program to ensure the inclusion, to the maximum  
12 extent possible, of minorities and women, and entities owned by  
13 minorities and women, including, without limitation, real estate firms,  
14 construction firms, appraisal firms, management firms, financial  
15 institutions, investment banking firms, underwriters, accountants, and  
16 providers of legal services, in all contracts entered into by  
17 BORROWER with such persons or entities, public and private, in order  
18 to facilitate the activities of COUNTY to provide affordable housing  
19 authorized under this Act or any other Federal housing law. Section 24  
20 CFR 85.36(e) provided affirmative steps to assure that minority  
21 business enterprises and women business enterprises are used when  
22 possible in the procurement of property and services. The steps  
23 include:

24 (1) Placing qualified small and minority businesses and women's  
25 business enterprises on solicitation lists.

26 (2) Assuring that small and minority businesses, and women's  
27 business enterprises are solicited whenever they are potential  
28 sources.



- 1 (3) Dividing total requirements, when economically feasible, into
- 2 smaller tasks or quantities to permit maximum participation by
- 3 small and minority business, and women's business enterprises.
- 4 (4) Establishing delivery schedules, where the requirement
- 5 permits, which encourage participation by small and minority
- 6 business, and women's business enterprises.
- 7 (5) Using the services and assistance of the Small Business
- 8 Administration, and the Minority Business Development
- 9 Agency of the Department of Commerce.
- 10 (6) Requiring the prime contractor, if subcontracts are to be let, to
- 11 take the affirmative steps listed in (1) through (5) above of this
- 12 section.

13 s. Displacement, relocation, and acquisition. The relocation requirements of  
14 Title II and the acquisition requirements of Title III of the Uniform Relocation  
15 Assistance and Real Property Acquisition Policies Act of 1970, and the  
16 implementing regulations at 24 CFR Part 42. BORROWER must ensure that  
17 it has taken all reasonable steps to minimize the displacement of persons as a  
18 result of this Project.

19 t. Lead-based paint. The ARPA-Assisted Units are subject to the lead-based  
20 paint requirements of 24 CFR Part 35 issued pursuant to the Lead-Based Paint  
21 Poisoning Prevention Act (42 U.S.C. 4821, et seq.). The lead-based paint  
22 provisions of 24 CFR 982.401 (j), except 24 CFR 982.401 (j)(1)(i), also apply,  
23 irrespective of the applicable property standard under §92.251.

24 u. Labor. Every contract for the construction of housing that includes twelve (12)  
25 or more units assisted with ARPA funds must contain a provision requiring the  
26 payment of not less than the wages prevailing in the locality, as predetermined  
27 by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-  
28 276a-5), to all laborers and mechanics employed in the development of any

1 part of the housing. Such contracts must also be subject to the overtime  
2 provisions, as applicable, of the Contract Work Hours and Safety Standards  
3 Act (40 U.S.C. 327-332). BORROWER must apply most current wage rate  
4 determination at the date of execution of this Agreement.

5 v. Model Energy Code published by the Council of American Building Officials.

6 w. Consultant Activities. No person providing consultant services in an employer-  
7 employee type relationship shall receive more than a reasonable rate of  
8 compensation for personal services paid with ARPA funds.

9 x. Uniform Administrative Requirements of 2 CFR Part 200 as now in effect and  
10 as may be amended from time to time. Federal awards expended as a recipient  
11 or a subrecipient, as defined therein, would be subject to single audit. The  
12 payments received for goods or services provided as a vendor would not be  
13 considered Federal awards.

14 y. BORROWER shall include written agreements that include all provisions of  
15 **Section 17** if BORROWER provides ARPA funds to for-profit owners or  
16 developers, non-profit owners or developers, sub-recipients, homeowners,  
17 homebuyers, tenants receiving tenant-based rental assistance, or contractors.

18 z. Immigration requirements of Federal Register, Vol. 62, No. 221, Department  
19 of Justice Interim Guidance on Verification of Citizenship, Qualified Alien  
20 Status and Eligibility Under Title IV of the Personal Responsibility and Work  
21 Opportunity Reconciliation Act of 1996 ("PRWORA"). Final Attorney  
22 General's Order issued pursuant to PRWORA is specified under Federal  
23 Register Vol. 66, No. 10, Department of Justice Final Specification of  
24 Community Programs Necessary for Protection of Life or Safety Under Welfare  
25 Reform Legislation.

26 aa. BORROWER shall comply with all applicable local, state and federal laws in  
27 addition to the above-mentioned laws, including the ARPA Rules.

28

1           18.     PROJECT REQUIREMENTS. BORROWER shall make the Project available to  
2 persons and households as follows: 49% of the rental units will be restricted to households whose  
3 incomes do not exceed 60% of the area median income; of those units, 25% of the units will be  
4 restricted to households whose incomes do not exceed 30% of the area median income for the  
5 County of Riverside (“Qualified Populations”).

6           If BORROWER intends to use the Project for a use other than to provide shelter and  
7 services to the Qualified Populations, BORROWER shall utilize the Property for another ARPA-  
8 Eligible Activity. BORROWER shall provide COUNTY with sixty (60) days’ notice of  
9 conversion for another ARPA-Eligible Activity. The approval of the alternate ARPA-Eligible  
10 Activity shall not be unreasonably withheld by COUNTY. If the Project is not used to provide  
11 shelter and services to the Qualified Populations and BORROWER does not intend to use the  
12 Property for another ARPA-Eligible Activity, then COUNTY and BORROWER mutually agree  
13 that any ARPA Loan funds drawn shall be returned within thirty (30) calendar days. Upon such  
14 termination, this Agreement shall become null and void. COUNTY and BORROWER shall be  
15 released and discharged respectively from their obligations under this Agreement. All cost  
16 incurred by each party on the Project will be assumed respectively.

17           Provided that notwithstanding anything contained herein to the contrary, the California  
18 Tax Credit Allocation Committee (“CTCAC”) rent setting requirements shall control for the term  
19 of the CTCAC extended use agreement.

20           a.     Utility Allowance: Owners are required to complete initial Utility Allowance (UA)  
21 calculations and submit their calculations for review and approval to the COUNTY  
22 prior to implementation, annually by June 1st. The following methods below are  
23 acceptable methodologies for calculating UA’s:

- 24                   i. HUD Utility Schedule Model (HUSM), UA based on HUD’s model.
- 25                   ii. Utility Company Estimate, UA based on estimated obtained from a local  
26                   utility company for each of the utilities used in the project.
- 27                   iii. LIHTC Agency Estimate, UA approved by the LIHTC agency based on its  
28                   actual usage methodology.

1           iv. Energy Consumption Model (Engineer Model), UA based upon on an  
2           energy and water and sewage consumption and analysis model prepared by  
3           a third-party licensed engineer or qualified professional.

4           b. Approval: The BORROWER shall submit to the COUNTY for review and written  
5           approval, all proposed rents for the ARPA-Assisted Units prior to lease-up.

6           c. Float-up: Notwithstanding any other covenant or the Regulatory Agreement to the  
7           contrary the Parties agree that the following shall apply to the ARPA-Assisted  
8           Units:

9           COUNTY agrees that, upon BORROWER's request and COUNTY's written approval,  
10          which will not be unreasonable withheld, the maximum tenant household income and maximum  
11          annual rent for ARPA-Assisted Units may be increased to amounts necessary to make operation  
12          of the Project financially feasible as determined by the BORROWER, including the payment of  
13          all required operating costs and debt service, but in no event may (a) the maximum tenant  
14          household income limitation exceed 60 percent of AMI or, (b) the maximum annual rent  
15          limitation exceed 30 percent of 60 percent of AMI.

16          In the case of increases due to a foreclosure of any approved financing or deed in lieu  
17          thereof, the above increases may continue until such time, if any, that the rental assistance or  
18          equivalent operating subsidy is restored. Notwithstanding anything to the contrary in this section,  
19          the BORROWER may not displace tenant households and must use good faith efforts to reduce  
20          the effect of rent increases permitted to be imposed on existing tenant households by (a) the use  
21          of operating and transition reserves to the extent such funds exist and are available, and (b) the  
22          use of other subsidy sources available that would mitigate the rent increases.

23          If Rent increases on the ARPA-Assisted Units are necessary, after exhausting all transition  
24          reserve funds such increases shall only be permitted to the minimum extent required for financial  
25          feasibility, as reasonably determined by BORROWER and approved by COUNTY, which  
26          approval shall not, in any event, be increased to an amount in excess of 30 percent of 60 percent  
27          of AMI, adjusted by household size for the number of bedrooms. The COUNTY shall be notified  
28          at least eighteen (18) months in advance of any Rent increase on the ARPA-Assisted Units.

1 In order to enact an increase in the maximum household income and rents for a Restricted  
2 Unit for the Project, the Borrower must submit a written request to the COUNTY which shall  
3 outline a plan with an explanation of the fiscal necessity of adjusting the maximum household  
4 income and the rents charged for the ARPA-Assisted Units. The plan shall provide the following  
5 items along with any additional requirements from the COUNTY:

- 6 1. An explanation of the efforts the Project Owner has made to secure other  
7 rental subsidies to sustain overall project operations;
- 8 2. An explanation of the fiscal necessity of adjusting the maximum household  
9 income and the rents charged for the ARPA-Assisted Units;
- 10 3. A process for increasing the Project rent for all affected units (ARPA-  
11 Assisted Units and non-restricted units) and make reasonable efforts to  
12 continue to market and rent Project units to members of the target  
13 population originally contemplated, as well as ensuring that any increases  
14 to the household income limit are applied, as much as possible, only to  
15 vacant units as they become available. This portion of the plan shall discuss  
16 changes in both maximum household incomes and rents and;
- 17 4. The plan for continuing, throughout the term of this Agreement, to apply  
18 for other subsidies that will allow a return of all project units to members  
19 of the target population and rents originally contemplated.

20 19. TENANT PROTECTIONS. During the Affordability Period, BORROWER shall  
21 adhere to the tenant protections and selection standard set forth in the following requirements:

- 22 a. Provide written lease agreement for not less than one year, unless by mutual  
23 agreement between the tenant and BORROWER. COUNTY shall review the initial  
24 form of the lease agreement prior to BORROWER executing any leases and,  
25 provided that BORROWER uses the approved lease form, BORROWER shall be  
26 permitted to enter into residential leases without COUNTY'S prior written consent.
- 27 b. Prohibited Lease Terms. The rental agreement/lease may not contain any of the  
28 following provisions:

- 1 i. Agreement to be sued. Agreement by the tenant to be sued, to admit guilt  
2 or to a judgment in favor of BORROWER in a lawsuit brought in  
3 connection with the lease.
- 4 ii. Treatment of property. Agreements by tenant that BORROWER may take,  
5 hold, or sell personal property of household members without notice to the  
6 tenant and a court decision on the rights of the parties. This prohibition,  
7 however, does not apply to an agreement by the tenant concerning  
8 disposition of personal property remaining in the housing unit after the  
9 tenant has moved out of the unit. BORROWER may dispose of this  
10 personal property in accordance with State law.
- 11 iii. Excusing BORROWER from responsibility. Agreement by the tenant not  
12 to hold BORROWER or BORROWER's agents legally responsible for any  
13 action or failure to act, whether intentional or negligent.
- 14 iv. Waiver of notice. Agreement of the tenant that BORROWER may institute  
15 a lawsuit without notice to the tenant.
- 16 v. Waiver of legal proceeding. Agreement by the tenant that the BORROWER  
17 may evict the tenant or household members without instituting a civil court  
18 proceeding in which the tenant has the opportunity to present a defense, or  
19 before a court decision on the rights of the parties.
- 20 vi. Waiver of a jury trial. Agreement by the tenant to waive any right to a trial  
21 by jury.
- 22 vii. Waiver of right to appeal court decision. Agreement by the tenant to waive  
23 the tenant's right to appeal, or to otherwise challenge in court, a court  
24 decision in connection with the lease.
- 25 viii. Tenant chargeable with cost of legal actions regardless of outcome.  
26 Agreement by the tenant to pay attorneys' fees or other legal costs even if  
27 the tenant wins in a court proceeding by BORROWER against the tenant.  
28 The tenant, however, may be obligated to pay costs if the tenant loses.

1 ix. Reserved.

2 x. Violence Against Women Reauthorization Act of 2013. (Pub. L. 113–4,  
3 127 Stat. 54) (“VAWA 2013”). VAWA 2013 reauthorizes and amends the  
4 Violence Against Women Act of 1994, as previously amended, (title IV,  
5 sec. 40001–40703 of Pub. L. 103–322, 42 U.S.C. 13925 et seq.) VAWA  
6 2013, among other things, bars eviction and termination due to a tenant’s  
7 status as a victim of domestic violence, dating violence, or stalking, and  
8 requires landlords to maintain survivor-tenant confidentiality. VAWA 2013  
9 prohibits a tenant who is a survivor of domestic violence, dating violence,  
10 sexual assault, and stalking from being denied assistance, tenancy, or  
11 occupancy rights based solely on criminal activity related to an act of  
12 violence committed against them. It extends housing protections to  
13 survivors of sexual assault, and adds “intimate partner” to the list of eligible  
14 relationships in the domestic violence definition. Protections also now cover  
15 an “affiliated individual,” which includes any lawful occupant living in the  
16 survivor’s household, or related to the survivor by blood or marriage  
17 including the survivor’s spouse, parent, brother, sister, child, or any person  
18 to whom the survivor stands in loco parentis. VAWA 2013 allows a lease  
19 bifurcation so a tenant or lawful occupant who engages in criminal activity  
20 directly relating to domestic violence, dating violence, sexual assault, or  
21 stalking against an affiliated individual or other individual, or others may  
22 be evicted or removed without evicting or removing or otherwise penalizing  
23 a victim who is a tenant or lawful occupant. If victim cannot establish  
24 eligibility, BORROWER must give a reasonable amount of time to find new  
25 housing or establish eligibility under another covered housing program. A  
26 Notice of Rights under VAWA 2013 for tenants must be provided at the  
27 time a person applies for housing, when a person is admitted as a tenant of  
28 a housing unit, and when a tenant is threatened with eviction or termination

1 of housing benefits. Tenants must request an emergency transfer and  
2 reasonably believe that they are threatened with imminent harm from  
3 further violence if the tenant remains in the same unit. The provisions of  
4 VAWA 2013 that are applicable to HUD programs are found in title VI of  
5 VAWA 2013, which is entitled "Safe Homes for Victims of Domestic  
6 Violence, Dating Violence, Sexual Assault, and Stalking." Section 601 of  
7 VAWA 2013 amends subtitle N of VAWA (42 U.S.C. 14043e et seq.) to  
8 add a new chapter entitled "Housing Rights."

9  
10 20. INTENTIONALLY OMITTED.

11 21. FEDERAL REQUIREMENTS. BORROWER shall comply with the provisions of  
12 the ARPA Act and any amendments thereto and all applicable federal regulations and guidelines  
13 now or hereafter enacted pursuant to the Act in addition to the federal provisions attached hereto  
14 as **Exhibit G.**

15 22. SALE, ASSIGNMENT OR OTHER TRANSFER OF THE PROJECT.

16 BORROWER hereby covenants and agrees not to sell, assign, transfer or otherwise dispose of  
17 the Project or any portion thereof without obtaining the prior written consent of the COUNTY,  
18 which consent shall be conditioned solely upon receipt by the COUNTY of reasonable evidence  
19 satisfactory to the COUNTY in its reasonable discretion, that transferee has assumed in writing  
20 and in full, and is reasonably capable of performing and complying with the BORROWER'S  
21 duties and obligations under this Agreement, provided, however BORROWER shall not be  
22 released of all obligations hereunder which accrue from and after the date of such sale.  
23 Notwithstanding anything to the contrary contained herein, upon written notice to COUNTY,  
24 BORROWER may (i) lease for occupancy of all or any of the ARPA Assisted Units in accordance  
25 with this Agreement; (ii) grant easements or permits to facilitate the development of the Property  
26 in accordance with this Agreement; (iii) transfer the BORROWER'S limited partnership interest;  
27 (iv) remove and replace the BORROWER'S general partner(s) for cause in accordance with  
28 BORROWER'S amended and restated agreement of limited partnership; and (v) make transfers



1 pursuant to that certain Purchase Option and Right of First Refusal Agreement (collectively a  
2 “Permitted Transfer”). All Permitted Transfers shall be subject to reasonable review of  
3 documentation by the COUNTY. The parties hereto acknowledge that “Affiliate” for purposes  
4 of this section means, as to any Person (as defined below), any general partnership, limited  
5 partnership, corporation, joint venture, trust, business trust, cooperative, association, limited  
6 liability company or individual (collectively, a “Person”) that (A) directly or indirectly controls  
7 or is controlled by (such as any partnership or limited liability company in which the Person,  
8 directly or indirectly, serves as a general partner or managing member, respectively) or is under  
9 common control with the specified Person; (B) is an officer or director of, commissioner of,  
10 partner in, member of or trustee of, or serves in a similar capacity with respect to, the specified  
11 Person or of which the Specified Person is an officer, director, member, partner or trustee, or with  
12 respect to which the specified Person serves in a similar capacity; or (C) is the beneficial owner,  
13 directly or indirectly, of 10% or more of any class of equity securities of the specified Person or  
14 of which the specified Person is directly or indirectly the owner of 10% or more of any class of  
15 equity securities. The term “control” (including the term “controlled by” and “under common  
16 control with”) means the possession, direct or indirect, of the power to direct or cause the direction  
17 of the management and policies of a Person, whether through the ownership of voting securities,  
18 by contract or otherwise.

19 23. INDEPENDENT CONTRACTOR. BORROWER and its agents, servants and  
20 employees shall act at all times in an independent capacity during the term of this Agreement,  
21 and shall not act as, shall not be, nor shall they in any manner be construed to be agents, officers,  
22 or employees of COUNTY.

23 24. NONDISCRIMINATION. Borrower shall abide by 24 CFR 570.602 which  
24 requires that no person in the United States shall on the grounds of race, color, national origin,  
25 religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to  
26 discrimination under any program or activity receiving Federal financial assistance made  
27 available pursuant to the Act. Under the Act, Section 109 directs that the prohibitions against  
28 discrimination of the basis of age under the Age Discrimination Act and the prohibitions against

1 discrimination of the basis of disability under Section 504 shall apply to programs or activities  
2 receiving Federal financial assistance under Title I programs. The policies and procedures  
3 necessary to ensure enforcement of Section 109 are codified in 24 CFR Part 6. In addition,  
4 BORROWER shall not discriminate on the basis of race, gender, religion, national origin,  
5 ethnicity, sexual orientation, age or disability in the solicitation, selection, hiring or treatment of  
6 any contractors or consultants, to participate in subcontracting/subconsulting opportunities.  
7 BORROWER understands and agrees that violation of this clause shall be considered a material  
8 breach of this Agreement and may result in termination, debarment or other sanctions. This  
9 language shall be incorporated into all contracts between BORROWER and any contractor,  
10 consultant, subcontractor, subconsultants, vendors and suppliers. BORROWER shall comply  
11 with the provisions of the California Fair Employment and Housing Act (Government Code  
12 Sections 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended, and all  
13 Administrative Rules and Regulations issued pursuant to said Acts and Orders with respect to its  
14 use of the Property.

15 BORROWER herein covenants by and for itself, its successors and assigns, and all persons  
16 claiming under or through them, that this Covenant is made and accepted upon and subject to the  
17 following conditions: There shall be no discrimination against or segregation of any person or  
18 group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the  
19 Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and  
20 paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code,  
21 in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall  
22 the transferee itself or any person claiming under or through him or her, establish or permit any  
23 such practice or practices of discrimination or segregation with reference to the selection, location,  
24 number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the Property.

25 BORROWER, its successors and assigns, shall refrain from restricting the rental, sale, or  
26 lease of the Property or any portion thereof, on the basis of race, color, creed, religion, sex, sexual  
27 orientation, marital status, national origin, or ancestry of any person. Every deed, lease, and  
28 contract entered into with respect to the Property, or any portion thereof, after the date of this

1 Agreement shall contain or be subject to substantially the following nondiscrimination or  
2 nonsegregation clauses:

3 a. In deeds: “The grantee herein covenants by and for himself or herself, his or her  
4 heirs, executors, administrators, and assigns, and all persons claiming under or  
5 through them, that there shall be no discrimination against or segregation of,  
6 any person or group of persons on account of any basis listed in subdivision (a)  
7 or (d) of Section 12955 of the Government Code, as those bases are defined in  
8 Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p)  
9 of Section 12955, and Section 12955.2 of the Government Code, in the sale,  
10 lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises  
11 herein conveyed, nor shall the grantee or any person claiming under or through  
12 him or her, establish or permit any practice or practices of discrimination or  
13 segregation with reference to the selection, location, number, use or occupancy  
14 of tenants, lessees, subtenants, sublessees, or vendees in the premises herein  
15 conveyed. The foregoing covenants shall run with the land.”

16 b. In leases: “The lessee herein covenants by and for himself or herself, his or her  
17 heirs, executors, administrators, and assigns, and all persons claiming under or  
18 through him or her, and this lease is made and accepted upon and subject to the  
19 following conditions: That there shall be no discrimination against or  
20 segregation of any person or group of persons, on account of any basis listed in  
21 subdivision (a) or (d) of Section 12955 of the Government Code, as those bases  
22 are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of  
23 subdivision (p) of Section 12955, and Section 12955.2 of the Government  
24 Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or  
25 enjoyment of the premises herein leased nor shall the lessee himself or herself,  
26 or any person claiming under or through him or her, establish or permit any  
27 such practice or practices of discrimination or segregation with reference to the  
28

1 selection, location, number, use, or occupancy, of tenants, lessees, sublessees,  
2 subtenants, or vendees in the premises herein leased.”

- 3 c. In contracts: “There shall be no discrimination against or segregation of any  
4 person or group of persons, on account of any basis listed in subdivision (a) or  
5 (d) of Section 12955 of the Government Code, as those bases are defined in  
6 Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p)  
7 of Section 12955, and Section 12955.2 of the Government Code, in the sale,  
8 lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor  
9 shall the transferee itself or any person claiming under or through him or her,  
10 establish or permit any such practice or practices of discrimination or  
11 segregation with reference to the selection, location, number, use, or  
12 occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land.”

13 In addition to the obligations and duties of BORROWER set forth herein, BORROWER  
14 shall, upon notice from COUNTY, promptly pay to COUNTY all fees and costs, including  
15 administrative and attorneys’ fees, incurred by COUNTY in connection with responding to or  
16 defending any discrimination claim brought by any third party and/or local, state or federal  
17 government entity, arising out of or in connection with this Agreement or the Covenant Agreement  
18 attached hereto.

19 25. PROHIBITION AGAINST CONFLICTS OF INTEREST:

- 20 a. BORROWER and its assigns, employees, agents, consultants, officers and  
21 elected and appointed officials shall become familiar with and shall comply  
22 with the conflict of interest provisions in OMB Circular A-110, 24 CFR 85.36,  
23 24 CFR 84.42, 24 CFR 92.356 and Policy Manual #A-11, attached hereto as  
24 **Exhibit E** and by this reference incorporated herein.
- 25 b. BORROWER understands and agrees that no waiver or exception can be  
26 granted to the prohibition against conflict of interest. Any request by  
27 BORROWER for an exception shall be reviewed by COUNTY to determine  
28 whether such request is appropriate.

1 c. Prior to any funding under this Agreement, BORROWER shall provide  
2 COUNTY with a list of all employees, agents, consultants, officers and elected  
3 and appointed officials who are in a position to participate in a decision-making  
4 process, exercise any functions or responsibilities, or gain inside information  
5 with respect to the ARPA activities funded under this Agreement.  
6 BORROWER shall also promptly disclose to COUNTY any potential conflict,  
7 including even the appearance of conflict that may arise with respect to the  
8 ARPA activities funded under this Agreement.

9 d. Any violation of this section shall be deemed a material breach of this  
10 Agreement, and the Agreement shall be immediately terminated by COUNTY.

11 26. INTENTIONALLY OMITTED.

12 27. PROJECT MONITORING AND EVALUATION.

13 a. Tenant Checklist. BORROWER shall submit a Tenant Checklist Form to  
14 COUNTY, as shown in Exhibit F which is attached hereto and by this reference  
15 is incorporated herein and may be revised by COUNTY, summarizing the  
16 racial/ethnic composition, number and percentage of very low-income and low-  
17 income households who are tenants of the COUNTY ARPA-Assisted Units.  
18 The Tenant Checklist Form shall be submitted upon completion of the  
19 construction and thereafter, on a semi-annual basis on or before March 31st and  
20 September 30th. BORROWER shall maintain financial, programmatic,  
21 statistical and other supporting records of its operations and financial activities  
22 in accordance with the requirements of the ARPA Program under 32 CFR 35.4,  
23 including the submission of Tenant Checklist Form. Except as otherwise  
24 provided for in this Agreement, BORROWER shall maintain and submit  
25 records to COUNTY within ten business days of COUNTY'S request which  
26 clearly documents BORROWER's performance under each requirement of the  
27 ARPA Program. A list of document submissions and timeline are shown in  
28

1                   **Exhibit A** and such list may be amended from time to time subject to Treasury  
2                   and COUNTY reporting requirements

3                   b. Inspections. During the Affordability Period, COUNTY will perform on-site  
4                   inspections of the Project to determine compliance with the property standards  
5                   and to verify the information submitted by the owners in accordance with  
6                   requirements. The on-site inspections must occur within 12 months after  
7                   Covenant Agreement and at least once every 3 years thereafter during the  
8                   Affordability Period. If there are observed deficiencies for any of the  
9                   inspectable items in the property standards established by COUNTY, a follow-  
10                  up on-site inspection to verify that deficiencies are corrected must occur within  
11                  12 months. COUNTY may establish a list of non-hazardous deficiencies for  
12                  which correction can be verified by third party documentation (e.g., paid  
13                  invoice for work order) rather than re-inspection. Health and safety deficiencies  
14                  must be corrected immediately. COUNTY must adopt a more frequent  
15                  inspection schedule for properties that have been found to have health and  
16                  safety deficiencies.

17                  c. Income Certification. The income of a tenant must be determined initially and  
18                  each sixth year of affordability in accordance with 24 CFR 92.203 (a)(1)(i). In  
19                  addition, annually between each sixth year of affordability BORROWER must  
20                  re-examine each tenant's annual income under 24 CFR 92.203 (a) (1) (ii).

21                  28. MONITORING FEE. BORROWER shall pay an annual compliance monitoring  
22                  fee to the COUNTY in the total annual amount of \$12,000 (increased annually by an amount  
23                  equal to the increase of the Consumer Price Index ("CPI") for the San Bernardino-Riverside-  
24                  Ontario, CA area, but in no event to exceed 5% annually) ("Monitoring Fee"). The first  
25                  Monitoring Fee payment is due on July 1st of each year for the monitoring period of July 1st to  
26                  June 30th commencing on the July 1st following the issuance of a Certificate of Occupancy for  
27                  the Project and may be pro-rated for a partial first year. The Monitoring Fee will be due on each  
28                  July 1st thereafter and will continue until the expiration of the Affordability Period. The

1 Monitoring Fee is to be adjusted upwards annually, increased by an amount equal to the increase  
2 in CPI for the San Bernardino-Riverside-Ontario, CA area. In the event of a decrease in the  
3 applicable CPI, the Monitoring Fee currently in effect shall remain the same and shall not  
4 decrease.

5 29. ACCESS TO PROJECT SITE. COUNTY, state and/or federal awarding agencies  
6 shall have the right to access the Project site and the Property at all reasonable times, and upon  
7 completion of the Project upon reasonable written notice to BORROWER, to review the  
8 operation of the Project in accordance with this Agreement.

9 30. EVENTS OF DEFAULT. The occurrence of any of the following events shall  
10 constitute an "Event of Default" under this Agreement:

11 a. Monetary Default. (1) BORROWER's failure to pay when due any sums  
12 payable under this Agreement, the Covenant Agreement, the ARPA Note or  
13 any advances made by COUNTY under this Agreement; (2) BORROWER's or  
14 any agent of BORROWER's use of ARPA Act funds for costs other than those  
15 costs permitted under this Agreement or for uses inconsistent with terms and  
16 restrictions set forth in this Agreement; (3) BORROWER's or any agent of  
17 BORROWER's failure to make any other payment of any assessment or tax  
18 due under this Agreement, and /or (4) default under the terms of any senior  
19 loan documents or any other instrument or document secured against the  
20 Property;

21 b. Non-Monetary Default. (1) Discrimination by BORROWER or  
22 BORROWER's agent(s) on the basis of characteristics prohibited by this  
23 Agreement or applicable law; (2) the imposition of any encumbrances or liens  
24 on the Project without COUNTY's prior written approval that are prohibited  
25 under this Agreement or that have the effect of reducing the priority or  
26 invalidating the lien of the ARPA Deed of Trust; (3) BORROWER's failure to  
27 obtain and maintain the insurance coverage required under this Agreement; (4)  
28 any material default under this Agreement, the ARPA Loan Deed of Trust,

1 Covenant Agreement, ARPA Note or any document executed by the County in  
2 connection with this Agreement, and /or (5) a default under the terms of any  
3 senior loan documents or any other instrument or document secured against the  
4 Property or the Project;

5 c. General Performance of Loan Obligations. Any substantial or continuous or  
6 repeated breach by BORROWER or BORROWER's agents of any material  
7 obligations of BORROWER under this Agreement;

8 d. General Performance of Other Obligations. Any substantial or continuous or  
9 repeated breach by BORROWER or BORROWER's agents of any material  
10 obligations of BORROWER related to the Project imposed by any other  
11 agreement with respect to the financing, development, or operation of the  
12 Project; whether or not COUNTY is a party to such agreement; but only  
13 following any applicable notice and cure periods with respect to any such  
14 obligation;

15 e. Representations and Warranties. A determination by COUNTY that any of  
16 BORROWER's representations or warranties made in this Agreement, any  
17 statements made to COUNTY by BORROWER, or any certificates, documents,  
18 or schedules supplied to COUNTY by BORROWER were false in any material  
19 respect when made, or that BORROWER concealed or failed to disclose a  
20 material fact to COUNTY.

21 f. Damage to Project. In the event that the Project is materially damaged or  
22 destroyed by fire or other casualty, and BORROWER receives an award or  
23 insurance proceeds sufficient for the repair or reconstruction of the Project, and  
24 BORROWER does not use such award or proceeds to repair or reconstruct the  
25 Project.

26 g. Bankruptcy, Dissolution, and Insolvency. BORROWER's or general partner  
27 and co-general partner of BORROWER's (1) filing for bankruptcy, dissolution,  
28 or reorganization, or failure to obtain a full dismissal of any such involuntary



1 filing brought by another party before the earlier of final relief or ninety (90)  
2 days after such filing; (2) making a general assignment for the benefit of  
3 creditors; (3) applying for the appointment of a receiver, trustee, custodian, or  
4 liquidator, or failure to obtain a full dismissal of any such involuntary  
5 application brought by another party before the earlier of final relief or ninety  
6 (90) days after such filing; (4) insolvency; or (5) failure, inability or admission  
7 in writing of its inability to pay its debts as they become due.

8 31. NOTICE OF DEFAULT AND OPPORTUNITY TO CURE. Formal notices,  
9 demands and communications between the COUNTY and the BORROWER shall be  
10 sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt  
11 requested, to the principal offices of the COUNTY and the BORROWER, as designated in  
12 **Section 53**, below. Such written notices, demands and communications may be sent in the same  
13 manner to such other addresses as either party may from time to time designate by mail as  
14 provided in this **Section 31**. Any notice that is transmitted by electronic facsimile transmission  
15 followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any  
16 notice that is personally delivered (including by means of professional messenger service,  
17 courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service),  
18 shall be deemed received on the documented date of receipt by the recipient; and any notice that  
19 is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed  
20 received on the date of delivery thereof.

21 a. Subject to the Force Majeure Delay, as provided in **Section 10**, failure or delay  
22 by BORROWER to perform any term or provision of this Agreement after  
23 notice and an opportunity to cure constitutes a default under this Agreement.  
24 BORROWER must immediately commence to cure, correct or remedy such  
25 failure or delay and shall complete such cure, correction or remedy with  
26 reasonable diligence.

27 b. COUNTY shall give written notice of default to BORROWER, specifying the  
28 default complained of by COUNTY. Failure or delay in giving such notice

1 shall not constitute a waiver of any default, nor shall it change the time of  
2 default. Except as otherwise expressly provided in this Agreement, any failures  
3 or delays by COUNTY in asserting any of its rights and remedies as to any  
4 default shall not operate as a waiver of any default or of any such rights or  
5 remedies. Delays by COUNTY in asserting any of its rights and remedies shall  
6 not deprive COUNTY of its right to institute and maintain any actions or  
7 proceedings which it may deem necessary to protect, assert or enforce any such  
8 rights or remedies.

9 c. If a monetary event of default occurs, prior to exercising any remedies  
10 hereunder, COUNTY shall give BORROWER written notice of such default.  
11 BORROWER shall have a period of ten (10) days after such notice is given  
12 within which to cure the default prior to exercise of remedies by COUNTY.

13 d. If a non-monetary event of default occurs, prior to exercising any remedies  
14 hereunder, COUNTY shall give BORROWER written notice of such default.  
15 If the default is reasonably capable of being cured within thirty (30) days,  
16 BORROWER shall have such period to effect a cure prior to exercise of  
17 remedies by COUNTY. If the default is such that it is not reasonably capable  
18 of being cured within thirty (30) days, and BORROWER (i) initiates corrective  
19 action within said period, and (ii) diligently, continually, and in good faith  
20 works to effect a cure as soon as possible, then BORROWER shall have such  
21 additional time as is reasonably necessary to cure the default prior to exercise  
22 of any remedies by the injured party, but in no event no more than ninety (90)  
23 days from the date of the notice of default. In no event shall COUNTY be  
24 precluded from exercising remedies if its security becomes or is about to  
25 become materially jeopardized by any failure to cure a default or the default is  
26 not cured within ninety (90) days after the first notice of default is given.

27 e. Any cure tendered by BORROWER'S affiliate, including its limited partner(s),  
28 shall be accepted or rejected on the same basis as if tendered by BORROWER.

1           32.    COUNTY REMEDIES. Upon the occurrence of an Event of Default, after notice  
2 and opportunity to cure, COUNTY's obligation to disburse ARPA funds shall terminate, and  
3 COUNTY shall also have the right, but not the obligation to, in addition to other rights and  
4 remedies permitted by this Agreement or applicable law, proceed with any or all of the  
5 following remedies in any order or combination COUNTY may choose in its sole discretion:

- 6           a. Terminate this Agreement, in which event the entire ARPA Loan amount as  
7           well as any other monies advanced to BORROWER by COUNTY under this  
8           Agreement including administrative costs, shall immediately become due and  
9           payable to COUNTY at the option of COUNTY.
- 10          b. Bring an action in equitable relief (1) seeking the specific performance by  
11          BORROWER of the terms and conditions of this Agreement, and/or (2)  
12          enjoining, abating, or preventing any violation of said terms and conditions,  
13          and/or (3) seeking declaratory relief.
- 14          c. Accelerate the ARPA Loan and demand immediate full payment of the  
15          principal payment outstanding and all accrued interest under the ARPA Note,  
16          as well as any other monies advanced to BORROWER by COUNTY under this  
17          Agreement.
- 18          d. Enter the Project and take any remedial actions necessary in its judgment with  
19          respect to hazardous materials that COUNTY deems necessary to comply with  
20          hazardous materials laws or to render the Project suitable for occupancy, which  
21          costs shall be due and payable by BORROWER to COUNTY.
- 22          e. Enter upon, take possession of, and manage the Project, either in person, by  
23          agent, or by a receiver appointed by a court, and collect rents and other amounts  
24          specified in the assignment of rents in the Deed of Trust and apply them to  
25          operate the Project or to pay off the ARPA Loan or any advances made under  
26          this Agreement, as provided for by the ARPA Deed of Trust.
- 27          f. Pursue any other remedies allowed at law or in equity.

28          33.    RESERVED.

1           34. BORROWER'S WARRANTIES. BORROWER represents and warrants (1) that  
2 it has access to professional advice and support to the extent necessary to enable BORROWER  
3 to fully comply with the terms of this Agreement, and to otherwise carry out the Project, (2)  
4 that it is duly organized, validly existing and in good standing under the laws of the State of  
5 California, (3) that it has the full power and authority to undertake the Project and to execute  
6 this Agreement, (4) that the persons executing and delivering this Agreement are authorized to  
7 execute and deliver such documents on behalf of BORROWER and (5) that neither  
8 BORROWER nor any of its principals is presently debarred, suspended, proposed for  
9 debarment, declared ineligible, or voluntarily excluded from participation in connection with  
10 the transaction contemplated by this Agreement.

11           35. BORROWER'S CERTIFICATION. BORROWER certifies, to the best of its  
12 knowledge and belief, that:

- 13           a. No federally appropriated funds have been paid or will be paid, by or on behalf  
14 of the undersigned, to any person for influencing or attempting to influence an  
15 officer or employee of any agency, a member of Congress, an officer or  
16 employee of Congress, or an employee of a member of Congress in connection  
17 with the awarding of any federal contract, the making of any federal grant, the  
18 making of any federal loan, the entering into of any cooperative agreement, and  
19 the extension, continuation, review, amendment, or modification of any federal  
20 contract, grant, loan, or cooperative agreement.
- 21           b. If any funds other than federally appropriated funds have been paid or will be  
22 paid to any person for influencing or attempting to influence an officer or  
23 employee of any agency, a member of Congress, an officer or employee of  
24 Congress, or an employee of a member of Congress in connection with this  
25 federal contract, grant, loan, or cooperative agreement, the undersigned shall  
26 complete and submit Standard Form-LLL, "Disclosure Form to Report  
27 Lobbying," in accordance with its instructions.

1 c. The undersigned shall require that the language of this certification be included  
2 in the award documents for all sub-awards at all tiers (including subcontracts,  
3 sub-grants, and contracts under grants, loans, and cooperative agreements) and  
4 that BORROWER shall certify and disclose accordingly. This certification is a  
5 material representation of fact upon which reliance was placed when this  
6 transaction was made or entered into.

7 36. HOLD HARMLESS AND INDEMNIFICATION. BORROWER shall indemnify  
8 and hold harmless the County of Riverside, its Agencies, Boards, Districts, Special Districts and  
9 Departments, their respective directors, officers, Board of Supervisors, Board of Commissioners,  
10 elected and appointed officials, employees, agents and representatives (collectively the  
11 “Indemnified Parties”) from any liability whatsoever, based or asserted upon any services of  
12 BORROWER, its officers, employees, subcontractors, agents or representatives arising out of  
13 their performance under this Agreement, including but not limited to property damage, bodily  
14 injury, or death or any other element of any kind or nature whatsoever arising from the  
15 performance of BORROWER, its officers, agents, employees, subcontractors, agents or  
16 representatives under this Agreement. BORROWER shall defend, at its sole expense (including  
17 all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and  
18 settlements or awards), the County of Riverside, its Agencies, Districts, Special Districts and  
19 Departments, their respective directors, officers, Board of Supervisors, Board of Commissioners,  
20 elected and appointed officials, employees, agents and representatives in any claim or action  
21 based upon such alleged acts or omissions.

22 With respect to any action or claim subject to indemnification herein by BORROWER,  
23 BORROWER shall, at their sole cost, have the right to use counsel of their own choice and shall  
24 have the right to adjust, settle, or compromise any such action or claim without the prior consent  
25 of COUNTY; provided, however, that any such adjustment, settlement or compromise in no  
26 manner whatsoever limits or circumscribes BORROWER’S indemnification to COUNTY as set  
27 forth herein.

28 BORROWER’s obligation hereunder shall be satisfied when BORROWER has provided

1 to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action  
2 or claim involved.

3 The specified insurance limits required in this Agreement shall in no way limit or  
4 circumscribe BORROWER's obligations to indemnify and hold harmless COUNTY herein from  
5 third party claims.

6 In the event there is conflict between this clause and California Civil Code Section 2782,  
7 this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not  
8 relieve BORROWER from indemnifying COUNTY to the fullest extent allowed by law.

9 BORROWER's obligations set forth in this **Section 36** shall survive the expiration or  
10 earlier termination of this Agreement.

11 37. TERMINATION.

12 a. BORROWER. BORROWER may terminate this Agreement prior to  
13 disbursement of any ARPA Loan funds by COUNTY in accordance with the  
14 applicable ARPA Act regulations.

15 b. COUNTY. Notwithstanding the provisions of **Section 37(a)**, COUNTY may  
16 suspend or terminate this Agreement upon written notice to BORROWER of  
17 the action being taken and the reason for such action in the event one of the  
18 following events occur:

19 (i) In the event BORROWER fails to perform the covenants herein  
20 contained at such times and in such manner as provided in this  
21 Agreement after the applicable notice and cure provision hereof; or

22 (ii) In the event there is a conflict with any federal, state or local law,  
23 ordinance, regulation or rule rendering any material provision, in the  
24 judgment of COUNTY of this Agreement invalid or untenable; or

25 (iii) In the event the ARPA funding identified in **Section 1** above is  
26 terminated or otherwise becomes unavailable.

27 c. This Agreement may be terminated or funding suspended in whole or in part  
28 for cause. Cause shall be based on the failure of BORROWER to materially

1           comply with either the terms or conditions of this Agreement after the  
2           expiration of all applicable notice and cure provisions hereof. Upon suspension  
3           of funding, BORROWER agrees not to incur any costs related thereto, or  
4           connected with, any area of conflict from which COUNTY has determined that  
5           suspension of funds is necessary.

6           d. Upon expiration or earlier termination of this Agreement, BORROWER shall  
7           transfer to COUNTY any unexpended ARPA funds in its possession at the time  
8           of expiration of the Agreement as well as any accounts receivable held by  
9           BORROWER which are attributable to the use of ARPA funds awarded  
10          pursuant to this Agreement.

11          38.    AFFORDABILITY RESTRICTIONS. COUNTY and BORROWER, on behalf of  
12          its successors and assigns, hereby declare their express intent that the restrictions set forth in this  
13          Agreement shall continue in full force and effect for the duration of the Affordability Period (as  
14          defined in **Section 14** above). Each and every contract, deed, or other instrument hereafter  
15          executed covering and conveying the Property or any portion thereof shall be held conclusively  
16          to have been executed, delivered, and accepted subject to such restrictions, regardless of whether  
17          such restrictions are set forth in such contract, deed, or other instrument. BORROWER shall  
18          execute and record as a lien against the Property, a Covenant Agreement, substantially  
19          conforming in form and substance to the Covenant Agreement attached hereto as **Exhibit E** and  
20          incorporated herein by this reference, setting forth the affordability use and income restriction  
21          required in this Agreement.

22          a.    Float-up: Notwithstanding anything to the covenant or this Agreement to the  
23          contrary, the Parties agree that the following shall apply to the ARPA-Assisted  
24          Units:

25                i. COUNTY agrees that, upon BORROWER's request and COUNTY's  
26                written approval, which will not be unreasonable withheld, the maximum  
27                tenant household income and maximum annual rent for ARPA-Assisted  
28                Units may be increased to amounts necessary to make operation of the

1 Project financially feasible as determined by the BORROWER,  
2 including the payment of all required operating costs and debt service,  
3 but in no event may (a) the maximum tenant household income limitation  
4 exceed 60 percent of AMI or, (b) the maximum annual rent limitation  
5 exceed 30 percent of 60 percent of AMI.

6 ii. In the case of increases due to a foreclosure of any approved financing  
7 or deed in lieu thereof, the above increases may continue until such time,  
8 if any, that the rental assistance or equivalent operating subsidy is  
9 restored. Notwithstanding anything to the contrary in this section, the  
10 BORROWER may not displace tenant households and must use good  
11 faith efforts to reduce the effect of rent increases permitted to be imposed  
12 on existing tenant households by (a) the use of operating and transition  
13 reserves to the extent such funds exist and are available, and (b) the use  
14 of other subsidy sources available that would mitigate the rent increases.

15 iii. If Rent increases on the ARPA-Assisted Units are necessary, after  
16 exhausting all transition reserve funds such increases shall only be  
17 permitted to the minimum extent required for financial feasibility, as  
18 reasonably determined by BORROWER and approved by COUNTY,  
19 which approval shall not, in any event, be increased to an amount in  
20 excess of 30 percent of 60 percent of AMI, adjusted by household size  
21 for the number of bedrooms. The COUNTY shall be notified at least  
22 eighteen (18) months in advance of any Rent increase on the ARPA-  
23 Assisted Units.

24 iv. In order to enact an increase in the maximum household income and rents  
25 for a ARPA-Assisted Unit for the Project, the BORROWER must submit  
26 a written request to the COUNTY which shall outline a plan with an  
27 explanation of the fiscal necessity of adjusting the maximum household  
28 income and the rents charged for the ARPA-Assisted Units. The plan



1 shall provide the following items along with any additional requirements  
2 from the COUNTY:

3 (i) An explanation of the efforts the Project Owner has made to  
4 secure other rental subsidies to sustain overall project  
5 operations;

6 (ii) An explanation of the fiscal necessity of adjusting the maximum  
7 household income and the rents charged for the ARPA-Assisted  
8 Units;

9 (iii) A process for increasing the Project rent for all affected units  
10 (ARPA-Assisted Units and non-restricted units) and make  
11 reasonable efforts to continue to market and rent Project units to  
12 members of the target population originally contemplated, as  
13 well as ensuring that any increases to the household income limit  
14 are applied, as much as possible, only to vacant units as they  
15 become available. This portion of the plan shall discuss changes  
16 in both maximum household incomes and rents and;

17 (iv) The plan for continuing, throughout the term of this Agreement,  
18 to apply for other subsidies that will allow a return of all project  
19 units to members of the target population and rents originally  
20 contemplated.

21 39. MECHANICS LIENS AND STOP NOTICES. If any claim of mechanics lien is  
22 filed against the Project or a stop notice affecting the ARPA Loan is served on COUNTY,  
23 BORROWER must, within twenty (20) calendar days of such filing or notification of service,  
24 either pay and fully discharge the lien or stop notice, obtain a release of the lien or stop notice by  
25 delivering to COUNTY a surety bond in sufficient form and amount, or provide COUNTY with  
26 other assurance reasonably satisfactory to COUNTY that the lien or stop notice will be paid or  
27 discharged.

1           40.    ENTIRE AGREEMENT. It is expressly agreed that this Agreement embodies the  
2 entire agreement of the parties in relation to the subject matter hereof, and that no other agreement  
3 or understanding, verbal or otherwise, relative to this subject matter, exists between the parties at  
4 the time of execution.

5           41.    AUTHORITY TO EXECUTE. The persons executing this Agreement or exhibits  
6 attached hereto on behalf of the parties to this Agreement hereby warrant and represent that they  
7 have the authority to execute this Agreement and warrant and represent that they have the  
8 authority to bind the respective parties to this Agreement to the performance of its obligations  
9 hereunder.

10          42.    WAIVER. Failure by a party to insist upon the strict performance of any of the  
11 provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon  
12 the default of the other party, shall not constitute a waiver of such party's rights to insist and  
13 demand strict compliance by the other party with the terms of this Agreement thereafter.

14          43.    INTERPRETATION AND GOVERNING LAW. This Agreement and any  
15 dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the  
16 State of California. This Agreement shall be construed as a whole according to its fair language  
17 and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of  
18 construction to the effect that ambiguities are to be resolved against the drafting party shall not  
19 be employed in interpreting this Agreement, all parties having been represented by counsel in the  
20 negotiation and preparation hereof.

21          44.    JURISDICTION AND VENUE. Any action at law or in equity arising under this  
22 Agreement or brought by a party hereto for the purpose of enforcing, construing or determining  
23 the validity of any provision of this Agreement shall be filed in the Superior Court of Riverside  
24 County, State of California, and the parties hereto waive all provisions of law providing for the  
25 filing, removal or change of venue to any other court or jurisdiction.

26          45.    SEVERABILITY. Each paragraph and provision of this Agreement is severable  
27 from each other provision, and if any provision or part thereof is declared invalid, the remaining  
28 provisions shall nevertheless remain in full force and effect.

1           46.    MINISTERIAL ACTS. COUNTY's Director of HWS, or designee, is authorized  
2 to take such ministerial actions as may be necessary or appropriate to implement the terms,  
3 provisions, and conditions of this Agreement as it may be amended from time to time by both  
4 parties.

5           47.    MODIFICATION OF AGREEMENT. COUNTY or BORROWER may consider  
6 it in its best interest to change, modify or extend a term or condition of this Agreement, provided  
7 such change, modification, or extension is agreed to in writing by the other party. Any such  
8 change, extension, or modification, which is mutually agreed upon by COUNTY and  
9 BORROWER shall be incorporated in written amendments to this Agreement. Such amendments  
10 shall not invalidate this Agreement, nor relieve or release COUNTY or BORROWER from any  
11 obligations under this Agreement, except for those parts thereby amended. No amendment to this  
12 Agreement shall be effective and binding upon the parties, unless it expressly makes reference to  
13 this Agreement, is in writing, is signed and acknowledged by duly authorized representatives of  
14 all parties, and approved by the COUNTY.

15           48.    CONDITIONAL COMMITMENT.

- 16           a. Construction. BORROWER must demonstrate that it is working towards  
17 obtaining financing to reconstruct the Project in accordance with the scheduled  
18 Completion Deadline.
- 19           b. Completion. The Project must be completed no later than three (3) years from  
20 the Effective Date of this Agreement (the "Completion Deadline"). If  
21 BORROWER is unable to meet the condition as required by this **Section 48**  
22 including any extension, then COUNTY and BORROWER mutually agree that  
23 this Agreement will self-terminate and any ARPA Loan funds disbursed to  
24 BORROWER to date shall be returned to COUNTY within thirty (30) calendar  
25 days of such termination. Upon such termination, this Agreement shall become  
26 null and void. COUNTY and BORROWER shall be released and discharged  
27 respectively from their obligations under this Agreement, except for those  
28

1 provisions which by their terms survive termination. All costs incurred by each  
2 party on the Project will be assumed respectively.

3 49. INTENTIONALLY OMITTED.

4 50. INTENTIONALLY OMITTED.

5 51. EXHIBITS AND ATTACHMENTS. Each of the attachments and exhibits  
6 attached hereto is incorporated herein by this reference.

7 52. MEDIA RELEASES. BORROWER agrees to allow COUNTY to provide input  
8 regarding all media releases regarding the Project. Any publicity generated by BORROWER for  
9 the Project must make reference to the contribution of COUNTY in making the Project possible.  
10 COUNTY's name shall be prominently displayed in all pieces of publicity generated by  
11 BORROWER, including flyers, press releases, posters, signs, brochures, and public service  
12 announcements. BORROWER agrees to cooperate with COUNTY in any COUNTY-generated  
13 publicity or promotional activities with respect to the Project.

14 53. NOTICES. All notices, requests, demands and other communication required or  
15 desired to be served by either party upon the other shall be addressed to the respective parties as  
16 set forth below or the such other addresses as from time to time shall be designated by the  
17 respective parties and shall be sufficient if sent by United States first class, certified mail, postage  
18 prepaid, or express delivery service with a receipt showing the date of delivery.

19 COUNTY  
20 Director HWS  
21 County of Riverside  
22 3403 10<sup>th</sup> Street, Suite 300  
23 Riverside, CA 92501

BORROWER  
Attn.: Reid Bradshaw  
PD Millennium Partners LP  
Palm Communities  
100 Pacifica, Suite 203  
Irvine, CA 92618

24 54. COUNTERPARTS. This Agreement may be signed by the different parties hereto  
25 in counterparts, each of which shall be an original but all of which together shall constitute one  
26 and the same agreement.  
27  
28

1           55.     EFFECTIVE DATE. The effective date of this Agreement is the date the parties  
2 execute the Agreement (“Effective Date”). If the parties execute the Agreement on more than one  
3 date, then the last date the Agreement is executed by a party shall be the Effective Date.

4           56.     FURTHER ASSURANCES. BORROWER shall execute any further documents  
5 consistent with the terms of this Agreement, including documents in recordable form, as the  
6 COUNTY may from time to time find necessary or appropriate to effectuate its purposes in  
7 entering into this Agreement.

8           57.     NONLIABILITY OF OFFICIALS AND EMPLOYEES. No member, official,  
9 employee or consultant of the COUNTY shall be personally liable to the BORROWER, or any  
10 successor in interest, in the event of any default or breach by the COUNTY or for any amount  
11 which may become due to the BORROWER or to its successor, or on any obligations under the  
12 terms of this Agreement. No member, official, employee or consultant of the BORROWER shall  
13 be personally liable to the COUNTY, or any successor in interest, in the event of any default or  
14 breach by the BORROWER or for any amount which may become due to the COUNTY or to its  
15 successor, or on any obligations under the terms of this Agreement.

16           58.     CONSTRUCTION AND INTERPRETATION OF AGREEMENT.

17           a. The language in all parts of this Agreement shall in all cases be construed  
18 simply, as a whole and in accordance with its fair meaning and not strictly for  
19 or against any party. The parties hereto acknowledge and agree that this  
20 Agreement has been prepared jointly by the parties and has been the subject of  
21 arm’s length and careful negotiation over a considerable period of time, that  
22 each party has been given the opportunity to independently review this  
23 Agreement with legal counsel, and that each party has the requisite experience  
24 and sophistication to understand, interpret, and agree to the particular language  
25 of the provisions hereof. Accordingly, in the event of an ambiguity in or dispute  
26 regarding the interpretation of this Agreement, this Agreement shall not be  
27 interpreted or construed against the party preparing it, and instead other rules  
28 of interpretation and construction shall be utilized.

1 b. If any term or provision of this Agreement, the deletion of which would not  
2 adversely affect the receipt of any material benefit by any party hereunder, shall  
3 be held by a court of competent jurisdiction to be invalid or unenforceable, the  
4 remainder of this Agreement shall not be affected thereby and each other term  
5 and provision of this Agreement shall be valid and enforceable to the fullest  
6 extent permitted by law. It is the intention of the parties hereto that in lieu of  
7 each clause or provision of this Agreement that is illegal, invalid, or  
8 unenforceable, there be added as a part of this Agreement an enforceable clause  
9 or provision as similar in terms to such illegal, invalid, or unenforceable clause  
10 or provision as may be possible.

11 c. The captions of the articles, sections, and subsections herein are inserted solely  
12 for convenience and under no circumstances are they or any of them to be  
13 treated or construed as part of this instrument.

14 d. References in this instrument to this Agreement mean, refer to and include this  
15 instrument as well as any riders, exhibits, addenda and attachments hereto  
16 (which are hereby incorporated herein by this reference) or other documents  
17 expressly incorporated by reference in this instrument. Any references to any  
18 covenant, condition, obligation, and/or undertaking "herein," "hereunder," or  
19 "pursuant hereto" (or language of like import) means, refer to, and include the  
20 covenants, obligations, and undertakings existing pursuant to this instrument  
21 and any riders, exhibits, addenda, and attachments or other documents affixed  
22 to or expressly incorporated by reference in this instrument.

23 e. As used in this Agreement, and as the context may require, the singular includes  
24 the plural and vice versa, and the masculine gender includes the feminine and  
25 vice versa.

26 59. TIME OF ESSENCE. Time is of the essence with respect to the performance of  
27 each of the covenants and agreements contained in this Agreement.  
28

1           60.    BINDING EFFECT. This Agreement, and the terms, provisions, promises,  
2 covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the parties  
3 hereto and their respective heirs, legal representatives, successors and assigns.

4           61.    NO THIRD-PARTY BENEFICIARIES. The parties to this Agreement  
5 acknowledge and agree that the provisions of this Agreement are for the sole benefit of COUNTY  
6 and BORROWER, and not for the benefit, directly or indirectly, of any other person or entity,  
7 except as otherwise expressly provided herein.

8           62.    ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS.

- 9           a. This Agreement shall be executed in three duplicate originals each of which is  
10 deemed to be an original. This Agreement, including all attachments hereto  
11 and exhibits appended to such attachments shall constitute the entire  
12 understanding and agreement of the parties.
- 13           b. This Agreement integrates all of the terms and conditions mentioned herein or  
14 incidental hereto, and supersedes all negotiations or previous agreements  
15 between the parties with respect to all or any part of the Property.
- 16           c. All waivers of the provisions of this Agreement must be in writing and signed  
17 by the appropriate authorities of the COUNTY or the BORROWER, and all  
18 amendments hereto must be in writing and signed by the appropriate authorities  
19 of the COUNTY and the BORROWER. This Agreement and any provisions  
20 hereof may be amended by mutual written agreement by the BORROWER and  
21 the COUNTY.

22  
23   (SIGNATURES ON THE NEXT PAGE)  
24  
25  
26  
27  
28

IN WITNESS WHEREOF, COUNTY and BORROWER have executed this Agreement

as of the dates written below.

COUNTY:

COUNTY OF RIVERSIDE, a political  
subdivision of the State of California

By:   
Chuck Washington, Chair  
Board of Supervisors

Date: 11/05/2024

BORROWER:

PD MILLENNIUM PARTNERS LP, a  
California limited partnership

By: PC Gerald Ford Developers LLC, a  
California limited liability company,  
Its administrative general partner

By: Palm Companies LLC, a California  
limited liability company,  
Its managing member

By:   
Danavon L. Horn, President


Date: 10/28/2024

**ATTEST:**  
**KIMBERLY A. RECTOR, Clerk**

By:   
**DEPUTY**

(Above signatures need to be notarized)

APPROVED AS TO FORM:  
MINH C. TRAN  
County Counsel

By:   
Amrit P. Dhillon  
Deputy County Counsel



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.


STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE } §

On November 05, 2024, before me, Naomi Sicra, a COB Assistant, personally appeared Chuck Washington, Chair of the Board of Supervisors, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument; and that a copy of this paper, document or instrument has been delivered to the chairperson.

I certify under the penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Kimberly A. Rector  
Clerk of the Board of Supervisors

By:   
\_\_\_\_\_  
Deputy Clerk  
*(SEAL)*

# ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.


State of California  
County of ORANGE)

On 11/28/2024 before me, HANNAH K. THIEROFF, Notary Public  
(insert name and title of the officer)

personally appeared DANAVON L. HURON,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature  (Seal)



**ALL-PURPOSE ACKNOWLEDGMENT NOTARY FOR CALIFORNIA**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, 2024, before me, \_\_\_\_\_,  
personally appeared \_\_\_\_\_,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

# EXHIBIT “A”

**Borrower:** PD MILLENNIUM PARTNERS LP, a California limited partnership  
**Address:** North side of Gerald Ford Drive between Cook Street and Dinah Shore Drive, in the City of Palm Desert, State of California, 92211  
**Project Title:** Palm Villas at Millenium Apartments (“Project”)  
**Location:** APNs: 694-120-028 and a portion of APN 694-120-029

## **Project Description:**

BORROWER proposes to utilize \$6,700,000 in ARPA funds to pay a portion of the costs to develop and construct the Palm Villas at Millennium Housing Project, a two phase, 241-unit affordable multifamily low-income housing project (“Proposed Project”). The Proposed Project is located on 10.49 acres of land located at the north side of Gerald Ford Drive between Cook Street and Dinah Shore Drive, in the City of Palm Desert, identified as Assessor’s Parcel Numbers 694-120-028 and a portion of APN 694-120-029 (“Property”) which will be subdivided into two parcels, one for each phase. Phase I will consist of 120 affordable rental units within 5 three-story buildings including 15 one-bedroom units, 75 two-bedroom units, and 30 three-bedroom units. In addition, 1 three-bedroom unit will be set aside for an on-site resident manager. Phase II will consist of 119 affordable rental units within 5 three-story buildings, including 15 one-bedroom units, 75 two-bedroom units, and 29 three-bedroom units. In addition, 1 three-bedroom unit will be set aside for an on-site resident manager.

Under the County’s ARPA program for Phase I of development, 49% of the rental units will be restricted to households whose incomes do not exceed 60% of the area median income; of those units, 25% of the units will be restricted to households whose incomes do not exceed 30% of the area median income for the County of Riverside (“Qualified Population”).

**Legal Description of Property:**

The land referred to is situated in the City of Palm Desert, State of California, and is described as follows:

THOSE PORTIONS OF PARCEL 8 AND PARCEL 9 OF PARCEL MAP NO. 36792, IN THE CITY OF PALM DESERT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 239 OF PARCEL MAPS, PAGES 9 THROUGH 15, INCLUSIVE, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 8; THENCE ALONG THE SOUTH LINE OF SAID PARCEL 9, SOUTH 89°56'08" WEST 72.55 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT EASTERLY 138.45 FEET, MEASURED AT RIGHT ANGLES, FROM THE EAST RIGHT OF WAY LINE OF DINAH SHORE DRIVE, AS SHOWN ON SAID PARCEL MAP NO. 36792; THENCE LEAVING SAID SOUTH LINE AND ALONG SAID PARALLEL LINE, NORTH 0°00'00" EAST 31711 FEET; THENCE NORTH 90°00'00" EAST 65.55 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT WESTERLY 7.00 FEET, MEASURED AT RIGHT ANGLES FROM THE WEST LINE OF SAID PARCEL 8; THENCE NORTH 0°00'00" EAST 102.00 FEET ALONG LAST SAID PARALLEL LINE TO A LINE THAT IS PARALLEL WITH AND DISTANT NORTHERLY 1.00 FEET; MEASURED AT RIGHT ANGLES, FROM THE NORTH LINE OF SAID PARCEL 8; THENCE NORTH 90°00'00" EAST 275.69 FEET ALONG LAST SAID PARALLEL LINE TO AN INTERSECTION WITH THE NORTHWESTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID PARCEL 8; THENCE SOUTH 68°15'29" EAST 409.78 FEET ALONG SAID NORTHWESTERLY PROLONGATION AND SAID NORTHEASTERLY LINE OF PARCEL 8 TO A TANGENT CURVE, CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 1445.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE AND SAID NORTHEASTERLY LINE OF PARCEL 8 AN ARC LENGTH OF 535.73 FEET, THROUGH A CENTRAL ANGLE OF 21°14'32" TO A NON-TANGENT LINE, SAID NON-TANGENT LINE BEING PARALLEL WITH AND DISTANT WESTERLY 36.00 FEET, MEASURED AT RIGHT ANGLES, FROM THE MOST EASTERLY LINE OF SAID PARCEL 8; THENCE LEAVING SAID NORTHEASTERLY LINE OF PARCEL 8, ALONG LAST SAID PARALLEL LINE, SOUTH 07°03'09" EAST 105.97 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID PARCEL 8, BEING A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 73.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 36°36'07" WEST; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL 8 THE FOLLOWING FIVE (5) COURSES, SOUTHERLY ALONG SAID NON-TANGENT CURVE AN ARC LENGTH OF 28.61 FEET, THROUGH A CENTRAL ANGLE OF 22°27'11" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY HAVING A RADIUS OF 60.00 FEET; A LINE RADIAL TO SAID BEGINNING OF CURVE BEARS SOUTH 59°03'18" EAST; THENCE SOUTHWESTERLY LONG LAST SAID CURVE AN ARC LENGTH OF 38.39 FEET THROUGH A CENTRAL ANGLE OF 36°39'18" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 336.00 FEET; A LINE RADIAL TO LAST SAID BEGINNING OF CURVE BEARS NORTH 22°24'00" WEST, THENCE SOUTHEASTERLY ALONG LAST SAID CURVE AN ARC LENGTH OF 120.80 FEET; THROUGH A CENTRAL ANGLE OF 20°36'00"; THENCE SOUTH 47°00'00" WEST 102.69 FEET; THENCE NORTH 89°13'34" WEST 25.84 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1075.00 FEET, A LINE RADIAL TO SAID BE-GINNING OF CURVE BEARS NORTH 44°07'38" EAST; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 8 THE FOLLOWING TWO (2) COURSES NORTHWESTERLY ALONG LAST SAID CURVE AN ARC LENGTH OF 829.14 FEET; THROUGH A CENTRAL ANGLE OF 44°11'30"; THENCE SOUTH 89°56'08" WEST 112.85 FEET TO SAID SOUTHWEST CORNER OF PARCEL 8 AND THE POINT OF BEGINNING.

**Exhibit A-1**

**IMPLEMENTATION SCHEDULE**

| <b>Milestone</b>                                   | <b>Completion Date</b> |
|--|------------------------|
| 1. Anticipated Construction Financing Close Date   | June 11, 2025          |
| 2. Anticipated Construction Start Date             | June 25, 2025          |
| 3. TCAC deadline to commence construction          | December 11, 2025      |
| 4. Anticipated Completion Date                     | July 31, 2027          |
| 5. Anticipated Lease up completion deadline        | September 30, 2027     |
| 6. Anticipated Final Cost Certification            | January 31, 2028       |
| 7. Anticipated Permanent Financing Conversion Date | February 28, 2028      |

**Sources and Uses of Funds:**

**Sources:**

| <b>Source</b>                     | <b>Amount</b>          |
|-----------------------------------|------------------------|
| Perm Bond Proceeds                | \$21,970,188.00        |
| Tax Credit Proceeds               | \$40,541,142.00        |
| Palm Desert Housing Authority     | \$-                    |
| Palm Desert Acquisition Land Loan | \$1,965,539.00         |
| Tranche B Loan                    | \$-                    |
| SCE Refund                        | \$-                    |
| TUMF Fee                          | \$-                    |
| Riverside County ARPA Loan        | \$6,700,000.00         |
| Deferred Developer Fee            | \$5,709,766.00         |
| <b>Total</b>                      | <b>\$76,886,635.00</b> |

**Uses**

|                             | <b>Amount</b>          |
|-----------------------------|------------------------|
| Land Costs                  | \$1,973,039            |
| Permits, Fees, & Studies    | \$3,876,067            |
| Construction Contract       | \$48,852,590           |
| Contingency                 | \$2,942,629            |
| Developer Fee               | \$9,217,834            |
| Indirect Construction Costs | \$2,212,201            |
| Rent-Up Costs               | \$250,000              |
| Reserves                    | \$719,371              |
| Financing Costs             | \$6,842,904            |
| <b>Total</b>                | <b>\$76,886,635.00</b> |

# **EXHIBIT “B”**

**DEED OF TRUST**



EXEMPT RECORDING FEE CODE 6103

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

County of Riverside  
Housing and Workforce Solutions  
3403 10<sup>th</sup> Street, Suite 300  
Riverside, CA 92501  
Attn. Juan Garcia

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**DEED OF TRUST, SECURITY  
AGREEMENT AND FIXTURE FILING**  
(WITH ASSIGNMENT OF RENTS)

This DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING (WITH ASSIGNMENT OF RENTS) is made this \_\_\_\_\_ day of \_\_\_\_\_ 2024 by PD MILLENNIUM PARTNERS LP, A CALIFORNIA LIMITED PARTNERSHIP, (hereinafter referred to as "Trustor"), whose address is 100 Pacifica, Suite 203, Irvine, CA 92618, Attention: Reid Bradshaw. The trustee is Housing and Workforce Solutions ("Trustee"). The beneficiary is the County of Riverside, a political subdivision of the State of California, (hereinafter called "Beneficiary"), whose address is 3403 10<sup>th</sup> Street, Suite 300, Riverside, CA 92501.

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 fee interest in the real property in the City of Riverside, County of Riverside, State of California more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference (such interest in real property is hereafter referred to as the "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 Trustor's 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 of 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 used in operation of the Real Property 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. Solely with respect to the Trust Estate, 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:

- i. 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 Promissory Note in favor of the Beneficiary ("County" therein) executed by Trustor ("Borrower" therein) of even date herewith (the "ARPA Note") in the principal amount of \$6,700,000.00.
  - (b) that certain Loan Agreement for the Use of ARPA Act Funds dated \_\_\_\_\_, 2024 and recorded in the Official Records of the County of Riverside ("Official Records") concurrently herewith, between Trustor ("Borrower" therein) and Beneficiary ("County" therein) (the "ARPA Loan Agreement"); and
  - (c) that certain Covenant Agreement dated \_\_\_\_\_, 2024, and recorded concurrently herewith in the Official Records, between Trustor ("Borrower" therein) and Beneficiary ("County" therein) ("Covenant Agreement").
- ii. payment of indebtedness of the Trustor to the Beneficiary not to exceed \$6,700,000.00 (the "ARPA Loan") according to the terms of the ARPA Note.

Said ARPA Note, ARPA Loan Agreement 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 ARPA Note, ARPA Loan Agreement and Covenant Agreement as used herein shall mean, refer to and include the ARPA Note, ARPA Loan Agreement 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 ARPA Loan Agreement.

The ARPA Loan evidenced by the ARPA Note and secured by this Deed of Trust is being made pursuant to the American Rescue Plan Act of 2021 (Pub.L. No. 117-2) ("ARPA"). Pursuant to the ARPA Loan Agreement, the maturity date of the ARPA Loan shall be the later to occur of (i) July 1, 2079 or (ii) fifty five (55) years from the recordation of the Notice of Completion in the Official Records for the last building for which construction is completed for Phase I of the Project on the Property (as defined in the ARPA Loan Agreement) ("ARPA Loan Term").

TRUSTOR COVENANTS that the Trustor is lawfully seized of the estate hereby conveyed and has the right to grant and convey the fee interest of the Property. Trustor warrants and will defend generally the title to the Property against all claims and demands, subject to such encumbrances of record.

**AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:**

1. That Trustor shall pay the ARPA Note at the time and in the manner provided therein, and perform the obligations of the Trustor as set forth in the ARPA Loan Agreement and Covenant Agreement at the time and in the manner respectively provided therein.

2. That Trustor shall not permit or suffer the use of any of the property for any purpose other than the use set forth in the ARPA Loan Agreement and Covenant Agreement.

3. 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.

4. That 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 ARPA Loan Agreement and Covenant Agreement.

4a. That upon default hereunder or under any of the Secured Obligations and after giving notice and opportunity to cure, Beneficiary shall be entitled to the appointment of 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

5. **Payment of Principal and Interest; Prepayment and Late Charges.** Trustor shall promptly pay when due the principal of and interest on the debt evidenced by the ARPA Note and any late charges due under the ARPA Note.

6. **Taxes and Insurance.** Trustor shall pay before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Deed of Trust, directly to the person owed payment. Trustor shall promptly furnish to Beneficiary receipts evidencing the payments.

a. Should Trustor fail to make any payment or to do any act herein provided, then Beneficiary or Trustee, but without obligation so to do and upon written notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his or her reasonable fees.

7. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Beneficiary under **Section 5** shall be applied: first, to interest due; second, to principal due; and last, to any late charges due under the ARPA Note.

8. **Prior Deeds of Trust; Charge; Liens.** Trustor shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Deed of Trust, and leasehold payments or ground rents, if any, subject to applicable cure periods directly

to the person owed payment. Trustor shall pay these obligations in the manner provided in **Section 6**.

a. Except for the liens permitted in writing by the Beneficiary, Trustor shall promptly discharge any other lien which shall have attained priority over this Deed of Trust unless Trustor: (1) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Beneficiary; (2) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Beneficiary's opinion operate to prevent the enforcement of the lien; or (3) bond around the lien (4) secures from the holder of the lien an agreement satisfactory to Beneficiary subordinating the lien to this Deed of Trust. Except for the liens approved herein, if Beneficiary determines that any part of the Property is subject to a lien which may attain priority over this Deed of Trust, Beneficiary may give Trustor a notice identifying the lien. Trustor shall satisfy such lien or take one or more of the actions set forth above within 30 days of the giving of notice.

9. **Priority of ARPA Deed of Trust.** The Covenant Agreement, Deed of Trust, and the Loan Agreement shall be respectively in the first, second, and third priority lien position, in relation to themselves, each for the benefit of COUNTY. Final Lien priority orders shall be established upon determination of final construction financing between all lenders, provided, however, that COUNTY's affordability restrictions set forth in the Covenant Agreement are preserved for the Qualified Population for the Affordability Period.

10. **Hazard or Property Insurance.** Trustor shall keep the improvements now existing or hereafter erected on the Property insured against loss of fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Beneficiary reasonably requires insurance. This insurance shall be maintained in the amounts and for the periods as required in the ARPA Loan Agreement. The insurance carrier providing the insurance shall be chosen by Trustor subject to Beneficiary's approval which shall not be unreasonably withheld. If Trustor fails to maintain coverage described above, Beneficiary may, at Beneficiary's option, obtain coverage to protect Beneficiary's rights in the Property in accordance with **Section 12**.

a. All insurance policies and renewals shall be reasonably acceptable to Beneficiary and shall include a standard mortgagee clause. All requirements hereof pertaining to insurance shall be deemed satisfied if the Trustor complies with the insurance requirements under the ARPA Loan Agreement. Trustor shall promptly give to Beneficiary certificates of insurance showing the coverage is in full force and effect and that Beneficiary is named as additional insured. In the event of loss, Trustor shall give prompt notice to the insurance carrier, the Senior Lien Holder, if any, and Beneficiary. Beneficiary may make proof of loss if not made promptly by the Senior Lien Holder, if any, or the Trustor.

b. Unless Beneficiary and Trustor otherwise agree in writing and subject to the rights of senior lenders, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided Trustor determines that such restoration or repair is economically feasible and there is no default continuing beyond the expiration of all applicable cure periods. If Trustor determines that such restoration or repair is not economically feasible or if a default exists after expiration of all applicable cure periods, the insurance proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Trustor. If the Property is abandoned by Trustor, or if Trustor fails to respond to Beneficiary within 30 days from the date notice is mailed by Beneficiary to Trustor that the insurance carrier offers to settle a claim for insurance

benefits, Beneficiary is authorized to collect and apply the insurance proceeds at Beneficiary's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

c. Unless Beneficiary and Trustor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of Note. If under **Section 27** the Property is acquired by Beneficiary, Trustor's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Beneficiary to the extent of the sums secured by this Deed of Trust immediately prior to the acquisition.

d. Notwithstanding the above, the Beneficiary's rights to collect and apply the insurance proceeds hereunder shall be subject and subordinate to the rights of a Senior Lien Holder, if any, to collect and apply such proceeds in accordance with any Senior Lien Holder Deed of Trust.

**11. Preservation, Maintenance and Protection of the Property; Trustor's Loan Application; Leaseholds.** Trustor shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property; normal wear and tear excepted. Trustor shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Beneficiary's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Deed of Trust or Beneficiary's security interest. Trustor may cure such a default and reinstate, as provided in **Section 23**, by causing the action or proceeding to be dismissed with a ruling that, in Beneficiary's good faith determination, precludes forfeiture of the Trustor's interest in the Property or other material impairment of the lien created by this Deed of Trust or Beneficiary's security interest. Trustor shall also be in default if Trustor, during the loan application process, gave materially false or inaccurate information or statements to Beneficiary (or failed to provide Beneficiary with any material information) in connection with the loan evidenced by the ARPA Note, including, but not limited to representations concerning Trustor's use of Property for transitional housing. If this Deed of Trust is on a leasehold, Trustor shall comply with all provisions of the lease. If Trustor acquires fee title to the Property, the leasehold and the fee title shall not merge unless Beneficiary agrees to the merger in writing.

a. The Trustor acknowledges that this Property is subject to certain use and occupancy restrictions (which may be further evidenced by a separate agreement recorded in the land records where the Property is located), limiting the Property's use to transitional housing. The use and occupancy restrictions may limit the Trustor's ability to rent the Property. The violation of any use and occupancy restrictions may, if not prohibited by federal law, entitle the Beneficiary to the remedies provided in **Section 27** hereof.

**12. Protection of Beneficiary's Rights in the Property.** If Trustor fails to perform the covenants and agreements contained in this Deed of Trust, or there is a legal proceeding that may significantly affect Beneficiary's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then, subject to notice to Trustor and any applicable grace periods or cure periods, Beneficiary may do and pay for whatever is necessary to protect the value of the Property and Beneficiary's rights in the Property. Beneficiary's actions may include paying any sums secured by a lien which has priority over this Deed of Trust, appearing in court, paying reasonable attorneys' fees, and entering on the Property to make repairs. Although Beneficiary may take action under this **Section 12**, Beneficiary does not have to do so.

a. Any amounts disbursed by Beneficiary under this **Section 12** shall become additional debt of Trustor secured by this Deed of Trust. Unless Trustor and Beneficiary agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the ARPA Note rate and shall be payable, with interest, upon notice from Beneficiary to Trustor requesting payment.

13. **Reserved.**

14. **Inspection.** Beneficiary or its agent may make reasonable entries upon and inspections of the Property. Beneficiary shall give Trustor at least forty-eight (48) hours advanced notice in connection with an inspection specifying reasonable cause for the inspection.

15. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Beneficiary, subject to the terms of a Senior Lien Holder Deed of Trust, if any.

a. In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Deed of Trust, whether or not then due, with any excess paid to Trustor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Deed of Trust immediately before the taking, unless Trustor and Beneficiary otherwise agree in writing, the sums secured by this Deed of Trust shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Trustor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Trustor and Beneficiary otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Deed of Trust whether or not the sums are then due. Notwithstanding the foregoing, so long as the value of Beneficiary's lien is not impaired, any condemnation proceeds may be used by Trustor for repair and/or restoration of the Project.

b. If the Property is abandoned by Trustor, or if, after notice by Beneficiary to Trustor that the condemner offers to make an award or settle a claim for damages, Trustor fails to respond to Beneficiary within 30 days after the date the notice is given, Beneficiary is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust, whether or not then due.

c. Unless Beneficiary and Trustor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the payments referred to in **Sections 5 and 6** or change the amount of such payments.

16. **Trustor Not Released; Forbearance By Beneficiary Not a Waiver.** Except in connection with any successor in interest approved by Beneficiary in writing, extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Beneficiary to any successor in interest of Trustor shall not operate to release the liability of the original Trustor or Trustor's successors in interest. Beneficiary shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise

modify amortization of the sums secured by this Deed of Trust by reason of any demand made by the original Trustor or Trustor's successors in interest. Any forbearance by Beneficiary in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

17. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Deed of Trust shall bind and benefit the successors and assigns of Beneficiary and Trustor, subject to the provisions of **Section 22**. Trustor's covenants and agreements shall be joint and several.

18. **Loan Charges.** If the loan secured by this Deed of Trust is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Trustor which exceeded permitted limits will be promptly refunded to Trustor. Beneficiary may choose to make this refund by reducing the principal owed under the ARPA Note or by making a direct payment to Trustor. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

19. **Notices.** Any notice to Trustor provided for in this Deed of Trust shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Trustor's mailing address stated herein or any other address Trustor designates by notice to Beneficiary and to Trustor's limited partners. Any notice to Beneficiary shall be given by first class mail to Beneficiary's address stated herein or any other address Beneficiary designates by notice to Trustor. Any notice required to be given to a Senior Lien Holder shall be given by first class mail to such other address the Senior Lien Holder designates by notice to the Trustor. Any notice provided for in this Deed of Trust shall be deemed to have been given to Trustor or Beneficiary when given as provided in this Section.

20. **Governing Law; Severability.** This Deed of Trust shall be governed by federal law and the laws of the State of California. In the event that any provision or clause of this Deed of Trust or the ARPA Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision. To this end the provisions of this Deed of Trust and the ARPA Note are declared to be severable. Any action at law or in equity arising under this Deed of Trust or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed in the Superior Court 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.

21. **Trustor's Copy.** Trustor shall be given one conformed copy of the ARPA Note and of this Deed of Trust.

22. **Transfer of the Property or a Beneficial Interest in Trustor.** Except as otherwise allowed under the ARPA Loan Agreement, if all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Trustor is sold or transferred and Trustor is not a natural person) without Beneficiary's prior written consent (including a transfer of all or any part of the Property to any person who, at initial occupancy of the Property, does not use the Property



for affordable housing) Beneficiary may, at its option, require immediate payment in full of all sums secured by this Deed of Trust. However, this option shall not be exercised by Beneficiary if exercise is prohibited by federal law as of the date of this Deed of Trust. Nothing in this Deed of Trust shall be deemed to require Beneficiary's approval of a transfer of a limited partnership interest in the Trustor or of a conveyance of an easement interest in the Property for utility purposes.

a. If Beneficiary exercises the aforementioned option, Beneficiary shall give Trustor and the Senior Lien Holder, prior written notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Trustor must pay all sums secured by this Deed of Trust. If Trustor fails to pay these sums prior to the expiration of this period, Beneficiary may invoke any remedies permitted by this Deed of Trust without further notice or demand on Trustor.

b. **Reserved.**

23. **Trustor's Right to Reinstate.** If Trustor meets certain conditions, Trustor shall have the right to have enforcement of this Deed of Trust discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Deed of Trust; or (b) entry of a judgment enforcing this Deed of Trust. Those conditions are that Trustor: (a) pays Beneficiary all sums which then would be due under this Deed of Trust and the ARPA Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Deed of Trust, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Beneficiary may reasonably require to assure that the lien of this Deed of Trust, Beneficiary's rights in the Property and Trustor's obligation to pay the sums secured by this Deed of Trust shall continue unchanged. Upon reinstatement by Trustor, this Deed of Trust and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under **Section 22**.

24. **Reserved.**

25. **No Assignment.** The ARPA Note and this Deed of Trust shall not be assigned by Trustor without the Beneficiary's prior written consent and the consent of the Senior Lien Holder, if any.

26. **Hazardous Substances.** Trustor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Trustor shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses, construction, and to maintenance of the Property.

a. Trustor shall promptly give Beneficiary written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Trustor has actual knowledge. If Trustor learns, or is notified in writing by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the

Property is necessary, Trustor shall promptly take all necessary remedial actions in accordance with Environmental Law.

b. As used in this **Section 26**, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials, excluding household products in normal quantities. As used in this **Section 26**, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

27. **Acceleration; Remedies.** Beneficiary shall give notice to Trustor and its limited partners prior to acceleration following Trustor's breach of any covenant or agreement in this Deed of Trust. The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, which shall not be more than ten (10) calendar days from the date of the mailing of the notice for a monetary default, or a date, which shall not be more than thirty (30) calendar days from the mailing of the notice for a non-monetary default, by which the default must be cured (subject to the extended cure period in the Loan Agreement); and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice shall further inform Trustor of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Trustor to acceleration and sale. If the default is not cured by the Trustor on or before the date specified in the notice, and the Senior Lien Holder or the investor limited partner have not cured the default within that same period, subject to any non-recourse provisions set forth in Section 8 of the Note, then Beneficiary at its option may require immediate payment in full of all sums secured by this Deed of Trust without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Beneficiary shall be entitled to collect all expenses incurred in pursuing the remedies provided in this **Section 27**, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

a. If Beneficiary invokes the power of sale, Beneficiary or Trustee shall mail copies of a notice of sale in the manner prescribed by applicable law to Trustor, the Senior Lien Holder, if any, and to the other persons prescribed by applicable law. Trustee shall give notice of sale by public advertisement for the time and in the manner prescribed by applicable law. Trustee, without demand on Trustor, shall sell the Property at public auction to the highest bidder for cash at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property to any later time on the same date by public announcement at the time and place of any previously scheduled sale. Beneficiary or its designee may purchase the Property at any sale.

b. Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Deed of Trust; and (c) any excess to the person or persons legally entitled to it.

28. **Release.** Upon payment of all sums secured by this Deed of Trust, or upon forgiveness of all sums at the end of the ARPA Loan Term as provided in the ARPA Note and

ARPA Loan Agreement, Beneficiary shall release this Deed of Trust without charge to Trustor. Trustor shall pay any recordation costs. The lien of the Covenant Agreement shall not be released or reconveyed until the expiration of the term set forth therein notwithstanding the payment of all sums secured by this Deed of Trust.

29. **Substitute Trustee.** Beneficiary, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county in which this Deed of Trust is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

30. **Reserved.**

31. **Reserved.**

32. Notwithstanding anything to the contrary set forth herein, Beneficiary acknowledges that this Deed of Trust shall at all times be subordinate to the construction financing, and permanent financing.

33. **Removal, Demolition or Alteration of Personal Property and Fixtures.** Except to the extent permitted by the following sentence, no personal property or fixtures shall be removed, demolished or materially altered without the prior written consent of the Beneficiary. Trustor may remove and dispose of, free from the lien of this Deed of Trust, such personal property and fixtures as from time to time become worn out or obsolete, providing that, (a) the same is done in the ordinary course of business, and (2) either (i) at the time of, or prior to, such removal, any such personal property or fixtures are replaced with other personal property or fixtures which are free from liens other than encumbrances permitted hereunder and which have a value at least equal to that of the replaced personal property and fixtures (and by such removal replacement Trustor shall be deemed to have subjected such replacement personal property and fixtures to the lien of this Deed of Trust), or (ii) such personal property and fixtures may not require replacement if functionally, economically or operationally obsolete and so long as the fair market value of and operational efficiency of the Project is not reduced or adversely effected thereby.

**[Remainder of Page Blank]**

**[Signatures on Following Page]**

**BY SIGNING BELOW, TRUSTOR accepts and agrees to the terms and covenants contained in this Deed of Trust.**

TRUSTOR:

PD MILLENNIUM PARTNERS LP, a California limited partnership

By: PC Gerald Ford Developers LLC, a California limited liability company,  
Its administrative general partner

By: Palm Companies LLC, a California limited liability company,  
Its managing member

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

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

**(Signature needs to be notarized)**

**ALL-PURPOSE ACKNOWLEDGMENT NOTARY FOR CALIFORNIA**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, 2024, before me, \_\_\_\_\_,  
personally appeared \_\_\_\_\_,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

## EXHIBIT "A"

### LEGAL DESCRIPTION OF PROPERTY

The land referred to is situated in the City of Palm Desert, State of California, and is described as follows:

THOSE PORTIONS OF PARCEL 8 AND PARCEL 9 OF PARCEL MAP NO. 36792, IN THE CITY OF PALM DESERT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 239 OF PARCEL MAPS, PAGES 9 THROUGH 15, INCLUSIVE, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 8; THENCE ALONG THE SOUTH LINE OF SAID PARCEL 9, SOUTH 89°56'08" WEST 72.55 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT EASTERLY 138.45 FEET, MEASURED AT RIGHT ANGLES, FROM THE EAST RIGHT OF WAY LINE OF DINAH SHORE DRIVE, AS SHOWN ON SAID PARCEL MAP NO. 36792; THENCE LEAVING SAID SOUTH LINE AND ALONG SAID PARALLEL LINE, NORTH 0°00'00" EAST 31711 FEET; THENCE NORTH 90°00'00" EAST 65.55 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT WESTERLY 7.00 FEET, MEASURED AT RIGHT ANGLES FROM THE WEST LINE OF SAID PARCEL 8; THENCE NORTH 0°00'00" EAST 102.00 FEET ALONG LAST SAID PARALLEL LINE TO A LINE THAT IS PARALLEL WITH AND DISTANT NORTHERLY 1.00 FEET; MEASURED AT RIGHT ANGLES, FROM THE NORTH LINE OF SAID PARCEL 8; THENCE NORTH 90°00'00" EAST 275.69 FEET ALONG LAST SAID PARALLEL LINE TO AN INTERSECTION WITH THE NORTHWESTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID PARCEL 8; THENCE SOUTH 68°15'29" EAST 409.78 FEET ALONG SAID NORTHWESTERLY PROLONGATION AND SAID NORTHEASTERLY LINE OF PARCEL 8 TO A TANGENT CURVE, CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 1445.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE AND SAID NORTHEASTERLY LINE OF PARCEL 8 AN ARC LENGTH OF 535.73 FEET, THROUGH A CENTRAL ANGLE OF 21°14'32" TO A NON-TANGENT LINE, SAID NON-TANGENT LINE BEING PARALLEL WITH AND DISTANT WESTERLY 36.00 FEET, MEASURED AT RIGHT ANGLES, FROM THE MOST EASTERLY LINE OF SAID PARCEL 8; THENCE LEAVING SAID NORTHEASTERLY LINE OF PARCEL 8, ALONG LAST SAID PARALLEL LINE, SOUTH 07°03'09" EAST 105.97 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID PARCEL 8, BEING A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 73.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 36°36'07" WEST; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL 8 THE FOLLOWING FIVE (5) COURSES, SOUTHERLY ALONG SAID NON-TANGENT CURVE AN ARC LENGTH OF 28.61 FEET, THROUGH A CENTRAL ANGLE OF 22°27'11" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY HAVING A RADIUS OF 60.00 FEET; A LINE RADIAL TO SAID BEGINNING OF CURVE BEARS SOUTH 59°03'18" EAST; THENCE SOUTHWESTERLY LONG LAST SAID CURVE AN ARC LENGTH OF 38.39 FEET THROUGH A CENTRAL ANGLE OF 36°39'18" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 336.00 FEET; A LINE RADIAL TO LAST SAID BEGINNING OF CURVE BEARS NORTH 22°24'00" WEST, THENCE SOUTHEASTERLY ALONG LAST SAID CURVE AN ARC LENGTH OF 120.80 FEET; THROUGH A CENTRAL ANGLE OF 20°36'00"; THENCE SOUTH 47°00'00" WEST 102.69 FEET; THENCE NORTH 89°13'34" WEST 25.84 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1075.00 FEET, A LINE RADIAL TO SAID BEGINNING OF CURVE BEARS NORTH 44°07'38" EAST; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 8 THE FOLLOWING TWO (2) COURSES NORTHWESTERLY ALONG LAST SAID CURVE AN ARC LENGTH OF 829.14 FEET; THROUGH A CENTRAL ANGLE OF 44°11'30"; THENCE SOUTH 89°56'08" WEST 112.85 FEET TO SAID SOUTHWEST CORNER OF PARCEL 8 AND THE POINT OF BEGINNING.

# **EXHIBIT “C”**

**Promissory Note**

**PROMISSORY NOTE (ARPA Loan)**

**\$6,700,000**

**Riverside, CA**

In installments as hereafter stated, for value received, PD MILLENNIUM PARTNERS LP, a California limited partnership (“Borrower”), promises to pay the COUNTY OF RIVERSIDE, a political subdivision of the State of California (“COUNTY”), at 3403 10<sup>th</sup> Street, Suite 300, Riverside, CA 92501, the sum of Six Million Seven Hundred Thousand Dollars (U.S. \$6,700,000) (the “ARPA Loan” or “Note Amount”) which at the time of payment is lawful for the payment of public and private debts.

This Promissory Note (“Note”) is given in accordance with that certain Loan Agreement for the Use of ARPA Act Funds executed by COUNTY and Borrower, dated as of \_\_\_\_\_, 2024 and recorded in the Official Records of the County of Riverside (“Official Records”) on or about the date hereof (the “ARPA Loan Agreement”). Except to the extent otherwise expressly defined in this Note, all capitalized terms shall have the meanings ascribed to such terms in the ARPA Loan Agreement. The Note is secured by a Deed of Trust, Security Agreement and Fixture Filing (with Assignment of Rents) executed by Borrower for the benefit of the County dated as of \_\_\_\_\_, 2024, and recorded on or about the date hereof in the Official Records (the “ARPA Deed of Trust” or “Deed of Trust”). The rights and obligations of the Borrower and COUNTY under this Note shall be governed by the ARPA Loan Agreement and the following terms:

- (1) The ARPA Loan evidenced by this Note and secured by the Deed of Trust are being made pursuant to the American Rescue Plan Act (Pub.L No. 117-2), hereinafter (“ARPA ”). Borrower agrees for itself, its successors and assigns, that the use of the Property shall be subject to the restrictions set forth in ARPA regulations, the ARPA Loan Agreement and that certain Covenant Agreement dated on or about the date hereof and recorded concurrently herewith in the Official Records, between Borrower and County.
- (2) That the Loan will accrue simple interest at a rate of three percent (3%) per annum, except in the case of default as hereinafter provided.

This Note shall be repaid according to the following: Fifty percent (50%) of the Project’s Residual Receipts shall be paid to COUNTY and City of Palm Desert (pro rata with respect to the amounts of their respective loans for the Project) annually in accordance with the terms set forth herein. The pro rata share split shall be twenty-two and sixty-eight hundredths percent (22.68%) to the City of Palm Desert, and seventy-seven and thirty-two hundredths percent (77.32%) to COUNTY (each, a “Pro Rata Share”). Such payment of the Pro Rata Share of fifty percent (50%) of the Project’s Residual Receipts to City of Palm Desert, and COUNTY shall continue annually until the City of Palm Desert promissory note, and COUNTY’s ARPA Note are repaid in full, respectively. Any remainder of the Project’s Residual Receipts will be paid in accordance with the cash flow “waterfall” provisions of Borrower’s limited partnership agreement.

- (3) The term “Residual Receipts” used herein shall mean all money and income from the Project remaining annually after the payment of all normal and necessary expenses of operation of the Project, including but not limited to the following:



- (i) payments of principal and interest and other mandatory payments on amortized loans and indebtedness senior to the Loan, which have been approved in writing by COUNTY (collectively, the "Senior Debt");
  - (ii) utility fees and costs not paid by tenants;
  - (iii) insurance on the Project;
  - (iv) ad valorem taxes and assessment payments;
  - (v) property management fees;
  - (vi) cost of social programs at the Project;
  - (vii) auditing and accounting fees;
  - (viii) operating expenses (any expense reasonably and normally incurred in carrying out the Project's day-to-day activities, which shall include administration, on-site management costs, utilities, on-site staff payroll, payroll taxes, and maintenance);
  - (ix) reserves for repair and replacement of the Project, in an annual amount of \$500 per rental unit per year, increased annually by an amount not to exceed the greater of (i) three percent (3%) or (ii) the increase in CPI;
  - (x) required operating reserve replenishments in an amount up to \$175,000 per year;
  - (xi) County's monitoring Fee in the total amount of \$12,000, increased annually by an amount equal to the increase of CPI, as more specifically discussed in Section 27;
  - (xii) repayment of any operating deficit loans made by a partner to the BORROWER and payment of unpaid tax credit adjustment payments owed to a limited partner of BORROWER;
  - (xiii) partnership management fees up to \$15,000 annually payable to a partner of BORROWER, and asset management fees up to \$5,000 annually (increasingly annually by three (3%) payable to a partner of BORROWER, and any accrued and unpaid fees from prior years;
  - (xiv) payment of deferred developer fees pursuant to BORROWER'S limited partnership agreement; and
  - (xv) all other fees and expenses which may be permitted by the annual budget approved by the COUNTY.
- (4) Payment of COUNTY'S Pro Rata Share of the Residual Receipts produced from the Project shall be made by the Borrower to the COUNTY annually on July 15th of each year. Payment shall be applied first to accrued interest and thereafter to principal. Borrower shall annually provide the COUNTY with an accounting acceptable to the COUNTY, documenting the calculation of Residual Receipts for the previous calendar year ending December 31. This accounting shall be made on or before July 15, together with the payment of Residual Receipts.
- (5) All outstanding principal along with accrued interest shall be due upon maturity of the Loan Agreement, which shall be the later to occur of (i) July 31, 2079 or (ii) fifty-five (55) years from and after the recordation of the Notice of Completion (the "Loan Term"). All outstanding principal along with accrued interest shall be due upon the maturity date of the Note and the expiration of the Loan Term.
- (6) The Loan evidenced by this Note is secured by that certain Deed of Trust and Assignment of Rents executed by Borrower for the benefit of the County, dated on or about the date hereof and recorded in the Official Records of the County of Riverside on or about the date hereof ("Deed of Trust").

- (7) This Note may be prepaid in whole or in part by the undersigned at any time without prepayment penalty or premium, provided however notwithstanding such prepayment, Borrower shall be required to adhere to the affordability restrictions contained in the Covenants until the expiration of the term contained therein.
- (8) Subject to the provisions and limitations of this Paragraph, the obligation to repay the Note Amount is a nonrecourse obligation of Borrower and its officers. Neither Borrower nor its partners or officers shall have any personal liability for repayment of the Note Amount, except as provided in this Paragraph. The sole recourse of the County shall be the exercise of its rights against the Property (or any portion thereof) and any related security for the ARPA Loan; provided, however, that the foregoing shall not (i) constitute a waiver of any other obligation evidenced by this Note or the Deed of Trust; (ii) limit the right of the COUNTY to name Borrower as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Borrower; (iii) release or impair either this Note or the Deed of Trust; (iv) prevent or in any way hinder the COUNTY from exercising, or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing this Note or as prescribed by law or in equity in case of default; (v) prevent or in any way hinder the COUNTY from exercising, or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing this Note; or (vi) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by this Note and the Deed of Trust. Notwithstanding the first sentence of this Paragraph, the COUNTY may recover directly from Borrower or, unless otherwise prohibited by any applicable law, from any other party: (a) any damages, costs and expenses incurred by the COUNTY as a result of fraud, misrepresentation or any criminal act or acts of Borrower, or any officer, director or employee of Borrower; (b) any damages, costs and expenses incurred by the COUNTY as a result of any misappropriation of funds provided to pay costs as described in the ARPA Loan Agreement for the operation of the Project, or proceeds of insurance policies or condemnation proceeds; and (c) any misappropriation of 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.
- (9) 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 ARPA Loan Agreement:
- a. Monetary Default. (1) Borrower's failure to pay when due any sums payable under the ARPA Note or any advances made by COUNTY under this Agreement, (2) Borrower's or any agent of Borrower's use of ARPA funds for costs other than those costs permitted under the ARPA Loan Agreement or for uses inconsistent with terms and restrictions set forth in this Agreement, and/or (3) Borrower's or any agent of Borrower's failure

to make any other payment of any assessment or tax due under the ARPA Loan Agreement;

- b. Non-Monetary Default - Operation. (1) Discrimination by Borrower or Borrower's agent on the basis of characteristics prohibited by this Agreement or applicable law, (2) the imposition of any encumbrances or liens on the Project without COUNTY's prior written approval that are prohibited under this agreement or that have the effect of reducing the priority or invalidating the lien of the ARPA Deed of Trust, (3) Borrower's failure to obtain and maintain the insurance coverage required under the ARPA Loan Agreement, (4) any material default under the ARPA Loan Agreement, ARPA Deed of Trust with Assignment of Rents, Covenant Agreement, ARPA Note, or any document executed by the Borrower in connection with this Agreement, and/or (4) default past any applicable notice and cure period under the terms of the ARPA Deed of Trust or any other instrument or document secured against the Property;
  - 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 ARPA Loan Agreement; 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 COUNTY is a party to such agreement.
- (10) COUNTY shall give written notice of default to Borrower, specifying the default complained of by the COUNTY. Borrower shall have ten (10) calendar days from the mailing of the notice for a monetary default, and thirty (30) calendar days from the mailing of the notice for any other default, by which such action to cure must be taken or commenced if a cure cannot reasonable be rendered within the applicable cure period.. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.
- (11) Any failures or delays by COUNTY 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 COUNTY in asserting any of its rights and remedies shall not deprive COUNTY 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.
- (12) 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. In the event that any provision or clause of this Note conflicts with applicable law, such conflict will not affect other provisions of this Note which can be given effect without the conflicting provision, and to this end the provisions of the Note are declared to be severable.

- (13) Borrower hereby waives diligence, presentment, protest and demand, notice of protest, dishonor and nonpayment of this Note, and expressly agrees that, without in any way affecting the liability of Borrower hereunder, the COUNTY may extend any maturity date or the time for payment of any installment due hereunder, accept additional security, release any party liable hereunder and release any security now or hereafter securing this Note. Borrower further waives, to the full extent permitted by law, the right to plead any and all statutes of limitations as a defense to any demand on this Note, or on any deed of trust, security agreement, guaranty or other agreement now or hereafter securing this Note.
- (14) 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 ARPA Loan Agreement, 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.
- (15) 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 Court 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.
- (16) 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 COUNTY.
- (17) The COUNTY 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.
- (18) 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 COUNTY, which consent the COUNTY may give or withhold in its sole and absolute discretion. In the absence of specific written agreement by the COUNTY, no unauthorized assignment or transfer, or approval thereof by the COUNTY, shall be deemed to relieve Borrower or any other party from any obligations under the ARPA Loan Agreement or this Note. This provision shall not affect or diminish the COUNTY's assignment rights under this Note.
- (19) 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 COUNTY in its sole and absolute discretion; provided that Borrower may refinance senior financing and the COUNTY agrees that the Deed of Trust shall remain junior to such permitted refinancing.

- (20) The relationship of Borrower and the COUNTY 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.
- (21) (a) Formal notices, demands and communications between the County and Borrower shall be deemed sufficiently given if made in writing and dispatched by any of the following methods to the addresses of the COUNTY 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 COUNTY for purposes of receiving notices pursuant to this Note shall be 3403 10<sup>th</sup> Street, Suite 300, Riverside, California 92501, Attention: Director HWS. The facsimile number for the COUNTY's receipt of notices is (951) 352-4852.
- (c) The address of Borrower for purposes of receiving notices pursuant to this Note is 100 Pacifica, Suite 203, Irvine, CA 92618, Attn: Reid Bradshaw.
- (22) The captions and headings in this Note are for convenience only and are not to be used to interpret or define the provisions hereof.
- (23) The undersigned, if comprising more than one person or entity, shall be jointly and severally liable hereunder.
- (24) This Note shall be binding upon Borrower and its heirs, successors and assigns, and shall benefit the COUNTY and its successors and assigns.

IN WITNESS WHEREOF, Borrower has executed this Note as of the day and year first set forth above.

**[Remainder of Page Blank]**

**[Signatures on Following Page]**

BORROWER:

PD MILLENNIUM PARTNERS LP, a California  
limited partnership

By: PC Gerald Ford Developers LLC, a California  
limited liability company,  
Its administrative general partner

By: Palm Companies LLC, a California limited liability  
company,  
Its managing member

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

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

# EXHIBIT “D”

## Prohibition Against Conflicts of Interest

§ 92.356 Conflict of interest.

(a) Applicability. In the procurement of property and services by participating jurisdictions, State recipients, and sub-recipients, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, apply. In all cases not governed by 24 CFR 85.36 and 24 CFR 84.42, the provisions of this section apply.

(b) Conflicts prohibited. No persons described in **paragraph (c)** of this section who exercise or have exercised any functions or responsibilities with respect to activities assisted with ARPA funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a ARPA-Assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(c) Persons covered. The conflict of interest provisions of **paragraph (b)** of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of COUNTY, State recipient, or sub-recipient which are receiving ARPA funds.

(d) Exceptions: Threshold requirements. Upon the written request of the recipient, HUD may grant an exception to the provisions of **paragraph (b)** of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the ARPA Act and the effective and efficient administration of COUNTY's program or project. An exception may be considered only after the recipient has provided the following:

(1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(2) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(e) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of **paragraph (d)** of this section, HUD shall consider the cumulative effect of the following factors, where applicable:

(1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;

(2) Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(3) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;

(4) Whether the interest or benefit was present before the affected person was in a position as described in **paragraph (c)** of this section;

(5) Whether undue hardship will result either to COUNTY or the person affected when weighed against the public interest served by avoiding the prohibited conflict;

(6) Any other relevant considerations.

(f) Owners/Participants and Developers.

(1) No owner, developer, or sponsor of a project assisted with ARPA funds (or officer, employee, agent or consultant of the owner, developer, or sponsor) whether private, for profit or non-profit (including a community housing development organization (CHDO) when acting as an owner, developer or sponsor) may occupy an ARPA-Assisted affordable housing unit in a project. This provision does not apply to an individual who receives ARPA funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.

(2) Exceptions. Upon written request of owner or developer, COUNTY may grant an exception to the provisions of **paragraph (f)(1)** of this section on a case-by-case basis when it determines that the exception will serve to further the purpose of the ARPA Act and the effective and efficient administration of the owner's or developer's ARPA-Assisted project. In determining whether to grant a requested exception, COUNTY shall consider the following factors:

(i) Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(ii) Whether the person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted housing in question;

(iii) Whether the tenant protection requirements of § 92.253 are being observed;

(iv) Whether the affirmative marketing requirements of § 92.351 are being observed and followed; and

(v) Any other factor relevant to COUNTY's determination, including the timing of the requested exception.



TOPIC: CONFLICT OF INTEREST CODE  
RIVERSIDE COUNTY  
Housing & Workforce Solutions  
DATE: MARCH 1999

This Conflict of Interest Code is written to comply with Federal Regulations (24 CFR Part 85). These Regulations. "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments" require that grantees and sub-grantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts.

- 1) No employee, officer, or agent of the grantee shall participate in the selection, in the award or in the administration of a contract supported by Federal Funds if a conflict of interest, real or apparent, would be involved.
- 2) Such a conflict will arise when:
  - i) The employee, officer or agent;
  - ii) Any member of the immediate family;
  - iii) His/Her partners; or
  - iv) An organization which employs, or is about to employ any of the above has a financial or other interest in the firm's selection for award.
- 3) The grantee's or sub-grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to sub-agreements except as noted in Section 4.
- 4) A grantee's or sub-grantee's officers, employees or agents will be presumed to have a financial interest in a business if their financial interest exceeds the following:
  - i) Any business entity in which the official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.
  - ii) Any real property in which the official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.
  - iii) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the official within 12 months prior to the time when the decision is made.
  - iv) Any business entity in which the official is a director, officer, partner, trustee, employee, or holds any position of management.
  - v) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the official within 12 months prior to the time when the decision is made.
- 5) For purposes of **Section 4**, indirect investment or interest means any investment or interest owned by the spouse or dependent child of an official, by an agent on behalf of an official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or more.

# **EXHIBIT “E”**

Covenant Agreement

1 NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE SECTION 6103

2 Order No.  
3 Escrow No.  
4 Loan No.

5 RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

6 County of Riverside  
7 Housing and Workforce Solutions  
8 3403 10<sup>th</sup> Street, Suite 300  
Riverside, CA 92501  
Attn. Juan Garcia

SPACE ABOVE THIS LINE FOR RECORDERS USE

9  
10 **COVENANT AGREEMENT**  
(Palm Villas at Millenium Phase I Apartments)

11 This Covenant Agreement (“Covenant”) is made and into this \_\_\_\_\_ day of \_\_\_\_\_ 2024  
12 by and between the COUNTY OF RIVERSIDE, a political subdivision of the State of California  
13 (“COUNTY”), and PD MILLENNIUM PARTNERS LP, A CALIFORNIA LIMITED  
14 PARTNERSHIP (“OWNER”).

15 **RECITALS**

16 WHEREAS, OWNER owns that certain real property identified as a portion of APN 694-  
17 120-028 and a portion of APN 694-120-029, more specifically described in the legal description  
18 attached hereto as **Exhibit A** and incorporated herein by this reference (the “Property”);

19 WHEREAS, COUNTY and OWNER entered into that certain Loan Agreement for the Use  
20 of ARPA Act Funds dated \_\_\_\_\_, 2024 and recorded in the Official  
21 Records of the County of Riverside (“Official Records”) concurrently herewith (the “ARPA Loan  
22 Agreement” or “Agreement”) which provides for, among other things, the development and  
23 construction on the Property, also known as “Palm Villas at Millenium Apartments,” of a multi-  
24 family affordable housing project consisting of a two phase, 241-unit affordable multifamily low-  
25 income housing project, with Phase I consisting of 120 affordable rental units and Phase II  
26 consisting of 119 affordable rental units; in addition, 1 three-bedroom unit will be set aside for an  
27 on-site resident manager (collectively, the “Project”);  
28

1           WHEREAS, 49%, or 59 units at the Project will be reserved as ARPA-Assisted Units for  
2 households whose incomes do not exceed 60% of the area median income for the County of  
3 Riverside at the time of initial occupancy; of those units, 25% of the units, or 15 units, will be  
4 restricted to households whose incomes do not exceed 30% of the area median income for the  
5 County of Riverside (“ARPA-Assisted Units”). Capitalized terms not defined herein shall have the  
6 meaning ascribed to them in the ARPA Loan Agreement;

7           WHEREAS, the County is providing funding under the American Rescue Plan Act (Pub.L  
8 No. 117-2), hereinafter “ARPA,” for the purposes of providing decent, safe, and sanitary housing  
9 to extremely low income senior households, a group that has been disproportionately affected  
10 by the COVID-19 pandemic;

11           WHEREAS, pursuant to the ARPA Loan Agreement, COUNTY loaned to OWNER  
12 \$6,700,000 derived from ARPA funds (“ARPA Loan”), to pay for a portion of the acquisition and  
13 construction expenses of the Project, as more fully described in the ARPA Loan Agreement. The  
14 ARPA Loan is evidenced by a Promissory Note executed by OWNER, in favor of the COUNTY  
15 dated on or about the date hereof (“ARPA Loan Note”) and secured by that certain Deed of Trust,  
16 Security Agreement and Fixture Filing (with Assignment of Rents) executed by OWNER, for the  
17 benefit of COUNTY and recorded in the Official Records concurrently herewith (“ARPA Loan  
18 Deed of Trust”); and

19           WHEREAS, pursuant to the ARPA Loan Agreement, OWNER has agreed to construct the  
20 Project on the Property and ensure the ARPA-Assisted Units are occupied by the Qualified  
21 Population consistent with the ARPA Act requirements and as set forth more specifically below.

22           NOW, THEREFORE, in consideration of the mutual covenants and agreements, and for  
23 other good and valuable consideration, the receipt and sufficiency of which are hereby  
24 acknowledged, OWNER, on behalf of itself and its successors, assigns, and each successor in  
25 interest to the Property or any part thereof, hereby declares as follows:

26           1)     RESTRICTIONS. The recitals set forth above are true and correct and incorporated  
27 herein. This Covenant shall continue in full force and effect for the later of (i) fifty-five (55) years  
28

1 from the recordation of the Notice of Completion in the Official Records for the last building for  
2 which construction is completed for Phase I of the Project on the Property , or (ii) July 1, 2079  
3 (“Term” or “Affordability Period”). For the duration of the Term, the Property shall be held, sold,  
4 and conveyed, subject to the following covenants, conditions, and restrictions:

5 a) Under the County’s ARPA program for Phase I of development, 49% of the  
6 rental units, or 59 units, will be restricted to households whose incomes do not exceed 60% of the  
7 area median income. Of those units, 25% of the units, or 15 units, will be restricted to households  
8 whose incomes do not exceed 30% of the area median income for the County of Riverside, at the  
9 time of initial occupancy.

10 b) Rent for the ARPA-Assisted Units including utilities shall be in accordance  
11 with TCAC rent requirements.

12 c) OWNER shall comply with the terms of ARPA, the ARPA Loan  
13 Agreement, ARPA Loan Note, ARPA Loan Deed of Trust and any other instrument secured  
14 against the Property.

15 d) Utility Allowance: Owners are required to complete initial Utility  
16 Allowance (UA) calculations and submit their calculations for review and approval to the County  
17 prior to implementation, annually by June 1st. The following methods below are acceptable  
18 methodologies for calculating UA’s:

- 19 (i) HUD Utility Schedule Model (HUSM), UA based on HUD’s model.
- 20 (ii) Utility Company Estimate, UA based on estimated obtained from a local  
21 utility company for each of the utilities used in the project.
- 22 (iii) LIHTC Agency Estimate, UA approved by the LIHTC agency based on its  
23 actual usage methodology.
- 24 (iv) Energy Consumption Model (Engineer Model), UA based upon on an  
25 energy and water and sewage consumption and analysis model prepared by  
26 a third-party licensed engineer or qualified professional.

1 e) Float-up: Notwithstanding anything in Loan Agreement or this Covenant to the  
2 contrary, the Parties agree that the following shall apply to the ARPA-Assisted  
3 Units:

4 (i) COUNTY agrees that, upon BORROWER's request and COUNTY's  
5 written approval, which will not be unreasonable withheld, the maximum  
6 tenant household income and maximum annual rent for ARPA-Assisted  
7 Units may be increased to amounts necessary to make operation of the  
8 Project financially feasible as determined by the BORROWER, including  
9 the payment of all required operating costs and debt service, but in no event  
10 may (a) the maximum tenant household income limitation exceed 60  
11 percent of AMI or, (b) the maximum annual rent limitation exceed 30  
12 percent of 60 percent of AMI.

13 (ii) In the case of increases due to a foreclosure of any approved financing or  
14 deed in lieu thereof, the above increases may continue until such time, if  
15 any, that the rental assistance or equivalent operating subsidy is restored.  
16 Notwithstanding anything to the contrary in this section, the BORROWER  
17 may not displace tenant households and must use good faith efforts to  
18 reduce the effect of rent increases permitted to be imposed on existing  
19 tenant households by (a) the use of operating and transition reserves to the  
20 extent such funds exist and are available, and (b) the use of other subsidy  
21 sources available that would mitigate the rent increases.

22 (iii) If Rent increases on the ARPA-Assisted Units are necessary, after  
23 exhausting all transition reserve funds such increases shall only be  
24 permitted to the minimum extent required for financial feasibility, as  
25 reasonably determined by BORROWER and approved by COUNTY,  
26 which approval shall not, in any event, be increased to an amount in excess  
27 of 30 percent of 60 percent of AMI, adjusted by household size for the  
28

1 number of bedrooms. The COUNTY shall be notified at least eighteen (18)  
2 months in advance of any Rent increase on the ARPA-Assisted Units.

3 (iv) In order to enact an increase in the maximum household income and rents  
4 for an ARPA-Assisted Unit for the Project, the BORROWER must submit  
5 a written request to the COUNTY which shall outline a plan with an  
6 explanation of the fiscal necessity of adjusting the maximum household  
7 income and the rents charged for the ARPA-Assisted Units. The plan shall  
8 provide the following items along with any additional requirements from  
9 the COUNTY:

10 (v) An explanation of the efforts the Project Owner has made to secure other  
11 rental subsidies to sustain overall project operations;

12 (vi) An explanation of the fiscal necessity of adjusting the maximum household  
13 income and the rents charged for the ARPA-Assisted Units;

14 (vii) A process for increasing the Project rent for all affected units  
15 (ARPA-Assisted Units and non-restricted units) and make reasonable  
16 efforts to continue to market and rent Project units to members of the target  
17 population originally contemplated, as well as ensuring that any increases  
18 to the household income limit are applied, as much as possible, only to  
19 vacant units as they become available. This portion of the plan shall discuss  
20 changes in both maximum household incomes and rents and;

21 (viii) The plan for continuing, throughout the term of this Agreement, to  
22 apply for other subsidies that will allow a return of all project units to  
23 members of the target population and rents originally contemplated.

24 2) SENIOR PRIORITY. The Covenant, ARPA Loan Deed of Trust, and ARPA Loan  
25 Agreement shall be respectively in the first, second, and third priority lien position, in relation to  
26 themselves, each for the benefit of COUNTY. Final Lien priority orders shall be established upon  
27 determination of final construction financing between all lenders, provided, however, that  
28

1 COUNTY's affordability restrictions set forth in this Covenant are preserved for the Qualified  
2 Population for the Affordability Period.

3 3) COMPLIANCE WITH LAWS AND REGULATIONS. During the Term of this  
4 Covenant, OWNER, for itself and on behalf of its successors and assigns, shall adhere to and  
5 comply with all federal, state and local laws, regulations and ordinances., including, but not limited  
6 to the following:

7 a) The American Rescue Plan Act (Pub.L 117-2).

8 b) Other Federal requirements and nondiscrimination. As set forth in 24 CFR  
9 part 5, Subpart A, OWNER is required to include the following requirements: nondiscrimination  
10 and equal opportunity under Section 282 of the Act; disclosure; debarred, suspended, or ineligible  
11 contractors; and drug-free workplace.

12 c) Affirmative marketing and minority outreach program. OWNER must  
13 adopt affirmative marketing procedures and requirements. These must include:

14 (1) Methods for informing the public, owners, and potential tenants about  
15 Federal fair housing laws and the affirmative marketing policy (e.g., the use of the Equal Housing  
16 Opportunity logotype or slogan in press releases and solicitations for owners, and written  
17 communication to fair housing and other groups).

18 (2) Requirements and practices that OWNER must adhere to in order to  
19 carry out the affirmative marketing procedures and requirements (e.g., use of commercial media,  
20 use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display  
21 of fair housing poster).

22 (3) Procedures to be used by OWNER to inform and solicit applications  
23 from persons in the housing market area who are not likely to apply without special outreach (e.g.,  
24 use of community organizations, employment centers, fair housing groups, or housing counseling  
25 agencies).

26 (4) Records that will be kept describing actions taken by OWNER to  
27 affirmatively market units and records to assess the results of these actions.

28



1 (5) A description of how OWNER will annually assess the success of  
2 affirmative marketing actions and what corrective actions will be taken where affirmative  
3 marketing requirements are not met.

4 (6) OWNER must prescribe procedures to establish and oversee a minority  
5 outreach program to ensure the inclusion, to the maximum extent possible, of minorities and  
6 women, and entities owned by minorities and women, including, without limitation, real estate  
7 firms, construction firms, appraisal firms, management firms, financial institutions, investment  
8 banking firms, underwriters, accountants, and providers of legal services, in all contracts entered  
9 into by OWNER with such persons or entities, public and private, in order to facilitate the  
10 activities of COUNTY to provide affordable housing authorized under this Act or any other  
11 Federal housing law. Section 24 CFR 85.36(e) provided affirmative steps to assure that minority  
12 business enterprises and women business enterprises are used when possible in the procurement  
13 of property and services. The steps include:

14 (i) Placing qualified small and minority businesses and women's  
15 business enterprises on solicitation lists.

16 (ii) Assuring that small and minority businesses, and women's  
17 business enterprises are solicited whenever they are potential sources.

18 (iii) Dividing total requirements, when economically feasible, into  
19 smaller tasks or quantities to permit maximum participation by small and minority business, and  
20 women's business enterprises.

21 (iv) Establishing delivery schedules, where the requirement permits,  
22 which encourage participation by small and minority business, and women's business enterprises.

23 (v) Using the services and assistance of the Small Business  
24 Administration, and the Minority Business Development Agency of the Department of  
25 Commerce.

26 4) TENANT PROTECTIONS. OWNER shall provide protection to the tenants of the COUNTY  
27 ARPA-Assisted Units in accordance with the requirements described as follows:

28

1 i) Provide written lease agreement for not less than one year, unless by mutual agreement  
2 between the tenant and OWNER. COUNTY shall review the initial form of the lease  
3 agreement prior to OWNER executing any leases and, provided that OWNER uses the  
4 approved lease form, OWNER shall be permitted to enter into residential leases without  
5 COUNTY'S prior written consent.

6 ii) Prohibited Lease Terms. The rental agreement/lease may not contain any of the  
7 following provisions:

8 (1) Agreement to be sued. Agreement by the tenant to be sued, to admit guilt or to a  
9 judgment in favor of OWNER in a lawsuit brought in connection with the lease.

10 (2) Treatment of property. Agreements by tenant that OWNER may take, hold, or sell  
11 personal property of household members without notice to the tenant and a court  
12 decision on the rights of the parties. This prohibition, however, does not apply to  
13 an agreement by the tenant concerning disposition of personal property remaining  
14 in the housing unit after the tenant has moved out of the unit. OWNER may dispose  
15 of this personal property in accordance with State law.

16 (3) Excusing OWNER. from responsibility. Agreement by the tenant not to hold  
17 OWNER or OWNER's agents legally responsible for any action or failure to act,  
18 whether intentional or negligent.

19 (4) Waiver of notice. Agreement of the tenant that OWNER may institute a lawsuit  
20 without notice to the tenant.

21 (5) Waiver of legal proceeding. Agreement by the tenant that the OWNER may evict  
22 the tenant or household members without instituting a civil court proceeding in  
23 which the tenant has the opportunity to present a defense, or before a court decision  
24 on the rights of the parties.

25 (6) Waiver of a jury trial. Agreement by the tenant to waive any right to a trial by jury.  
26  
27  
28

1 (7) Waiver of right to appeal court decision. Agreement by the tenant to waive the  
2 tenant's right to appeal, or to otherwise challenge in court, a court decision in  
3 connection with the lease.

4 (8) Tenant chargeable with cost of legal actions regardless of outcome. Agreement by  
5 the tenant to pay attorneys' fees or other legal costs even if the tenant wins in a  
6 court proceeding by OWNER against the tenant. The tenant, however, may be  
7 obligated to pay costs if the tenant loses.

8 iii) Reserved.

9 iv) Violence Against Women Reauthorization Act of 2013. (Pub. L. 113-4, 127 Stat. 54)  
10 ("VAWA 2013"). VAWA 2013 reauthorizes and amends the Violence Against Women  
11 Act of 1994, as previously amended, (title IV, sec. 40001-40703 of Pub. L. 103-322,  
12 42 U.S.C. 13925 et seq.) VAWA 2013, among other things, bars eviction and  
13 termination due to a tenant's status as a victim of domestic violence, dating violence,  
14 or stalking, and requires landlords to maintain survivor-tenant confidentiality. VAWA  
15 2013 prohibits a tenant who is a survivor of domestic violence, dating violence, sexual  
16 assault, and stalking from being denied assistance, tenancy, or occupancy rights based  
17 solely on criminal activity related to an act of violence committed against them. It  
18 extends housing protections to survivors of sexual assault, and adds "intimate partner"  
19 to the list of eligible relationships in the domestic violence definition. Protections also  
20 now cover an "affiliated individual," which includes any lawful occupant living in the  
21 survivor's household, or related to the survivor by blood or marriage including the  
22 survivor's spouse, parent, brother, sister, child, or any person to whom the survivor  
23 stands in loco parentis. VAWA 2013 allows a lease bifurcation so a tenant or lawful  
24 occupant who engages in criminal activity directly relating to domestic violence, dating  
25 violence, sexual assault, or stalking against an affiliated individual or other individual,  
26 or others may be evicted or removed without evicting or removing or otherwise  
27 penalizing a victim who is a tenant or lawful occupant. If victim cannot establish  
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1 eligibility, OWNER must give a reasonable amount of time to find new housing or  
2 establish eligibility under another covered housing program. A Notice of Rights under  
3 VAWA 2013 for tenants must be provided at the time a person applies for housing,  
4 when a person is admitted as a tenant of a housing unit, and when a tenant is threatened  
5 with eviction or termination of housing benefits. Tenants must request an emergency  
6 transfer and reasonably believe that they are threatened with imminent harm from  
7 further violence if the tenant remains in the same unit. The provisions of VAWA 2013  
8 that are applicable to HUD programs are found in title VI of VAWA 2013, which is  
9 entitled "Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual  
10 Assault, and Stalking." Section 601 of VAWA 2013 amends subtitle N of VAWA (42  
11 U.S.C. 14043e et seq.) to add a new chapter entitled "Housing Rights."

12 5) MAINTENANCE OF THE IMPROVEMENTS. OWNER, on behalf of itself and  
13 its successors, assigns, and each successor in interest to the Property and Project or any part thereof  
14 hereby covenants to and shall protect, maintain, and preserve the Property in compliance with all  
15 applicable federal and state law and regulations and local ordinances. In addition, OWNER, its  
16 successors and assigns, shall maintain the improvements on the Property in the same aesthetic and  
17 sound condition (or better) as the condition of the Property at the time of the recordation of the  
18 Covenant Agreement for the Project, or at the time of completion of construction, as applicable,  
19 reasonable wear and tear excepted. This standard for the quality of maintenance of the Property  
20 shall be met whether or not a specific item of maintenance is listed below. However, representative  
21 items of maintenance shall include frequent and regular inspection for graffiti or damage or  
22 deterioration or failure, and immediate repainting or repair or replacement of all surfaces, fencing,  
23 walls, equipment, etc., as necessary; emptying of trash receptacles and removal of litter; sweeping  
24 of public sidewalks adjacent to the Property, on-site walks and paved areas and washing-down as  
25 necessary to maintain clean surfaces; maintenance of all landscaping in a healthy and attractive  
26 condition, including trimming, fertilizing and replacing vegetation as necessary; cleaning windows  
27 on a regular basis; painting the buildings on a regular program and prior to the deterioration of the  
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1 painted surfaces; conducting a roof inspection on a regular basis and maintaining the roof in a leak-  
2 free and weather-tight condition; maintaining security devices in good working order. In the event  
3 OWNER, its successors or assigns fails to maintain the Property in accordance with the standard  
4 for the quality of maintenance, the COUNTY or its designee shall have the right but not the  
5 obligation to enter the Property upon reasonable notice to OWNER, correct any violation, and hold  
6 OWNER, or such successors or assigns responsible for the cost thereof, and such cost, until paid,  
7 shall constitute a lien on the Property.

8         6)         NONDISCRIMINATION. OWNER shall not discriminate on the basis of race,  
9 gender, religion, national origin, ethnicity, sexual orientation, age or disability in the solicitation,  
10 selection, hiring or treatment of any contractors or consultants, to participate in  
11 subcontracting/subconsulting opportunities. OWNER understands and agrees that violation of this  
12 clause shall be considered a material breach of this Covenant and may result in termination,  
13 debarment or other sanctions. This language shall be incorporated into all contracts between  
14 OWNER and any contractor, consultant, subcontractor, subconsultants, vendors and suppliers.  
15 OWNER shall comply with the provisions of the California Fair Employment and Housing Act  
16 (Government Code Sections 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352), as  
17 amended, and all Administrative Rules and Regulations issued pursuant to said Acts and Orders  
18 with respect to its use of the Property.

19         7)         OWNER herein covenants by and for itself, its successors and assigns, and all  
20 persons claiming under or through them, that this Covenant is made and accepted upon and subject  
21 to the following conditions: There shall be no discrimination against or segregation of any person  
22 or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the  
23 Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and  
24 paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code,  
25 in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall  
26 the transferee itself or any person claiming under or through him or her, establish or permit any  
27 such practice or practices of discrimination or segregation with reference to the selection, location,  
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1 number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the Property.

2 8) OWNER, its successors and assigns, shall refrain from restricting the rental, sale,  
3 or lease of the Property or any portion thereof, on the basis of race, color, creed, religion, sex,  
4 sexual orientation, marital status, national origin, or ancestry of any person. Every deed, lease, and  
5 contract entered into with respect to the Property, or any portion thereof, after the date of this  
6 Agreement shall contain or be subject to substantially the following nondiscrimination or  
7 nonsegregation clauses:

8 a) In deeds: "The grantee herein covenants by and for himself or herself, his or her  
9 heirs, executors, administrators, and assigns, and all persons claiming under or through them, that  
10 there shall be no discrimination against or segregation of, any person or group of persons on  
11 account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as  
12 those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of  
13 subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease,  
14 sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall  
15 the grantee or any person claiming under or through him or her, establish or permit any practice or  
16 practices of discrimination or segregation with reference to the selection, location, number, use or  
17 occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed.  
18 The foregoing covenants shall run with the land."

19 b) In leases: "The lessee herein covenants by and for himself or herself, his or her  
20 heirs, executors, administrators, and assigns, and all persons claiming under or through him or her,  
21 and this lease is made and accepted upon and subject to the following conditions: That there shall  
22 be no discrimination against or segregation of any person or group of persons, on account of any  
23 basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are  
24 defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of  
25 Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing,  
26 transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee  
27 himself or herself, or any person claiming under or through him or her, establish or permit any  
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1 such practice or practices of discrimination or segregation with reference to the selection, location,  
2 number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises  
3 herein leased.”

4 c) In contracts: “There shall be no discrimination against or segregation of any  
5 person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955  
6 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m)  
7 and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government  
8 Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor  
9 shall the transferee itself or any person claiming under or through him or her, establish or permit  
10 any such practice or practices of discrimination or segregation with reference to the selection,  
11 location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the  
12 land.”

13 In addition to the obligations and duties of OWNER set forth herein, OWNER shall,  
14 upon notice from COUNTY, promptly pay to COUNTY all fees and costs, including  
15 administrative and attorneys’ fees, incurred by COUNTY in connection with responding to or  
16 defending any discrimination claim brought by any third party and/or local, state or federal  
17 government entity, arising out of or in connection with the Agreement or this Covenant.

18 9) INSURANCE. Without limiting or diminishing OWNER’s obligation to indemnify  
19 or hold COUNTY harmless, OWNER shall procure and maintain or cause to be maintained, at its  
20 sole cost and expense, the following insurance coverage’s during the term of this Covenant.

21 a) Worker’s Compensation Insurance. If OWNER has employees as defined  
22 by the State of California, OWNER shall maintain statutory Workers' Compensation Insurance  
23 (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers’  
24 Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per  
25 person per accident. The policy shall be endorsed to waive subrogation in favor of the County of  
26 Riverside

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

10 c) Vehicle Liability Insurance. If vehicles or mobile equipment are used in the  
11 performance of the obligations under this Covenant, then OWNER shall maintain liability  
12 insurance for all owned, non-owned or hired vehicles so used in an amount not less than  
13 \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate  
14 limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence  
15 limit. Policy shall name the County of Riverside, its Agencies, Districts, Special Districts, and  
16 Departments, their respective directors, officers, Board of Supervisors, employees, elected or  
17 appointed officials, agents or representatives as Additional Insured or provide similar evidence of  
18 coverage approved by County's Risk Manager ("Risk Manager").

19 d) General Insurance Provisions – All Lines.

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

25 (2) OWNER's insurance carrier(s) must declare its insurance self-insured  
26 retentions. If such self-insured retentions exceed \$500,000 per occurrence such retentions shall  
27 have the prior written consent of Risk Manager. Upon notification of self-insured retention  
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1 unacceptable to COUNTY, and at the election of Risk Manager, OWNER's carriers shall either:  
2 (a) reduce or eliminate such self-insured retention, or (b) procure a bond which guarantees payment  
3 of losses and related investigations, claims administration, and defense costs and expenses.

4 (3) OWNER shall cause OWNER's insurance carrier(s) to furnish the  
5 County of Riverside with copies of the Certificate(s) of Insurance and Endorsements effecting  
6 coverage as required herein, and 2) if requested to do so orally or in writing by Risk Manager,  
7 provide copies of policies including all Endorsements and all attachments thereto, showing such  
8 insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall  
9 contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given  
10 to the County of Riverside prior to any material modification, cancellation, expiration or reduction  
11 in coverage of such insurance. OWNER shall not commence or continue construction of the  
12 Project until COUNTY has been furnished Certificate(s) of Insurance and copies of endorsements  
13 and if requested, copies of policies of insurance including all endorsements and any and all other  
14 attachments as required herein. An individual authorized by the insurance carrier to do so, on its  
15 behalf, shall sign the original endorsements for each policy and the Certificate of Insurance.

16 (4) It is understood and agreed to by the parties hereto that OWNER's  
17 insurance shall be construed as primary insurance, and COUNTY's insurance and/or deductibles  
18 and/or self-insured retention's or self-insured programs shall not be construed as contributory.

19 (5) If, during the term of this Covenant or any extension thereof, there is a  
20 material change in the scope of services or there is a material change in the equipment to be used  
21 in the performance of the scope of work which will add additional exposures (such as the use of  
22 aircraft, watercraft, cranes, etc.), then COUNTY reserves the right to adjust the types of insurance  
23 required under this Covenant and the monetary limits of liability for the insurance coverage's  
24 currently required herein, if, in Risk Manager's reasonable judgment, the amount or type of  
25 insurance carried by OWNER has become inadequate.

26 (6) OWNER shall pass down the insurance obligations contained herein to  
27 all tiers of subcontractors.

1 (7) OWNER agrees to notify COUNTY in writing of any claim by a third  
2 party or any incident or event that may give rise to a claim arising from the performance of the  
3 Agreement.

4 10) HOLD HARMLESS/INDEMNIFICATION. OWNER shall indemnify and hold  
5 harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their  
6 respective directors, officers, Board of Supervisors, Board of Commissioners, elected and  
7 appointed officials, employees, agents and representatives (individually and collectively  
8 hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any  
9 services of OWNER, its officers, employees, subcontractors, agents or representatives arising out  
10 of or in any way relating to this Agreement, including but not limited to property damage, bodily  
11 injury, or death or any other element of any kind or nature whatsoever arising from the  
12 performance of OWNER, its officers, employees, subcontractors, agents or representatives  
13 Indemnitors from this Agreement. OWNER shall defend, at its sole expense, all costs and fees  
14 including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards,  
15 the Indemnitees in any claim or action based upon such alleged acts or omissions. With respect to  
16 any action or claim subject to indemnification herein by OWNER shall, at their sole cost, have the  
17 right to use counsel of their own choice and shall have the right to adjust, settle, or compromise  
18 any such action or claim without the prior consent of COUNTY; provided, however, that any such  
19 adjustment, settlement or compromise in no manner whatsoever limits or circumscribes OWNER's  
20 indemnification to Indemnitees as set forth herein. OWNER's obligation hereunder shall be  
21 satisfied when OWNER has provided to COUNTY the appropriate form of dismissal relieving  
22 COUNTY from any liability for the action or claim involved. The specified insurance limits  
23 required in this Agreement shall in no way limit or circumscribe OWNER's obligations to  
24 indemnify and hold harmless the Indemnitees herein from third party claims. In the event there is  
25 conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted  
26 to comply with Civil Code 2782. Such interpretation shall not relieve OWNER from indemnifying  
27 the Indemnitees to the fullest extent allowed by law. The indemnification set forth in this paragraph  
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1 14 shall survive the expiration and earlier termination of this Covenant.

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

6 COUNTY

7 Director HWS  
8 County of Riverside  
9 3403 10<sup>th</sup> Street, Suite 300  
Riverside, CA 92501

BORROWER

Attn.: Reid Bradshaw  
PD Millennium Partners LP  
Palm Communities  
100 Pacifica, Suite 203  
Irvine, CA 92618

10 12) REMEDIES. COUNTY shall have the right, in the event of any breach of any such  
11 agreement or covenant, to exercise all available rights and remedies, and to maintain any actions  
12 at law or suit in equity or other proper proceedings to enforce the curing of such breach of  
13 agreement or covenant.

14 13) TERM. The non-discrimination covenants, conditions and restrictions contained in  
15 Section 6 of this Covenant shall remain in effect in perpetuity. Every other covenant, condition  
16 and restriction contained in this Covenant shall continue in full force and effect for the Term, as  
17 defined in **Section 1** of this Covenant.

18 14) NOTICE AND OPPORTUNITY TO CURE. Prior to exercising any remedies  
19 hereunder, the COUNTY shall give OWNER notice of such default pursuant to **Section 11** above.  
20 Any monetary default shall be cured within ten (10) days of delivery of written notice. Except as  
21 otherwise set forth herein, if a non-monetary default is reasonably capable of being cured within  
22 thirty (30) days of delivery of such notice of default, OWNER shall have such period to effect a  
23 cure prior to exercise of remedies by COUNTY. If the non-monetary default is such that it is not  
24 reasonably capable of being cured within thirty (30) days of delivery of such notice of default, and  
25 OWNER (a) initiates corrective action within said period, and (b) diligently, continually, and in  
26 good faith works to effect a cure as soon as possible, then OWNER shall have such additional time  
27 as is reasonably necessary to cure the default prior to exercise of any remedies by the COUNTY;  
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1 but in no event no later than ninety (90) days from delivery of such notice of default, subject to  
2 force majeure (including government restrictions, pandemics, and acts of God). COUNTY, upon  
3 providing OWNER with any notice of default under this Covenant, shall, within a reasonable time,  
4 provide a copy of such default notice to a Permitted Lender(as hereinafter defined) who has given  
5 written notice to COUNTY of its interest in the Property and Project. From and after such notice  
6 has been delivered to a Permitted Lender and OWNER's limited partner(s) , such Permitted Lender  
7 and limited partner(s) shall have the same period for remedying the default complained of as the  
8 cure period provided to OWNER pursuant to this **Section 14**. COUNTY shall accept performance  
9 by a Permitted Lender or OWNER's limited partner(s) as if the same had been done by OWNER.

10 15) If a violation of any of the covenants or provisions of this Covenant remains  
11 uncured after the respective time period set forth above in **Section 14**, COUNTY and its successors  
12 and assigns, without regard to whether COUNTY or its successors and assigns is an owner of any  
13 land or interest therein to which these covenants relate, may institute and prosecute any  
14 proceedings at law or in equity to abate, prevent or enjoin any such violation or attempted violation  
15 or to compel specific performance by OWNER of its obligations hereunder. No delay in enforcing  
16 the provisions hereof as to any breach or violation shall impair, damage or waive the right of any  
17 party entitled to enforce the provisions hereof or to obtain relief against or recover for the  
18 continuation or repetition of such breach or violations or any similar breach or violation hereof at  
19 any later time.

20 16) Intentionally omitted.

21 17) SALE, ASSIGNMENT OR TRANSFER OF THE PROJECT OR PROPERTY.

22 OWNER hereby covenants and agrees not to sell, transfer, assign or otherwise dispose of the  
23 Project, the Property or any portion thereof, without obtaining the prior written consent of  
24 COUNTY, which consent may be withheld or granted in its reasonable discretion. Any sale,  
25 assignment, or transfer of the Project or Property, shall be memorialized an assignment and  
26 assumption agreement the form and substance of which have been first approved in writing by the  
27 COUNTY. Such assignment and assumption agreement shall, among other things, provide that the  
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1 transferee has assumed in writing and in full, that the transfer of the Project complies with ARPA  
2 Rules and qualifies as an ARPA-Eligible Activity, and is reasonably capable of performing and  
3 complying with OWNER's duties and obligations under the ARPA Loan Agreement and this  
4 Covenant, provided, however OWNER shall not be released of all obligations under the ARPA  
5 Loan Agreement and this Covenant unless agreed to in a writing signed by COUNTY.  
6 Notwithstanding anything to the contrary contained herein, upon written notice to COUNTY,  
7 OWNER may (i) lease for occupancy of all or any of the ARPA Assisted Units in accordance with  
8 this Agreement; (ii) grant easements or permits to facilitate the development of the Property in  
9 accordance with this Agreement; (iii) transfer the OWNER'S limited partnership interest; (iv)  
10 remove and replace the OWNER'S general partner(s) for cause in accordance with OWNER'S  
11 amended and restated agreement of limited partnership; and (v) make transfers pursuant to that  
12 certain Purchase Option and Right of First Refusal Agreement (collectively a "Permitted  
13 Transfer"). All Permitted Transfers shall be subject to reasonable review of documentation by the  
14 COUNTY provided, however, that the affordability restrictions contained herein shall be preserved  
15 and remain a lien on the Property. The parties hereto acknowledge that "Affiliate" for purposes  
16 of this section means, as to any Person (as defined below), any general partnership, limited  
17 partnership, corporation, joint venture, trust, business trust, cooperative, association, limited  
18 liability company or individual (collectively, a "Person") that (A) directly or indirectly controls or  
19 is controlled by (such as any partnership or limited liability company in which the Person, directly  
20 or indirectly, serves as a general partner or managing member, respectively) or is under common  
21 control with the specified Person; (B) is an officer or director of, commissioner of, partner in,  
22 member of or trustee of, or serves in a similar capacity with respect to, the specified Person or of  
23 which the Specified Person is an officer, director, member, partner or trustee, or with respect to  
24 which the specified Person serves in a similar capacity; or (C) is the beneficial owner, directly or  
25 indirectly, of 10% or more of any class of equity securities of the specified Person or of which the  
26 specified Person is directly or indirectly the owner of 10% or more of any class of equity securities.  
27 The term "control" (including the term "controlled by" and "under common control with") means  
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1 the possession, direct or indirect, of the power to direct or cause the direction of the management  
2 and policies of a Person, whether through the ownership of voting securities, by contract or  
3 otherwise.

4 18) AMENDMENTS OR MODIFICATIONS. This Covenant may be changed or  
5 modified only by a written amendment signed by authorized representatives of both parties.

6 19) GOVERNING LAW; VENUE; SEVERABILITY. This Covenant shall be  
7 governed by the laws of the State of California. Any legal action related to the performance or  
8 interpretation of this Covenant shall be filed only in the Superior Court of the State of California  
9 located in Riverside, California, and the parties waive any provision of law providing for a change  
10 of venue to another location. In the event any provision in this Covenant is held by a court of  
11 competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will  
12 nevertheless continue in full force without being impaired or invalidated in any way.

13 20) BINDING EFFECT. The rights and obligations of this Covenant shall bind and  
14 inure to the benefit of the respective heirs, successors and assigns of the parties.

15 21) PERMITTED MORTGAGES. No violation or breach of the covenants, conditions,  
16 restrictions, provisions or limitations contained in this Covenant shall defeat or render invalid or  
17 in any way impair the lien or charge of any deed of trust or mortgage permitted by the ARPA Loan  
18 Agreement or the lien or charge of a deed of trust made by OWNER for the benefit of any lender  
19 first approved in writing by the COUNTY (each, a "Permitted Lender") and nothing herein or in  
20 the ARPA Loan Agreement shall prohibit or otherwise limit the exercise of a Permitted Lender's  
21 rights and remedies thereunder, including a foreclosure or deed-in-lieu of foreclosure and  
22 subsequent transfer thereafter.

23 22) SEVERABILITY. In any event that any provision, whether constituting a separate  
24 paragraph or whether contained in a paragraph with other provisions, is hereafter determined to be  
25 void and unenforceable, it shall be deemed separated and deleted from the agreement and the  
26 remaining provisions of this Agreement shall remain in full force and effect.

1           23)    PROJECT MONITORING AND EVALUATION.

2           a)    Tenant Checklist. OWNER shall submit a Tenant Checklist Form to  
3 COUNTY, as shown in Exhibit F of the Loan Agreement, which form may be revised by  
4 COUNTY, summarizing the racial/ethnic composition, number and percentage of very low-  
5 income households who are tenants of the ARPA-Assisted Units. The Tenant Checklist Form  
6 shall be submitted upon completion of the construction and thereafter, on a semi-annual basis on  
7 or before March 31 and September 30. OWNER shall maintain financial, programmatic,  
8 statistical and other supporting records of its operations and financial activities in accordance with  
9 the requirements of the ARPA, including the submission of Tenant Checklist Form. Except as  
10 otherwise provided for in this Covenant and in the Loan Agreement, OWNER shall maintain and  
11 submit records to COUNTY within ten (10) business days of COUNTY'S request which clearly  
12 documents OWNER's performance under each requirement of ARPA.

13           b)    Inspections. During the Affordability Period, COUNTY must perform on-  
14 site inspections of ARPA-Assisted Units to determine compliance with the property standards.  
15 The on-site inspections shall occur within 12 months after the completion of construction of the  
16 Project and at least once every 3 years thereafter during the Affordability Period. If there are  
17 observed deficiencies for any of the inspectable items in the property standards established by  
18 COUNTY, a follow-up on-site inspection to verify that deficiencies are corrected must occur  
19 within 12 months. COUNTY may establish a list of non-hazardous deficiencies for which  
20 correction can be verified by third party documentation (e.g., paid invoice for work order) rather  
21 than re-inspection. Health and safety deficiencies must be corrected immediately. COUNTY must  
22 adopt a more frequent inspection schedule for properties that have been found to have health and  
23 safety deficiencies. The property owner must annually certify to the COUNTY that each building  
24 and all ARPA Assisted-Units in the Project are suitable for occupancy, taking into account State  
25 and local health, safety, and other applicable codes, ordinances, and requirements, and the  
26 ongoing property standards established by the participating jurisdiction.

27           24)    ACCESS TO PROJECT SITE. Representatives of the COUNTY shall have the  
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1 right of access to the Property, upon 24 hours' written notice to OWNER (except in the case of an  
2 emergency, in which case COUNTY shall provide such notice as may be practical under the  
3 circumstances), without charges or fees, during normal business hours to review the operation of  
4 the Project in accordance with this Covenant and the Agreement.

5 25) COUNTERPARTS. This Covenant may be signed by the different parties hereto in  
6 counterparts, each of which shall be an original, but all of which together shall constitute one and  
7 the same agreement.

8 26) RECITALS. The Recitals set forth above are true and correct and incorporated  
9 herein by this reference.

10 27) This Covenant and the Agreement set forth and contain the entire understanding  
11 and agreement of the parties hereto. There are no oral or written representations, understandings,  
12 or ancillary covenants, undertakings or agreements, which are not contained or expressly referred  
13 to within this Covenant, and the Agreement, including all amendments and modifications to the  
14 Agreement.

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17 [Remainder of Page Intentionally Blank]

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[SIGNATURES ON THE NEXT PAGE]

IN WITNESS WHEREOF, COUNTY and OWNER have executed this Covenant as of the dates written below.

COUNTY:

COUNTY OF RIVERSIDE, a political subdivision of the State of California

By: \_\_\_\_\_  
Chuck Washington, Chair  
Board of Supervisors

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

BORROWER:

PD MILLENNIUM PARTNERS LP, a California limited partnership

By: PC Gerald Ford Developers LLC, a California limited liability company,  
Its administrative general partner

By: Palm Companies LLC, a California limited liability company,  
Its managing member

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

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

**(Above signatures need to be notarized)**

APPROVED AS TO FORM:  
MINH C. TRAN, County Counsel

By: \_\_\_\_\_  
Amrit P. Dhillon  
Deputy County Counsel

**(COUNTY and OWNER signatures need to be notarized)**

**ALL-PURPOSE ACKNOWLEDGMENT NOTARY FOR CALIFORNIA**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, 2024, before me, \_\_\_\_\_,  
personally appeared \_\_\_\_\_,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

**ALL-PURPOSE ACKNOWLEDGMENT NOTARY FOR CALIFORNIA**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, 2024, before me, \_\_\_\_\_,  
personally appeared \_\_\_\_\_,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

## EXHIBIT "A"

### LEGAL DESCRIPTION OF PROPERTY

The land referred to is situated in the City of Palm Desert, State of California, and is described as follows:

THOSE PORTIONS OF PARCEL 8 AND PARCEL 9 OF PARCEL MAP NO. 36792, IN THE CITY OF PALM DESERT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 239 OF PARCEL MAPS, PAGES 9 THROUGH 15, INCLUSIVE, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 8; THENCE ALONG THE SOUTH LINE OF SAID PARCEL 9, SOUTH 89°56'08" WEST 72.55 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT EASTERLY 138.45 FEET, MEASURED AT RIGHT ANGLES, FROM THE EAST RIGHT OF WAY LINE OF DINAH SHORE DRIVE, AS SHOWN ON SAID PARCEL MAP NO. 36792; THENCE LEAVING SAID SOUTH LINE AND ALONG SAID PARALLEL LINE, NORTH 0°00'00" EAST 317.11 FEET; THENCE NORTH 90°00'00" EAST 65.55 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT WESTERLY 7.00 FEET, MEASURED AT RIGHT ANGLES FROM THE WEST LINE OF SAID PARCEL 8; THENCE NORTH 0°00'00" EAST 102.00 FEET ALONG LAST SAID PARALLEL LINE TO A LINE THAT IS PARALLEL WITH AND DISTANT NORTHERLY 1.00 FEET; MEASURED AT RIGHT ANGLES, FROM THE NORTH LINE OF SAID PARCEL 8; THENCE NORTH 90°00'00" EAST 275.69 FEET ALONG LAST SAID PARALLEL LINE TO AN INTERSECTION WITH THE NORTHWESTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID PARCEL 8; THENCE SOUTH 68°15'29" EAST 409.78 FEET ALONG SAID NORTHWESTERLY PROLONGATION AND SAID NORTHEASTERLY LINE OF PARCEL 8 TO A TANGENT CURVE, CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 1445.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE AND SAID NORTHEASTERLY LINE OF PARCEL 8 AN ARC LENGTH OF 535.73 FEET, THROUGH A CENTRAL ANGLE OF 21°14'32" TO A NON-TANGENT LINE, SAID NON-TANGENT LINE BEING PARALLEL WITH AND DISTANT WESTERLY 36.00 FEET, MEASURED AT RIGHT ANGLES, FROM THE MOST EASTERLY LINE OF SAID PARCEL 8; THENCE LEAVING SAID NORTHEASTERLY LINE OF PARCEL 8, ALONG LAST SAID PARALLEL LINE, SOUTH 07°03'09" EAST 105.97 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID PARCEL 8, BEING A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 73.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 36°36'07" WEST; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL 8 THE FOLLOWING FIVE (5) COURSES, SOUTHERLY ALONG SAID NON-TANGENT CURVE AN ARC LENGTH OF 28.61 FEET, THROUGH A CENTRAL ANGLE OF 22°27'11" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY HAVING A RADIUS OF 60.00 FEET; A LINE RADIAL TO SAID BEGINNING OF CURVE BEARS SOUTH 59°03'18" EAST; THENCE SOUTHWESTERLY LONG LAST SAID CURVE AN ARC LENGTH OF 38.39 FEET THROUGH A CENTRAL ANGLE OF 36°39'18" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 336.00 FEET; A LINE RADIAL TO LAST SAID BEGINNING OF CURVE BEARS NORTH 22°24'00" WEST, THENCE SOUTHEASTERLY ALONG LAST SAID CURVE AN ARC LENGTH OF 120.80 FEET; THROUGH A CENTRAL ANGLE OF 20°36'00"; THENCE SOUTH 47°00'00" WEST 102.69 FEET; THENCE NORTH 89°13'34" WEST 25.84 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1075.00 FEET, A LINE RADIAL TO SAID BEGINNING OF CURVE BEARS NORTH 44°07'38" EAST; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 8 THE FOLLOWING TWO (2) COURSES NORTHWESTERLY ALONG LAST SAID CURVE AN ARC LENGTH OF 829.14 FEET; THROUGH A CENTRAL ANGLE OF 44°11'30"; THENCE SOUTH 89°56'08" WEST 112.85 FEET TO SAID SOUTHWEST CORNER OF PARCEL 8 AND THE POINT OF BEGINNING.

# **EXHIBIT “F”**

Request for Notices

NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE SECTION 6103

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

County of Riverside  
Housing and Workforce Solutions  
3403 10th Street, Suite 300  
Riverside, CA 92501  
Attn: Juan Garcia

SPACE ABOVE THIS LINE FOR RECORDERS USE

### REQUEST for NOTICE UNDER SECTION 2924b CIVIL CODE

In accordance with Civil Code Section 2924b, request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale under the Deed of Trust dated \_\_\_\_\_, 2024 and recorded and recorded concurrently herewith in the Official Records of the County of Riverside, California, executed by PD MILLENNIUM PARTNERS LP, a California limited partnership, as Trustor, in which County of Riverside, a political subdivision of the State of California is named as Beneficiary, and Housing and Workforce Solutions as Trustee, and describing land referred to in this Report is situated in the County of Riverside, State of California, and is described as follows:

Real property in the County of Riverside, State of California, described as follows:

**The land referred to is situated in the City of Palm Desert, State of California, and is described as follows:**

**THOSE PORTIONS OF PARCEL 8 AND PARCEL 9 OF PARCEL MAP NO. 36792, IN THE CITY OF PALM DESERT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 239 OF PARCEL MAPS, PAGES 9 THROUGH 15, INCLUSIVE, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:**

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 8; THENCE ALONG THE SOUTH LINE OF SAID PARCEL 9, SOUTH 89°56'08" WEST 72.55 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT EASTERLY 138.45 FEET, MEASURED AT RIGHT ANGLES, FROM THE EAST RIGHT OF WAY LINE OF DINAH SHORE DRIVE, AS SHOWN ON SAID PARCEL MAP NO. 36792; THENCE LEAVING SAID SOUTH LINE AND ALONG SAID PARALLEL LINE, NORTH 0°00'00" EAST 31711 FEET; THENCE NORTH 90°00'00" EAST 65.55 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT WESTERLY 7.00 FEET, MEASURED AT RIGHT ANGLES FROM THE WEST LINE OF SAID PARCEL 8; THENCE NORTH 0°00'00" EAST 102.00 FEET ALONG LAST SAID PARALLEL LINE TO A LINE THAT IS PARALLEL WITH AND DISTANT NORTHERLY 1.00 FEET; MEASURED AT RIGHT ANGLES, FROM THE NORTH LINE OF SAID PARCEL 8; THENCE NORTH 90°00'00" EAST 275.69 FEET ALONG LAST SAID PARALLEL LINE TO AN INTERSECTION WITH THE NORTHWESTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID PARCEL 8; THENCE SOUTH 68°15'29" EAST 409.78 FEET ALONG SAID NORTHWESTERLY PROLONGATION AND SAID NORTHEASTERLY LINE OF PARCEL 8 TO A TANGENT CURVE, CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 1445.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE AND SAID NORTHEASTERLY LINE OF PARCEL 8 AN ARC LENGTH OF 535.73 FEET, THROUGH A CENTRAL ANGLE OF 21°14'32" TO A NON-TANGENT LINE, SAID NON-TANGENT LINE BEING PARALLEL WITH AND DISTANT WESTERLY 36.00 FEET, MEASURED AT RIGHT ANGLES, FROM THE MOST EASTERLY LINE OF SAID PARCEL 8; THENCE LEAVING SAID NORTHEASTERLY LINE OF PARCEL 8, ALONG LAST SAID PARALLEL LINE, SOUTH 07°03'09" EAST 105.97 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID PARCEL 8, BEING A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 73.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 36°36'07" WEST; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL 8 THE FOLLOWING FIVE (5) COURSES, SOUTHERLY ALONG SAID NON-TANGENT CURVE AN ARC LENGTH OF 28.61 FEET, THROUGH A CENTRAL ANGLE OF 22°27'11" TO

THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY HAVING A RADIUS OF 60.00 FEET; A LINE RADIAL TO SAID BEGINNING OF CURVE BEARS SOUTH 59°03'18" EAST; THENCE SOUTHWESTERLY LONG LAST SAID CURVE AN ARC LENGTH OF 38.39 FEET THROUGH A CENTRAL ANGLE OF 36°39'18" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 336.00 FEET; A LINE RADIAL TO LAST SAID BEGINNING OF CURVE BEARS NORTH 22°24'00" WEST, THENCE SOUTHEASTERLY ALONG LAST SAID CURVE AN ARC LENGTH OF 120.80 FEET; THROUGH A CENTRAL ANGLE OF 20°36'00"; THENCE SOUTH 47°00'00" WEST 102.69 FEET; THENCE NORTH 89°13'34" WEST 25.84 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1075.00 FEET, A LINE RADIAL TO SAID BE-GINNING OF CURVE BEARS NORTH 44°07'38" EAST; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 8 THE FOLLOWING TWO (2) COURSES NORTHWESTERLY ALONG LAST SAID CURVE AN ARC LENGTH OF 829.14 FEET; THROUGH A CENTRAL ANGLE OF 44°11'30"; THENCE SOUTH 89°56'08" WEST 112.85 FEET TO SAID SOUTHWEST CORNER OF PARCEL 8 AND THE POINT OF BEGINNING.

All notices to be mailed to:

Attn: Director HWS  
County of Riverside  
Housing Division  
3403 10<sup>th</sup> Street, Suite 300  
Riverside, California 92501

Request is hereby made that a copy of any notice of default and a copy of any notice of sale under the Deed of Trust.

**NOTICE: A copy of any notice of default and of any notice of sale will be sent only to the address contained in this recorded request. If your address changes, a new request must be recorded.**

COUNTY OF RIVERSIDE DEPARTMENT OF HOUSING  
AND WORKFORCE SOLUTIONS

\_\_\_\_\_  
Heidi Marshall, Director HWS



# Exhibit F

## Sample

### Contractor Debarment Certification Form

#### Excluded Parties Lists System (EPLS)

The purpose of EPLS is to provide a single comprehensive list of individuals and firms excluded by Federal government agencies from receiving federal contracts or federally approved subcontracts and from certain types of federal financial and nonfinancial assistance and benefits.

The EPLS was established to ensure that agencies solicit offers from, award contracts, grants, or financial or non-financial assistance and benefits to, and consent to subcontracts with responsible contractors/vendors only and not allow a party to participate in any affected program if any Executive department or agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion action) that party from participation in an affected program.

In July 2012, all records from CCR/FedReg, ORCA, and EPLS, active or expired, were moved to the System for Award Management (SAM). SAM is a Federal Government owned and operated free web site that consolidates the capabilities in CCR/FedReg, ORCA, and EPLS.

The County of Riverside requires that each contractor/vendor hold the required federal/state/local license for the service provided.

Please complete the following verification process for each contractor/vendor:

- STEP 1: Visit <https://sam.gov/search>
- STEP 2: Under "Search Records", enter the company name and press enter.
- STEP 3: Click "Print" on the Search Results page.
- STEP 4: Repeat steps 2 & 3 for variations of the name of contractor/vendor (individual last name or firm).
- STEP 5: Attach print out of search results to this certification as supporting documentation.
- STEP 6: Attach to this certification as supporting documentation a copy of contractor/vendor license for the service provided.

By signing below ARPA Recipient, developer name, has verified the contractor/vendor known as, name of contractor/vendor, was not listed in the Excluded Parties Lists System and has the required contractor/vendor license as of date of verification.

---

DEVELOPER SIGNATURE

# Exhibit G

Should funding be allocated through American Rescue Plan Act (ARPA; (Title VI of the Social Security Act Section 602 et seq.), the COUNTY will administer and distribute those funds in accordance with ARPA. ARPA requires that payments from the Coronavirus Fiscal Recovery Fund be used to respond to the public health emergency or its negative economic impacts, to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay, provide government services to the extent the reduction of revenue due to COVID-19 public health emergency, and to make necessary investments in water, sewer or broadband infrastructure. It is effective beginning May 17, 2021 and ends on December 31, 2026.

Borrower acknowledges and agrees that this Agreement is subject to federal requirements, as applicable, including but not limited to the federal provisions provided below, to the extent such requirements are applicable to a borrower of federal grant funds:

1. **NON-DISCRIMINATION.** Borrower shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

2. **EQUAL EMPLOYMENT OPPORTUNITY/ FAIR EMPLOYMENT PRACTICES/ FEDERAL PROVISIONS.** During the performance of this Agreement, the Borrower shall not deny benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age, or sex. Borrowershall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

A. Borrower shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11000 et seq.), the provisions of Executive Order 11246 of Sept. 23, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor, the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code, Sections 11135-11139.8), and of the rules, regulations or standards adopted by the County to implement such article.

B. The Borrower shall comply with the provisions of the Copeland "Anti-Kickback" Act, 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this Agreement.

3. **CLEAN AIR ACT.** The Borrower agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 etseq. The Borrower agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the California Governor's Office of Emergency Services, American Rescue Plan Act (ARPA),

and the appropriate Environmental Protection Agency Regional Office. The Borrower agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by ARPA.

#### 4. FEDERAL WATER POLLUTION CONTROL ACT

The Borrower agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Sections 1251 et seq. The Borrower agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the American Rescue Plan Act (ARPA), and the appropriate Environmental Protection Agency Regional Office.

The Borrower agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by ARPA.

#### 5. DEBARMENT AND SUSPENSION CLAUSE

This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Borrower is required to verify that none of the Borrower, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The Borrower must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by the County. If it is later determined that the Borrower did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### 6. BYRD ANTI- LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED)

Borrowers who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the County.

#### APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING

The undersigned Borrower certifies, to the best of his or her knowledge, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan,

or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Borrower certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Borrower understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

BORROWER

By \_\_\_\_\_

Date \_\_\_\_\_

7. PROCUREMENT OF RECOVERED MATERIALS

In the performance of this Agreement, the Borrower shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired

- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
- ii. Meeting contract performance requirements; or
- iii. At a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>

The Borrower also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

8. ACCESS TO RECORDS

The following access to records requirements applies to this Agreement:

- A. The Borrower agrees to provide the County, the ARPA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Borrower which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- B. The Borrower agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

- C. The Borrower agrees to provide the ARPA Administrator or his or her authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- D. In compliance with the Disaster Recovery Act of 2018, the County and the Borrower acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the ARPA Administrator or the Comptroller General of the United States.

9. DEPARTMENT OF HOMELAND SECURITY SEAL, LOGO, FLAGS

The Borrower shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific ARPA pre-approval.

10. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that ARPA financial assistance will be used to fund all or a portion of the contract. The Borrower will comply with all applicable Federal law, regulations, executive orders, ARPA policies, procedures, and directives.

11. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

12. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The Borrower acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Borrower's actions pertaining to this Agreement.

13. FEDERAL PREVAILING WAGE

DAVIS-BACON ACT COMPLIANCE (applicable to construction contracts in excess of \$2,000 awarded by grantees and subgrantees when required by Federal grant program legislation)

To the extent required by any Federal grant programs applicable to expected funding or reimbursement expenses incurred in connection with the services provided under this Agreement, Borrower agrees to comply with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5) as set forth below.

A. The Borrower shall be bound to the provisions of the Davis-Bacon Act and agrees to be bound by all the provisions of Labor Code section 1771 regarding prevailing wages. All labor on this project shall be paid neither less than the greater of the minimum wage rates established by the U.S. Secretary of Labor (Federal Wage Rates), or by the State of California Director of Department of Industrial Relations (State Wage Rates). Current DIR requirements may be found at <http://www.dir.ca.gov/lcp.asp>. Additionally, wages are required to be paid not less than once a week.

B. The general prevailing wage rates may be accessed at the Department of Labor Home Page at [www.wdol.gov](http://www.wdol.gov). Under the Davis Bacon heading, click on "Selecting DBA WDs." In the drop down

menu for State, select, "California." In the drop down menu for County, select "Riverside." In the drop down menu for Construction Type, make the appropriate selection. Then, click Search.

The Federal minimum wage rates for this project are predetermined by the United States Secretary of Labor. If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the general prevailing wage rates determined by the Director of the California DIR for similar classifications of labor, the Borrower and subcontractors shall pay not less than the higher wage rate. The County will not accept lower State wage rates not specifically included in the Federal minimum wage determinations. This includes "helper" (or other classifications based on hours of experience) or any other classification not appearing in the Federal wage determinations. Where Federal wage determinations do not contain the State wage rate determination otherwise available for use by the Borrower and subcontractors, the Borrower and subcontractors shall pay not less than the Federal minimum wage rate which most closely approximates the duties of the employees in question.

14. CONTRACT WORK HOURS AND SAFETY STANDARDS (applicable to all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, but not to purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence)

A. Compliance: Borrower agrees that it shall comply with Sections 3702 and 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701–3708) as supplemented by Department of Labor regulations (29 CFR Part 5), which are incorporated herein.

B. Overtime: No contractor or subcontractor contracting for any part of the work under this Agreement which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

C. Violation; liability for unpaid wages; liquidated damages: In the event of any violation of the provisions of paragraph B of this section, the Borrower and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Borrower and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph B, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by paragraph B.

D. Withholding for unpaid wages and liquidated damages: Borrower shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set for in paragraph C of this section.

E. Subcontracts: The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs A through D of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs A through D of this section.

15. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT— Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by HUD.

16. RIGHTS TO DATA AND COPYRIGHTS – Borrowers and consultants agree to comply with all applicable provisions pertaining to the use of data and copyrights pursuant to 48 CFR Part 27.4, Federal Acquisition Regulations (FAR).

17. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

A. Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in ARPA Policy, #405-143-1 Prohibitions on Expending ARPA Award Funds for Covered Telecommunications Equipment or Services As used in this clause—

B. Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

C. Exceptions.

(1) This clause does not prohibit contractors from providing—

a. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to:

a. Covered telecommunications equipment or services that:

- i. Are not used as a substantial or essential component of any system;  
and
- ii. Are not used as critical technology of any system.

b. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

D. Reporting requirement.

(1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Borrower shall report the following information pursuant to paragraph (d)(1) of this clause:

(i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services. Page 10

E. Subcontracts. The Borrower shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

## 18. REPORTING OF MATTERS RELATED TO RECIPIENT INTEGRITY AND PERFORMANCE

### A. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of [Public Law 110-417](#), as amended ([41 U.S.C. 2313](#)). As required by section 3010 of [Public Law 111-212](#), all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

### B. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five-year period; and
- c. Is one of the following:



(1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

(2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;

(3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or

(4) Any other criminal, civil, or administrative proceeding if:

(i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;

(ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

(iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

#### C. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

#### D. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

#### E. Definitions

For purposes of this award term and condition:

a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of *nolo contendere*.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes -

(1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and

(2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

EXEMPT RECORDING FEE CODE 6103

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

County of Riverside  
Housing and Workforce Solutions  
3403 10<sup>th</sup> Street, Suite 300  
Riverside, CA 92501  
Attn. Juan Garcia

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**DEED OF TRUST, SECURITY  
AGREEMENT AND FIXTURE FILING**  
(WITH ASSIGNMENT OF RENTS)

This DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING (WITH ASSIGNMENT OF RENTS) is made this \_\_\_\_\_ day of \_\_\_\_\_ 2024 by PD MILLENNIUM PARTNERS LP, A CALIFORNIA LIMITED PARTNERSHIP, (hereinafter referred to as "Trustor"), whose address is 100 Pacifica, Suite 203, Irvine, CA 92618, Attention: Reid Bradshaw. The trustee is Housing and Workforce Solutions ("Trustee"). The beneficiary is the County of Riverside, a political subdivision of the State of California, (hereinafter called "Beneficiary"), whose address is 3403 10<sup>th</sup> Street, Suite 300, Riverside, CA 92501.

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 fee interest in the real property in the City of Riverside, County of Riverside, State of California more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference (such interest in real property is hereafter referred to as the "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 Trustor's 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 of 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 used in operation of the Real Property 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. Solely with respect to the Trust Estate, 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:

- i. 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 Promissory Note in favor of the Beneficiary ("County" therein) executed by Trustor ("Borrower" therein) of even date herewith (the "ARPA Note") in the principal amount of \$6,700,000.00.
  - (b) that certain Loan Agreement for the Use of ARPA Act Funds dated \_\_\_\_\_, 2024 and recorded in the Official Records of the County of Riverside ("Official Records") concurrently herewith, between Trustor ("Borrower" therein) and Beneficiary ("County" therein) (the "ARPA Loan Agreement"); and
  - (c) that certain Covenant Agreement dated \_\_\_\_\_, 2024, and recorded concurrently herewith in the Official Records, between Trustor ("Borrower" therein) and Beneficiary ("County" therein) ("Covenant Agreement").
- ii. payment of indebtedness of the Trustor to the Beneficiary not to exceed \$6,700,000.00 (the "ARPA Loan") according to the terms of the ARPA Note.

Said ARPA Note, ARPA Loan Agreement 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 ARPA Note, ARPA Loan Agreement and Covenant Agreement as used herein shall mean, refer to and include the ARPA Note, ARPA Loan Agreement 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 ARPA Loan Agreement.

The ARPA Loan evidenced by the ARPA Note and secured by this Deed of Trust is being made pursuant to the American Rescue Plan Act of 2021 (Pub.L. No. 117-2) ("ARPA"). Pursuant to the ARPA Loan Agreement, the maturity date of the ARPA Loan shall be the later to occur of (i) July 1, 2079 or (ii) fifty five (55) years from the recordation of the Notice of Completion in the Official Records for the last building for which construction is completed for Phase I of the Project on the Property (as defined in the ARPA Loan Agreement) ("ARPA Loan Term").

TRUSTOR COVENANTS that the Trustor is lawfully seized of the estate hereby conveyed and has the right to grant and convey the fee interest of the Property. Trustor warrants and will defend generally the title to the Property against all claims and demands, subject to such encumbrances of record.

**AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:**

1. That Trustor shall pay the ARPA Note at the time and in the manner provided therein, and perform the obligations of the Trustor as set forth in the ARPA Loan Agreement and Covenant Agreement at the time and in the manner respectively provided therein.

2. That Trustor shall not permit or suffer the use of any of the property for any purpose other than the use set forth in the ARPA Loan Agreement and Covenant Agreement.

3. 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.

4. That 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 ARPA Loan Agreement and Covenant Agreement.

4a. That upon default hereunder or under any of the Secured Obligations and after giving notice and opportunity to cure, Beneficiary shall be entitled to the appointment of 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

5. **Payment of Principal and Interest; Prepayment and Late Charges.** Trustor shall promptly pay when due the principal of and interest on the debt evidenced by the ARPA Note and any late charges due under the ARPA Note.

6. **Taxes and Insurance.** Trustor shall pay before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Deed of Trust, directly to the person owed payment. Trustor shall promptly furnish to Beneficiary receipts evidencing the payments.

a. Should Trustor fail to make any payment or to do any act herein provided, then Beneficiary or Trustee, but without obligation so to do and upon written notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his or her reasonable fees.

7. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Beneficiary under **Section 5** shall be applied: first, to interest due; second, to principal due; and last, to any late charges due under the ARPA Note.

8. **Prior Deeds of Trust; Charge; Liens.** Trustor shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Deed of Trust, and leasehold payments or ground rents, if any, subject to applicable cure periods directly

to the person owed payment. Trustor shall pay these obligations in the manner provided in **Section 6**.

a. Except for the liens permitted in writing by the Beneficiary, Trustor shall promptly discharge any other lien which shall have attained priority over this Deed of Trust unless Trustor: (1) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Beneficiary; (2) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Beneficiary's opinion operate to prevent the enforcement of the lien; or (3) bond around the lien (4) secures from the holder of the lien an agreement satisfactory to Beneficiary subordinating the lien to this Deed of Trust. Except for the liens approved herein, if Beneficiary determines that any part of the Property is subject to a lien which may attain priority over this Deed of Trust, Beneficiary may give Trustor a notice identifying the lien. Trustor shall satisfy such lien or take one or more of the actions set forth above within 30 days of the giving of notice.

9. **Priority of ARPA Deed of Trust.** The Covenant Agreement, Deed of Trust, and the Loan Agreement shall be respectively in the first, second, and third priority lien position, in relation to themselves, each for the benefit of COUNTY. Final Lien priority orders shall be established upon determination of final construction financing between all lenders, provided, however, that COUNTY's affordability restrictions set forth in the Covenant Agreement are preserved for the Qualified Population for the Affordability Period.

10. **Hazard or Property Insurance.** Trustor shall keep the improvements now existing or hereafter erected on the Property insured against loss of fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Beneficiary reasonably requires insurance. This insurance shall be maintained in the amounts and for the periods as required in the ARPA Loan Agreement. The insurance carrier providing the insurance shall be chosen by Trustor subject to Beneficiary's approval which shall not be unreasonably withheld. If Trustor fails to maintain coverage described above, Beneficiary may, at Beneficiary's option, obtain coverage to protect Beneficiary's rights in the Property in accordance with **Section 12**.

a. All insurance policies and renewals shall be reasonably acceptable to Beneficiary and shall include a standard mortgagee clause. All requirements hereof pertaining to insurance shall be deemed satisfied if the Trustor complies with the insurance requirements under the ARPA Loan Agreement. Trustor shall promptly give to Beneficiary certificates of insurance showing the coverage is in full force and effect and that Beneficiary is named as additional insured. In the event of loss, Trustor shall give prompt notice to the insurance carrier, the Senior Lien Holder, if any, and Beneficiary. Beneficiary may make proof of loss if not made promptly by the Senior Lien Holder, if any, or the Trustor.

b. Unless Beneficiary and Trustor otherwise agree in writing and subject to the rights of senior lenders, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided Trustor determines that such restoration or repair is economically feasible and there is no default continuing beyond the expiration of all applicable cure periods. If Trustor determines that such restoration or repair is not economically feasible or if a default exists after expiration of all applicable cure periods, the insurance proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Trustor. If the Property is abandoned by Trustor, or if Trustor fails to respond to Beneficiary within 30 days from the date notice is mailed by Beneficiary to Trustor that the insurance carrier offers to settle a claim for insurance

benefits, Beneficiary is authorized to collect and apply the insurance proceeds at Beneficiary's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

c. Unless Beneficiary and Trustor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of Note. If under **Section 27** the Property is acquired by Beneficiary, Trustor's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Beneficiary to the extent of the sums secured by this Deed of Trust immediately prior to the acquisition.

d. Notwithstanding the above, the Beneficiary's rights to collect and apply the insurance proceeds hereunder shall be subject and subordinate to the rights of a Senior Lien Holder, if any, to collect and apply such proceeds in accordance with any Senior Lien Holder Deed of Trust.

**11. Preservation, Maintenance and Protection of the Property; Trustor's Loan Application; Leaseholds.** Trustor shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property; normal wear and tear excepted. Trustor shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Beneficiary's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Deed of Trust or Beneficiary's security interest. Trustor may cure such a default and reinstate, as provided in **Section 23**, by causing the action or proceeding to be dismissed with a ruling that, in Beneficiary's good faith determination, precludes forfeiture of the Trustor's interest in the Property or other material impairment of the lien created by this Deed of Trust or Beneficiary's security interest. Trustor shall also be in default if Trustor, during the loan application process, gave materially false or inaccurate information or statements to Beneficiary (or failed to provide Beneficiary with any material information) in connection with the loan evidenced by the ARPA Note, including, but not limited to representations concerning Trustor's use of Property for transitional housing. If this Deed of Trust is on a leasehold, Trustor shall comply with all provisions of the lease. If Trustor acquires fee title to the Property, the leasehold and the fee title shall not merge unless Beneficiary agrees to the merger in writing.

a. The Trustor acknowledges that this Property is subject to certain use and occupancy restrictions (which may be further evidenced by a separate agreement recorded in the land records where the Property is located), limiting the Property's use to transitional housing. The use and occupancy restrictions may limit the Trustor's ability to rent the Property. The violation of any use and occupancy restrictions may, if not prohibited by federal law, entitle the Beneficiary to the remedies provided in **Section 27** hereof.

**12. Protection of Beneficiary's Rights in the Property.** If Trustor fails to perform the covenants and agreements contained in this Deed of Trust, or there is a legal proceeding that may significantly affect Beneficiary's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then, subject to notice to Trustor and any applicable grace periods or cure periods, Beneficiary may do and pay for whatever is necessary to protect the value of the Property and Beneficiary's rights in the Property. Beneficiary's actions may include paying any sums secured by a lien which has priority over this Deed of Trust, appearing in court, paying reasonable attorneys' fees, and entering on the Property to make repairs. Although Beneficiary may take action under this **Section 12**, Beneficiary does not have to do so.

a. Any amounts disbursed by Beneficiary under this **Section 12** shall become additional debt of Trustor secured by this Deed of Trust. Unless Trustor and Beneficiary agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the ARPA Note rate and shall be payable, with interest, upon notice from Beneficiary to Trustor requesting payment.

13. **Reserved.**

14. **Inspection.** Beneficiary or its agent may make reasonable entries upon and inspections of the Property. Beneficiary shall give Trustor at least forty-eight (48) hours advanced notice in connection with an inspection specifying reasonable cause for the inspection.

15. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Beneficiary, subject to the terms of a Senior Lien Holder Deed of Trust, if any.

a. In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Deed of Trust, whether or not then due, with any excess paid to Trustor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Deed of Trust immediately before the taking, unless Trustor and Beneficiary otherwise agree in writing, the sums secured by this Deed of Trust shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Trustor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Trustor and Beneficiary otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Deed of Trust whether or not the sums are then due. Notwithstanding the foregoing, so long as the value of Beneficiary's lien is not impaired, any condemnation proceeds may be used by Trustor for repair and/or restoration of the Project.

b. If the Property is abandoned by Trustor, or if, after notice by Beneficiary to Trustor that the condemner offers to make an award or settle a claim for damages, Trustor fails to respond to Beneficiary within 30 days after the date the notice is given, Beneficiary is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust, whether or not then due.

c. Unless Beneficiary and Trustor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the payments referred to in **Sections 5 and 6** or change the amount of such payments.

16. **Trustor Not Released; Forbearance By Beneficiary Not a Waiver.** Except in connection with any successor in interest approved by Beneficiary in writing, extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Beneficiary to any successor in interest of Trustor shall not operate to release the liability of the original Trustor or Trustor's successors in interest. Beneficiary shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise



modify amortization of the sums secured by this Deed of Trust by reason of any demand made by the original Trustor or Trustor's successors in interest. Any forbearance by Beneficiary in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

17. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Deed of Trust shall bind and benefit the successors and assigns of Beneficiary and Trustor, subject to the provisions of **Section 22**. Trustor's covenants and agreements shall be joint and several.

18. **Loan Charges.** If the loan secured by this Deed of Trust is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Trustor which exceeded permitted limits will be promptly refunded to Trustor. Beneficiary may choose to make this refund by reducing the principal owed under the ARPA Note or by making a direct payment to Trustor. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

19. **Notices.** Any notice to Trustor provided for in this Deed of Trust shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Trustor's mailing address stated herein or any other address Trustor designates by notice to Beneficiary and to Trustor's limited partners. Any notice to Beneficiary shall be given by first class mail to Beneficiary's address stated herein or any other address Beneficiary designates by notice to Trustor. Any notice required to be given to a Senior Lien Holder shall be given by first class mail to such other address the Senior Lien Holder designates by notice to the Trustor. Any notice provided for in this Deed of Trust shall be deemed to have been given to Trustor or Beneficiary when given as provided in this Section.

20. **Governing Law; Severability.** This Deed of Trust shall be governed by federal law and the laws of the State of California. In the event that any provision or clause of this Deed of Trust or the ARPA Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision. To this end the provisions of this Deed of Trust and the ARPA Note are declared to be severable. Any action at law or in equity arising under this Deed of Trust or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed in the Superior Court 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.

21. **Trustor's Copy.** Trustor shall be given one conformed copy of the ARPA Note and of this Deed of Trust.

22. **Transfer of the Property or a Beneficial Interest in Trustor.** Except as otherwise allowed under the ARPA Loan Agreement, if all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Trustor is sold or transferred and Trustor is not a natural person) without Beneficiary's prior written consent (including a transfer of all or any part of the Property to any person who, at initial occupancy of the Property, does not use the Property

for affordable housing) Beneficiary may, at its option, require immediate payment in full of all sums secured by this Deed of Trust. However, this option shall not be exercised by Beneficiary if exercise is prohibited by federal law as of the date of this Deed of Trust. Nothing in this Deed of Trust shall be deemed to require Beneficiary's approval of a transfer of a limited partnership interest in the Trustor or of a conveyance of an easement interest in the Property for utility purposes.

a. If Beneficiary exercises the aforementioned option, Beneficiary shall give Trustor and the Senior Lien Holder, prior written notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Trustor must pay all sums secured by this Deed of Trust. If Trustor fails to pay these sums prior to the expiration of this period, Beneficiary may invoke any remedies permitted by this Deed of Trust without further notice or demand on Trustor.

**b. Reserved.**

23. **Trustor's Right to Reinstate.** If Trustor meets certain conditions, Trustor shall have the right to have enforcement of this Deed of Trust discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Deed of Trust; or (b) entry of a judgment enforcing this Deed of Trust. Those conditions are that Trustor: (a) pays Beneficiary all sums which then would be due under this Deed of Trust and the ARPA Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Deed of Trust, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Beneficiary may reasonably require to assure that the lien of this Deed of Trust, Beneficiary's rights in the Property and Trustor's obligation to pay the sums secured by this Deed of Trust shall continue unchanged. Upon reinstatement by Trustor, this Deed of Trust and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under **Section 22**.

24. **Reserved.**

25. **No Assignment.** The ARPA Note and this Deed of Trust shall not be assigned by Trustor without the Beneficiary's prior written consent and the consent of the Senior Lien Holder, if any.

26. **Hazardous Substances.** Trustor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Trustor shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses, construction, and to maintenance of the Property.

a. Trustor shall promptly give Beneficiary written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Trustor has actual knowledge. If Trustor learns, or is notified in writing by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the

Property is necessary, Trustor shall promptly take all necessary remedial actions in accordance with Environmental Law.

b. As used in this **Section 26**, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials, excluding household products in normal quantities. As used in this **Section 26**, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

27. **Acceleration; Remedies.** Beneficiary shall give notice to Trustor and its limited partners prior to acceleration following Trustor's breach of any covenant or agreement in this Deed of Trust. The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, which shall not be more than ten (10) calendar days from the date of the mailing of the notice for a monetary default, or a date, which shall not be more than thirty (30) calendar days from the mailing of the notice for a non-monetary default, by which the default must be cured (subject to the extended cure period in the Loan Agreement); and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice shall further inform Trustor of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Trustor to acceleration and sale. If the default is not cured by the Trustor on or before the date specified in the notice, and the Senior Lien Holder or the investor limited partner have not cured the default within that same period, subject to any non-recourse provisions set forth in Section 8 of the Note, then Beneficiary at its option may require immediate payment in full of all sums secured by this Deed of Trust without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Beneficiary shall be entitled to collect all expenses incurred in pursuing the remedies provided in this **Section 27**, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

a. If Beneficiary invokes the power of sale, Beneficiary or Trustee shall mail copies of a notice of sale in the manner prescribed by applicable law to Trustor, the Senior Lien Holder, if any, and to the other persons prescribed by applicable law. Trustee shall give notice of sale by public advertisement for the time and in the manner prescribed by applicable law. Trustee, without demand on Trustor, shall sell the Property at public auction to the highest bidder for cash at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property to any later time on the same date by public announcement at the time and place of any previously scheduled sale. Beneficiary or its designee may purchase the Property at any sale.

b. Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Deed of Trust; and (c) any excess to the person or persons legally entitled to it.

28. **Release.** Upon payment of all sums secured by this Deed of Trust, or upon forgiveness of all sums at the end of the ARPA Loan Term as provided in the ARPA Note and

ARPA Loan Agreement, Beneficiary shall release this Deed of Trust without charge to Trustor. Trustor shall pay any recordation costs. The lien of the Covenant Agreement shall not be released or reconveyed until the expiration of the term set forth therein notwithstanding the payment of all sums secured by this Deed of Trust.

29. **Substitute Trustee.** Beneficiary, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county in which this Deed of Trust is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

30. **Reserved.**

31. **Reserved.**

32. Notwithstanding anything to the contrary set forth herein, Beneficiary acknowledges that this Deed of Trust shall at all times be subordinate to the construction financing, and permanent financing.

33. **Removal, Demolition or Alteration of Personal Property and Fixtures.** Except to the extent permitted by the following sentence, no personal property or fixtures shall be removed, demolished or materially altered without the prior written consent of the Beneficiary. Trustor may remove and dispose of, free from the lien of this Deed of Trust, such personal property and fixtures as from time to time become worn out or obsolete, providing that, (a) the same is done in the ordinary course of business, and (2) either (i) at the time of, or prior to, such removal, any such personal property or fixtures are replaced with other personal property or fixtures which are free from liens other than encumbrances permitted hereunder and which have a value at least equal to that of the replaced personal property and fixtures (and by such removal replacement Trustor shall be deemed to have subjected such replacement personal property and fixtures to the lien of this Deed of Trust), or (ii) such personal property and fixtures may not require replacement if functionally, economically or operationally obsolete and so long as the fair market value of and operational efficiency of the Project is not reduced or adversely effected thereby.

**[Remainder of Page Blank]**

**[Signatures on Following Page]**

**BY SIGNING BELOW, TRUSTOR accepts and agrees to the terms and covenants contained in this Deed of Trust.**

TRUSTOR:

PD MILLENNIUM PARTNERS LP, a California limited partnership

By: PC Gerald Ford Developers LLC, a California limited liability company,  
Its administrative general partner

By: Palm Companies LLC, a California limited liability company,  
Its managing member

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

Date: 10/28/2024

**(Signature needs to be notarized)**

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of ORANGE )

On 10/28/2024 before me, HANNAH K. THIEROFF, NOTARY PUBLIC  
(insert name and title of the officer)

personally appeared DANAVIN L. HOEN,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_



(Seal)



## EXHIBIT "A"

### LEGAL DESCRIPTION OF PROPERTY

The land referred to is situated in the City of Palm Desert, State of California, and is described as follows:

THOSE PORTIONS OF PARCEL 8 AND PARCEL 9 OF PARCEL MAP NO. 36792, IN THE CITY OF PALM DESERT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 239 OF PARCEL MAPS, PAGES 9 THROUGH 15, INCLUSIVE, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 8; THENCE ALONG THE SOUTH LINE OF SAID PARCEL 9, SOUTH 89°56'08" WEST 72.55 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT EASTERLY 138.45 FEET, MEASURED AT RIGHT ANGLES, FROM THE EAST RIGHT OF WAY LINE OF DINAH SHORE DRIVE, AS SHOWN ON SAID PARCEL MAP NO. 36792; THENCE LEAVING SAID SOUTH LINE AND ALONG SAID PARALLEL LINE, NORTH 0°00'00" EAST 317.11 FEET; THENCE NORTH 90°00'00" EAST 65.55 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT WESTERLY 7.00 FEET, MEASURED AT RIGHT ANGLES FROM THE WEST LINE OF SAID PARCEL 8; THENCE NORTH 0°00'00" EAST 102.00 FEET ALONG LAST SAID PARALLEL LINE TO A LINE THAT IS PARALLEL WITH AND DISTANT NORTHERLY 1.00 FEET; MEASURED AT RIGHT ANGLES, FROM THE NORTH LINE OF SAID PARCEL 8; THENCE NORTH 90°00'00" EAST 275.69 FEET ALONG LAST SAID PARALLEL LINE TO AN INTERSECTION WITH THE NORTHWESTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID PARCEL 8; THENCE SOUTH 68°15'29" EAST 409.78 FEET ALONG SAID NORTHWESTERLY PROLONGATION AND SAID NORTHEASTERLY LINE OF PARCEL 8 TO A TANGENT CURVE, CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 1445.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE AND SAID NORTHEASTERLY LINE OF PARCEL 8 AN ARC LENGTH OF 535.73 FEET, THROUGH A CENTRAL ANGLE OF 21°14'32" TO A NON-TANGENT LINE, SAID NON-TANGENT LINE BEING PARALLEL WITH AND DISTANT WESTERLY 36.00 FEET, MEASURED AT RIGHT ANGLES, FROM THE MOST EASTERLY LINE OF SAID PARCEL 8; THENCE LEAVING SAID NORTHEASTERLY LINE OF PARCEL 8, ALONG LAST SAID PARALLEL LINE, SOUTH 07°03'09" EAST 105.97 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID PARCEL 8, BEING A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 73.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 36°36'07" WEST; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL 8 THE FOLLOWING FIVE (5) COURSES, SOUTHERLY ALONG SAID NON-TANGENT CURVE AN ARC LENGTH OF 28.61 FEET, THROUGH A CENTRAL ANGLE OF 22°27'11" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY HAVING A RADIUS OF 60.00 FEET; A LINE RADIAL TO SAID BEGINNING OF CURVE BEARS SOUTH 59°03'18" EAST; THENCE SOUTHWESTERLY LONG LAST SAID CURVE AN ARC LENGTH OF 38.39 FEET THROUGH A CENTRAL ANGLE OF 36°39'18" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 336.00 FEET; A LINE RADIAL TO LAST SAID BEGINNING OF CURVE BEARS NORTH 22°24'00" WEST, THENCE SOUTHEASTERLY ALONG LAST SAID CURVE AN ARC LENGTH OF 120.80 FEET; THROUGH A CENTRAL ANGLE OF 20°36'00"; THENCE SOUTH 47°00'00" WEST 102.69 FEET; THENCE NORTH 89°13'34" WEST 25.84 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1075.00 FEET, A LINE RADIAL TO SAID BEGINNING OF CURVE BEARS NORTH 44°07'38" EAST; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 8 THE FOLLOWING TWO (2) COURSES NORTHWESTERLY ALONG LAST SAID CURVE AN ARC LENGTH OF 829.14 FEET; THROUGH A CENTRAL ANGLE OF 44°11'30"; THENCE SOUTH 89°56'08" WEST 112.85 FEET TO SAID SOUTHWEST CORNER OF PARCEL 8 AND THE POINT OF BEGINNING.

**PROMISSORY NOTE (ARPA Loan)**

**\$6,700,000**

**Riverside, CA**

In installments as hereafter stated, for value received, PD MILLENNIUM PARTNERS LP, a California limited partnership (“Borrower”), promises to pay the COUNTY OF RIVERSIDE, a political subdivision of the State of California (“COUNTY”), at 3403 10<sup>th</sup> Street, Suite 300, Riverside, CA 92501, the sum of Six Million Seven Hundred Thousand Dollars (U.S. \$6,700,000) (the “ARPA Loan” or “Note Amount”) which at the time of payment is lawful for the payment of public and private debts.

This Promissory Note (“Note”) is given in accordance with that certain Loan Agreement for the Use of ARPA Act Funds executed by COUNTY and Borrower, dated as of \_\_\_\_\_, 2024 and recorded in the Official Records of the County of Riverside (“Official Records”) on or about the date hereof (the “ARPA Loan Agreement”). Except to the extent otherwise expressly defined in this Note, all capitalized terms shall have the meanings ascribed to such terms in the ARPA Loan Agreement. The Note is secured by a Deed of Trust, Security Agreement and Fixture Filing (with Assignment of Rents) executed by Borrower for the benefit of the County dated as of \_\_\_\_\_, 2024, and recorded on or about the date hereof in the Official Records (the “ARPA Deed of Trust” or “Deed of Trust”). The rights and obligations of the Borrower and COUNTY under this Note shall be governed by the ARPA Loan Agreement and the following terms:

- (1) The ARPA Loan evidenced by this Note and secured by the Deed of Trust are being made pursuant to the American Rescue Plan Act (Pub.L No. 117-2), hereinafter (“ARPA ”). Borrower agrees for itself, its successors and assigns, that the use of the Property shall be subject to the restrictions set forth in ARPA regulations, the ARPA Loan Agreement and that certain Covenant Agreement dated on or about the date hereof and recorded concurrently herewith in the Official Records, between Borrower and County.
- (2) That the Loan will accrue simple interest at a rate of three percent (3%) per annum, except in the case of default as hereinafter provided.

This Note shall be repaid according to the following: Fifty percent (50%) of the Project’s Residual Receipts shall be paid to COUNTY and City of Palm Desert (pro rata with respect to the amounts of their respective loans for the Project) annually in accordance with the terms set forth herein. The pro rata share split shall be twenty-two and sixty-eight hundredths percent (22.68%) to the City of Palm Desert, and seventy-seven and thirty-two hundredths percent (77.32%) to COUNTY (each, a “Pro Rata Share”). Such payment of the Pro Rata Share of fifty percent (50%) of the Project’s Residual Receipts to City of Palm Desert, and COUNTY shall continue annually until the City of Palm Desert promissory note, and COUNTY’s ARPA Note are repaid in full, respectively. Any remainder of the Project’s Residual Receipts will be paid in accordance with the cash flow “waterfall” provisions of Borrower’s limited partnership agreement.

- (3) The term “Residual Receipts” used herein shall mean all money and income from the Project remaining annually after the payment of all normal and necessary expenses of operation of the Project, including but not limited to the following:



- (i) payments of principal and interest and other mandatory payments on amortized loans and indebtedness senior to the Loan, which have been approved in writing by COUNTY (collectively, the "Senior Debt");
  - (ii) utility fees and costs not paid by tenants;
  - (iii) insurance on the Project;
  - (iv) ad valorem taxes and assessment payments;
  - (v) property management fees;
  - (vi) cost of social programs at the Project;
  - (vii) auditing and accounting fees;
  - (viii) operating expenses (any expense reasonably and normally incurred in carrying out the Project's day-to-day activities, which shall include administration, on-site management costs, utilities, on-site staff payroll, payroll taxes, and maintenance);
  - (ix) reserves for repair and replacement of the Project, in an annual amount of \$500 per rental unit per year, increased annually by an amount not to exceed the greater of (i) three percent (3%) or (ii) the increase in CPI;
  - (x) required operating reserve replenishments in an amount up to \$175,000 per year;
  - (xi) County's monitoring Fee in the total amount of \$12,000, increased annually by an amount equal to the increase of CPI, as more specifically discussed in Section 27;
  - (xii) repayment of any operating deficit loans made by a partner to the BORROWER and payment of unpaid tax credit adjustment payments owed to a limited partner of BORROWER;
  - (xiii) partnership management fees up to \$15,000 annually payable to a partner of BORROWER, and asset management fees up to \$5,000 annually (increasingly annually by three (3%) payable to a partner of BORROWER, and any accrued and unpaid fees from prior years;
  - (xiv) payment of deferred developer fees pursuant to BORROWER'S limited partnership agreement; and
  - (xv) all other fees and expenses which may be permitted by the annual budget approved by the COUNTY.
- (4) Payment of COUNTY'S Pro Rata Share of the Residual Receipts produced from the Project shall be made by the Borrower to the COUNTY annually on July 15th of each year. Payment shall be applied first to accrued interest and thereafter to principal. Borrower shall annually provide the COUNTY with an accounting acceptable to the COUNTY, documenting the calculation of Residual Receipts for the previous calendar year ending December 31. This accounting shall be made on or before July 15, together with the payment of Residual Receipts.
- (5) All outstanding principal along with accrued interest shall be due upon maturity of the Loan Agreement, which shall be the later to occur of (i) July 31, 2079 or (ii) fifty-five (55) years from and after the recordation of the Notice of Completion (the "Loan Term"). All outstanding principal along with accrued interest shall be due upon the maturity date of the Note and the expiration of the Loan Term.
- (6) The Loan evidenced by this Note is secured by that certain Deed of Trust and Assignment of Rents executed by Borrower for the benefit of the County, dated on or about the date hereof and recorded in the Official Records of the County of Riverside on or about the date hereof ("Deed of Trust").

- (7) This Note may be prepaid in whole or in part by the undersigned at any time without prepayment penalty or premium, provided however notwithstanding such prepayment, Borrower shall be required to adhere to the affordability restrictions contained in the Covenants until the expiration of the term contained therein.
- (8) Subject to the provisions and limitations of this Paragraph, the obligation to repay the Note Amount is a nonrecourse obligation of Borrower and its officers. Neither Borrower nor its partners or officers shall have any personal liability for repayment of the Note Amount, except as provided in this Paragraph. The sole recourse of the County shall be the exercise of its rights against the Property (or any portion thereof) and any related security for the ARPA Loan; provided, however, that the foregoing shall not (i) constitute a waiver of any other obligation evidenced by this Note or the Deed of Trust; (ii) limit the right of the COUNTY to name Borrower as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Borrower; (iii) release or impair either this Note or the Deed of Trust; (iv) prevent or in any way hinder the COUNTY from exercising, or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing this Note or as prescribed by law or in equity in case of default; (v) prevent or in any way hinder the COUNTY from exercising, or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing this Note; or (vi) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by this Note and the Deed of Trust. Notwithstanding the first sentence of this Paragraph, the COUNTY may recover directly from Borrower or, unless otherwise prohibited by any applicable law, from any other party: (a) any damages, costs and expenses incurred by the COUNTY as a result of fraud, misrepresentation or any criminal act or acts of Borrower, or any officer, director or employee of Borrower; (b) any damages, costs and expenses incurred by the COUNTY as a result of any misappropriation of funds provided to pay costs as described in the ARPA Loan Agreement for the operation of the Project, or proceeds of insurance policies or condemnation proceeds; and (c) any misappropriation of 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.
- (9) 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 ARPA Loan Agreement:
- a. Monetary Default. (1) Borrower's failure to pay when due any sums payable under the ARPA Note or any advances made by COUNTY under this Agreement, (2) Borrower's or any agent of Borrower's use of ARPA funds for costs other than those costs permitted under the ARPA Loan Agreement or for uses inconsistent with terms and restrictions set forth in this Agreement, and/or (3) Borrower's or any agent of Borrower's failure

to make any other payment of any assessment or tax due under the ARPA Loan Agreement;

- b. Non-Monetary Default - Operation. (1) Discrimination by Borrower or Borrower's agent on the basis of characteristics prohibited by this Agreement or applicable law, (2) the imposition of any encumbrances or liens on the Project without COUNTY's prior written approval that are prohibited under this agreement or that have the effect of reducing the priority or invalidating the lien of the ARPA Deed of Trust, (3) Borrower's failure to obtain and maintain the insurance coverage required under the ARPA Loan Agreement, (4) any material default under the ARPA Loan Agreement, ARPA Deed of Trust with Assignment of Rents, Covenant Agreement, ARPA Note, or any document executed by the Borrower in connection with this Agreement, and/or (4) default past any applicable notice and cure period under the terms of the ARPA Deed of Trust or any other instrument or document secured against the Property;
  - 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 ARPA Loan Agreement; 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 COUNTY is a party to such agreement.
- (10) COUNTY shall give written notice of default to Borrower, specifying the default complained of by the COUNTY. Borrower shall have ten (10) calendar days from the mailing of the notice for a monetary default, and thirty (30) calendar days from the mailing of the notice for any other default, by which such action to cure must be taken or commenced if a cure cannot reasonable be rendered within the applicable cure period.. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.
- (11) Any failures or delays by COUNTY 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 COUNTY in asserting any of its rights and remedies shall not deprive COUNTY 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.
- (12) 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. In the event that any provision or clause of this Note conflicts with applicable law, such conflict will not affect other provisions of this Note which can be given effect without the conflicting provision, and to this end the provisions of the Note are declared to be severable.

- (13) Borrower hereby waives diligence, presentment, protest and demand, notice of protest, dishonor and nonpayment of this Note, and expressly agrees that, without in any way affecting the liability of Borrower hereunder, the COUNTY may extend any maturity date or the time for payment of any installment due hereunder, accept additional security, release any party liable hereunder and release any security now or hereafter securing this Note. Borrower further waives, to the full extent permitted by law, the right to plead any and all statutes of limitations as a defense to any demand on this Note, or on any deed of trust, security agreement, guaranty or other agreement now or hereafter securing this Note.
- (14) 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 ARPA Loan Agreement, 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.
- (15) 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 Court 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.
- (16) 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 COUNTY.
- (17) The COUNTY 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.
- (18) 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 COUNTY, which consent the COUNTY may give or withhold in its sole and absolute discretion. In the absence of specific written agreement by the COUNTY, no unauthorized assignment or transfer, or approval thereof by the COUNTY, shall be deemed to relieve Borrower or any other party from any obligations under the ARPA Loan Agreement or this Note. This provision shall not affect or diminish the COUNTY's assignment rights under this Note.
- (19) 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 COUNTY in its sole and absolute discretion; provided that Borrower may refinance senior financing and the COUNTY agrees that the Deed of Trust shall remain junior to such permitted refinancing.

- (20) The relationship of Borrower and the COUNTY 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.
- (21) (a) Formal notices, demands and communications between the County and Borrower shall be deemed sufficiently given if made in writing and dispatched by any of the following methods to the addresses of the COUNTY 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 COUNTY for purposes of receiving notices pursuant to this Note shall be 3403 10<sup>th</sup> Street, Suite 300, Riverside, California 92501, Attention: Director HWS. The facsimile number for the COUNTY’s receipt of notices is (951) 352-4852.
- (c) The address of Borrower for purposes of receiving notices pursuant to this Note is 100 Pacifica, Suite 203, Irvine, CA 92618, Attn: Reid Bradshaw.
- (22) The captions and headings in this Note are for convenience only and are not to be used to interpret or define the provisions hereof.
- (23) The undersigned, if comprising more than one person or entity, shall be jointly and severally liable hereunder.
- (24) This Note shall be binding upon Borrower and its heirs, successors and assigns, and shall benefit the COUNTY and its successors and assigns.

IN WITNESS WHEREOF, Borrower has executed this Note as of the day and year first set forth above.

**[Remainder of Page Blank]**

**[Signatures on Following Page]**

BORROWER:

PD MILLENNIUM PARTNERS LP, a California  
limited partnership

By: PC Gerald Ford Developers LLC, a California  
limited liability company,  
Its administrative general partner

By: Palm Companies LLC, a California limited liability  
company,  
Its managing member

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

Date: 10/28/2024

1 NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE SECTION 6103

2 Order No.  
3 Escrow No.  
4 Loan No.

5 RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

6 County of Riverside  
7 Housing and Workforce Solutions  
8 3403 10<sup>th</sup> Street, Suite 300  
Riverside, CA 92501  
Attn. Juan Garcia

SPACE ABOVE THIS LINE FOR RECORDERS USE

9  
10 **COVENANT AGREEMENT**  
(Palm Villas at Millenium Phase I Apartments)

11 This Covenant Agreement ("Covenant") is made and into this 5 day of November 2024  
12 by and between the COUNTY OF RIVERSIDE, a political subdivision of the State of California  
13 ("COUNTY"), and PD MILLENNIUM PARTNERS LP, A CALIFORNIA LIMITED  
14 PARTNERSHIP ("OWNER").

15 **RECITALS**

16 WHEREAS, OWNER owns that certain real property identified as a portion of APN 694-  
17 120-028 and a portion of APN 694-120-029, more specifically described in the legal description  
18 attached hereto as **Exhibit A** and incorporated herein by this reference (the "Property");

19 WHEREAS, COUNTY and OWNER entered into that certain Loan Agreement for the Use  
20 of ARPA Act Funds dated \_\_\_\_\_, 2024 and recorded in the Official  
21 Records of the County of Riverside ("Official Records") concurrently herewith (the "ARPA Loan  
22 Agreement" or "Agreement") which provides for, among other things, the development and  
23 construction on the Property, also known as "Palm Villas at Millenium Apartments," of a multi-  
24 family affordable housing project consisting of a two phase, 241-unit affordable multifamily low-  
25 income housing project, with Phase I consisting of 120 affordable rental units and Phase II  
26 consisting of 119 affordable rental units; in addition, 1 three-bedroom unit will be set aside for an  
27 on-site resident manager (collectively, the "Project");  
28

1           WHEREAS, 49%, or 59 units at the Project will be reserved as ARPA-Assisted Units for  
2 households whose incomes do not exceed 60% of the area median income for the County of  
3 Riverside at the time of initial occupancy; of those units, 25% of the units, or 15 units, will be  
4 restricted to households whose incomes do not exceed 30% of the area median income for the  
5 County of Riverside (“ARPA-Assisted Units”). Capitalized terms not defined herein shall have the  
6 meaning ascribed to them in the ARPA Loan Agreement;

7           WHEREAS, the County is providing funding under the American Rescue Plan Act (Pub.L  
8 No. 117-2), hereinafter “ARPA,” for the purposes of providing decent, safe, and sanitary housing  
9 to extremely low income senior households, a group that has been disproportionately affected  
10 by the COVID-19 pandemic;

11           WHEREAS, pursuant to the ARPA Loan Agreement, COUNTY loaned to OWNER  
12 \$6,700,000 derived from ARPA funds (“ARPA Loan”), to pay for a portion of the acquisition and  
13 construction expenses of the Project, as more fully described in the ARPA Loan Agreement. The  
14 ARPA Loan is evidenced by a Promissory Note executed by OWNER, in favor of the COUNTY  
15 dated on or about the date hereof (“ARPA Loan Note”) and secured by that certain Deed of Trust,  
16 Security Agreement and Fixture Filing (with Assignment of Rents) executed by OWNER, for the  
17 benefit of COUNTY and recorded in the Official Records concurrently herewith (“ARPA Loan  
18 Deed of Trust”); and

19           WHEREAS, pursuant to the ARPA Loan Agreement, OWNER has agreed to construct the  
20 Project on the Property and ensure the ARPA-Assisted Units are occupied by the Qualified  
21 Population consistent with the ARPA Act requirements and as set forth more specifically below.

22           NOW, THEREFORE, in consideration of the mutual covenants and agreements, and for  
23 other good and valuable consideration, the receipt and sufficiency of which are hereby  
24 acknowledged, OWNER, on behalf of itself and its successors, assigns, and each successor in  
25 interest to the Property or any part thereof, hereby declares as follows:

26           1)     RESTRICTIONS. The recitals set forth above are true and correct and incorporated  
27 herein. This Covenant shall continue in full force and effect for the later of (i) fifty-five (55) years  
28



1 from the recordation of the Notice of Completion in the Official Records for the last building for  
2 which construction is completed for Phase I of the Project on the Property , or (ii) July 1, 2079  
3 (“Term” or “Affordability Period”). For the duration of the Term, the Property shall be held, sold,  
4 and conveyed, subject to the following covenants, conditions, and restrictions:

5 a) Under the County’s ARPA program for Phase I of development, 49% of the  
6 rental units, or 59 units, will be restricted to households whose incomes do not exceed 60% of the  
7 area median income. Of those units, 25% of the units, or 15 units, will be restricted to households  
8 whose incomes do not exceed 30% of the area median income for the County of Riverside, at the  
9 time of initial occupancy.

10 b) Rent for the ARPA-Assisted Units including utilities shall be in accordance  
11 with TCAC rent requirements.

12 c) OWNER shall comply with the terms of ARPA, the ARPA Loan  
13 Agreement, ARPA Loan Note, ARPA Loan Deed of Trust and any other instrument secured  
14 against the Property.

15 d) Utility Allowance: Owners are required to complete initial Utility  
16 Allowance (UA) calculations and submit their calculations for review and approval to the County  
17 prior to implementation, annually by June 1st. The following methods below are acceptable  
18 methodologies for calculating UA’s:

- 19 (i) HUD Utility Schedule Model (HUSM), UA based on HUD’s model.
- 20 (ii) Utility Company Estimate, UA based on estimated obtained from a local  
21 utility company for each of the utilities used in the project.
- 22 (iii) LIHTC Agency Estimate, UA approved by the LIHTC agency based on its  
23 actual usage methodology.
- 24 (iv) Energy Consumption Model (Engineer Model), UA based upon on an  
25 energy and water and sewage consumption and analysis model prepared by  
26 a third-party licensed engineer or qualified professional.

1 e) Float-up: Notwithstanding anything in Loan Agreement or this Covenant to the  
2 contrary, the Parties agree that the following shall apply to the ARPA-Assisted  
3 Units:

4 (i) COUNTY agrees that, upon BORROWER's request and COUNTY's  
5 written approval, which will not be unreasonable withheld, the maximum  
6 tenant household income and maximum annual rent for ARPA-Assisted  
7 Units may be increased to amounts necessary to make operation of the  
8 Project financially feasible as determined by the BORROWER, including  
9 the payment of all required operating costs and debt service, but in no event  
10 may (a) the maximum tenant household income limitation exceed 60  
11 percent of AMI or, (b) the maximum annual rent limitation exceed 30  
12 percent of 60 percent of AMI.

13 (ii) In the case of increases due to a foreclosure of any approved financing or  
14 deed in lieu thereof, the above increases may continue until such time, if  
15 any, that the rental assistance or equivalent operating subsidy is restored.  
16 Notwithstanding anything to the contrary in this section, the BORROWER  
17 may not displace tenant households and must use good faith efforts to  
18 reduce the effect of rent increases permitted to be imposed on existing  
19 tenant households by (a) the use of operating and transition reserves to the  
20 extent such funds exist and are available, and (b) the use of other subsidy  
21 sources available that would mitigate the rent increases.

22 (iii) If Rent increases on the ARPA-Assisted Units are necessary, after  
23 exhausting all transition reserve funds such increases shall only be  
24 permitted to the minimum extent required for financial feasibility, as  
25 reasonably determined by BORROWER and approved by COUNTY,  
26 which approval shall not, in any event, be increased to an amount in excess  
27 of 30 percent of 60 percent of AMI, adjusted by household size for the  
28

1 number of bedrooms. The COUNTY shall be notified at least eighteen (18)  
2 months in advance of any Rent increase on the ARPA-Assisted Units.

3 (iv) In order to enact an increase in the maximum household income and rents  
4 for an ARPA-Assisted Unit for the Project, the BORROWER must submit  
5 a written request to the COUNTY which shall outline a plan with an  
6 explanation of the fiscal necessity of adjusting the maximum household  
7 income and the rents charged for the ARPA-Assisted Units. The plan shall  
8 provide the following items along with any additional requirements from  
9 the COUNTY:

10 (v) An explanation of the efforts the Project Owner has made to secure other  
11 rental subsidies to sustain overall project operations;

12 (vi) An explanation of the fiscal necessity of adjusting the maximum household  
13 income and the rents charged for the ARPA-Assisted Units;

14 (vii) A process for increasing the Project rent for all affected units  
15 (ARPA-Assisted Units and non-restricted units) and make reasonable  
16 efforts to continue to market and rent Project units to members of the target  
17 population originally contemplated, as well as ensuring that any increases  
18 to the household income limit are applied, as much as possible, only to  
19 vacant units as they become available. This portion of the plan shall discuss  
20 changes in both maximum household incomes and rents and;

21 (viii) The plan for continuing, throughout the term of this Agreement, to  
22 apply for other subsidies that will allow a return of all project units to  
23 members of the target population and rents originally contemplated.

24 2) SENIOR PRIORITY. The Covenant, ARPA Loan Deed of Trust, and ARPA Loan  
25 Agreement shall be respectively in the first, second, and third priority lien position, in relation to  
26 themselves, each for the benefit of COUNTY. Final Lien priority orders shall be established upon  
27 determination of final construction financing between all lenders, provided, however, that  
28

1 COUNTY's affordability restrictions set forth in this Covenant are preserved for the Qualified  
2 Population for the Affordability Period.

3 3) COMPLIANCE WITH LAWS AND REGULATIONS. During the Term of this  
4 Covenant, OWNER, for itself and on behalf of its successors and assigns, shall adhere to and  
5 comply with all federal, state and local laws, regulations and ordinances., including, but not limited  
6 to the following:

7 a) The American Rescue Plan Act (Pub.L 117-2).

8 b) Other Federal requirements and nondiscrimination. As set forth in 24 CFR  
9 part 5, Subpart A, OWNER is required to include the following requirements: nondiscrimination  
10 and equal opportunity under Section 282 of the Act; disclosure; debarred, suspended, or ineligible  
11 contractors; and drug-free workplace.

12 c) Affirmative marketing and minority outreach program. OWNER must  
13 adopt affirmative marketing procedures and requirements. These must include:

14 (1) Methods for informing the public, owners, and potential tenants about  
15 Federal fair housing laws and the affirmative marketing policy (e.g., the use of the Equal Housing  
16 Opportunity logotype or slogan in press releases and solicitations for owners, and written  
17 communication to fair housing and other groups).

18 (2) Requirements and practices that OWNER must adhere to in order to  
19 carry out the affirmative marketing procedures and requirements (e.g., use of commercial media,  
20 use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display  
21 of fair housing poster).

22 (3) Procedures to be used by OWNER to inform and solicit applications  
23 from persons in the housing market area who are not likely to apply without special outreach (e.g.,  
24 use of community organizations, employment centers, fair housing groups, or housing counseling  
25 agencies).

26 (4) Records that will be kept describing actions taken by OWNER to  
27 affirmatively market units and records to assess the results of these actions.

1 (5) A description of how OWNER will annually assess the success of  
2 affirmative marketing actions and what corrective actions will be taken where affirmative  
3 marketing requirements are not met.

4 (6) OWNER must prescribe procedures to establish and oversee a minority  
5 outreach program to ensure the inclusion, to the maximum extent possible, of minorities and  
6 women, and entities owned by minorities and women, including, without limitation, real estate  
7 firms, construction firms, appraisal firms, management firms, financial institutions, investment  
8 banking firms, underwriters, accountants, and providers of legal services, in all contracts entered  
9 into by OWNER with such persons or entities, public and private, in order to facilitate the  
10 activities of COUNTY to provide affordable housing authorized under this Act or any other  
11 Federal housing law. Section 24 CFR 85.36(e) provided affirmative steps to assure that minority  
12 business enterprises and women business enterprises are used when possible in the procurement  
13 of property and services. The steps include:

14 (i) Placing qualified small and minority businesses and women's  
15 business enterprises on solicitation lists.

16 (ii) Assuring that small and minority businesses, and women's  
17 business enterprises are solicited whenever they are potential sources.

18 (iii) Dividing total requirements, when economically feasible, into  
19 smaller tasks or quantities to permit maximum participation by small and minority business, and  
20 women's business enterprises.

21 (iv) Establishing delivery schedules, where the requirement permits,  
22 which encourage participation by small and minority business, and women's business enterprises.

23 (v) Using the services and assistance of the Small Business  
24 Administration, and the Minority Business Development Agency of the Department of  
25 Commerce.

26 4) TENANT PROTECTIONS. OWNER shall provide protection to the tenants of the COUNTY  
27 ARPA-Assisted Units in accordance with the requirements described as follows:

1 i) Provide written lease agreement for not less than one year, unless by mutual agreement  
2 between the tenant and OWNER. COUNTY shall review the initial form of the lease  
3 agreement prior to OWNER executing any leases and, provided that OWNER uses the  
4 approved lease form, OWNER shall be permitted to enter into residential leases without  
5 COUNTY'S prior written consent.

6 ii) Prohibited Lease Terms. The rental agreement/lease may not contain any of the  
7 following provisions:

8 (1) Agreement to be sued. Agreement by the tenant to be sued, to admit guilt or to a  
9 judgment in favor of OWNER in a lawsuit brought in connection with the lease.

10 (2) Treatment of property. Agreements by tenant that OWNER may take, hold, or sell  
11 personal property of household members without notice to the tenant and a court  
12 decision on the rights of the parties. This prohibition, however, does not apply to  
13 an agreement by the tenant concerning disposition of personal property remaining  
14 in the housing unit after the tenant has moved out of the unit. OWNER may dispose  
15 of this personal property in accordance with State law.

16 (3) Excusing OWNER. from responsibility. Agreement by the tenant not to hold  
17 OWNER or OWNER's agents legally responsible for any action or failure to act,  
18 whether intentional or negligent.

19 (4) Waiver of notice. Agreement of the tenant that OWNER may institute a lawsuit  
20 without notice to the tenant.

21 (5) Waiver of legal proceeding. Agreement by the tenant that the OWNER may evict  
22 the tenant or household members without instituting a civil court proceeding in  
23 which the tenant has the opportunity to present a defense, or before a court decision  
24 on the rights of the parties.

25 (6) Waiver of a jury trial. Agreement by the tenant to waive any right to a trial by jury.  
26  
27  
28

1 (7) Waiver of right to appeal court decision. Agreement by the tenant to waive the  
2 tenant's right to appeal, or to otherwise challenge in court, a court decision in  
3 connection with the lease.

4 (8) Tenant chargeable with cost of legal actions regardless of outcome. Agreement by  
5 the tenant to pay attorneys' fees or other legal costs even if the tenant wins in a  
6 court proceeding by OWNER against the tenant. The tenant, however, may be  
7 obligated to pay costs if the tenant loses.

8 iii) Reserved.

9 iv) Violence Against Women Reauthorization Act of 2013. (Pub. L. 113-4, 127 Stat. 54)  
10 ("VAWA 2013"). VAWA 2013 reauthorizes and amends the Violence Against Women  
11 Act of 1994, as previously amended, (title IV, sec. 40001-40703 of Pub. L. 103-322,  
12 42 U.S.C. 13925 et seq.) VAWA 2013, among other things, bars eviction and  
13 termination due to a tenant's status as a victim of domestic violence, dating violence,  
14 or stalking, and requires landlords to maintain survivor-tenant confidentiality. VAWA  
15 2013 prohibits a tenant who is a survivor of domestic violence, dating violence, sexual  
16 assault, and stalking from being denied assistance, tenancy, or occupancy rights based  
17 solely on criminal activity related to an act of violence committed against them. It  
18 extends housing protections to survivors of sexual assault, and adds "intimate partner"  
19 to the list of eligible relationships in the domestic violence definition. Protections also  
20 now cover an "affiliated individual," which includes any lawful occupant living in the  
21 survivor's household, or related to the survivor by blood or marriage including the  
22 survivor's spouse, parent, brother, sister, child, or any person to whom the survivor  
23 stands in loco parentis. VAWA 2013 allows a lease bifurcation so a tenant or lawful  
24 occupant who engages in criminal activity directly relating to domestic violence, dating  
25 violence, sexual assault, or stalking against an affiliated individual or other individual,  
26 or others may be evicted or removed without evicting or removing or otherwise  
27 penalizing a victim who is a tenant or lawful occupant. If victim cannot establish  
28

1 eligibility, OWNER must give a reasonable amount of time to find new housing or  
2 establish eligibility under another covered housing program. A Notice of Rights under  
3 VAWA 2013 for tenants must be provided at the time a person applies for housing,  
4 when a person is admitted as a tenant of a housing unit, and when a tenant is threatened  
5 with eviction or termination of housing benefits. Tenants must request an emergency  
6 transfer and reasonably believe that they are threatened with imminent harm from  
7 further violence if the tenant remains in the same unit. The provisions of VAWA 2013  
8 that are applicable to HUD programs are found in title VI of VAWA 2013, which is  
9 entitled "Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual  
10 Assault, and Stalking." Section 601 of VAWA 2013 amends subtitle N of VAWA (42  
11 U.S.C. 14043e et seq.) to add a new chapter entitled "Housing Rights."

12 5) MAINTENANCE OF THE IMPROVEMENTS. OWNER, on behalf of itself and  
13 its successors, assigns, and each successor in interest to the Property and Project or any part thereof  
14 hereby covenants to and shall protect, maintain, and preserve the Property in compliance with all  
15 applicable federal and state law and regulations and local ordinances. In addition, OWNER, its  
16 successors and assigns, shall maintain the improvements on the Property in the same aesthetic and  
17 sound condition (or better) as the condition of the Property at the time of the recordation of the  
18 Covenant Agreement for the Project, or at the time of completion of construction, as applicable,  
19 reasonable wear and tear excepted. This standard for the quality of maintenance of the Property  
20 shall be met whether or not a specific item of maintenance is listed below. However, representative  
21 items of maintenance shall include frequent and regular inspection for graffiti or damage or  
22 deterioration or failure, and immediate repainting or repair or replacement of all surfaces, fencing,  
23 walls, equipment, etc., as necessary; emptying of trash receptacles and removal of litter; sweeping  
24 of public sidewalks adjacent to the Property, on-site walks and paved areas and washing-down as  
25 necessary to maintain clean surfaces; maintenance of all landscaping in a healthy and attractive  
26 condition, including trimming, fertilizing and replacing vegetation as necessary; cleaning windows  
27 on a regular basis; painting the buildings on a regular program and prior to the deterioration of the  
28



1 painted surfaces; conducting a roof inspection on a regular basis and maintaining the roof in a leak-  
2 free and weather-tight condition; maintaining security devices in good working order. In the event  
3 OWNER, its successors or assigns fails to maintain the Property in accordance with the standard  
4 for the quality of maintenance, the COUNTY or its designee shall have the right but not the  
5 obligation to enter the Property upon reasonable notice to OWNER, correct any violation, and hold  
6 OWNER, or such successors or assigns responsible for the cost thereof, and such cost, until paid,  
7 shall constitute a lien on the Property.

8         6)         NONDISCRIMINATION. OWNER shall not discriminate on the basis of race,  
9 gender, religion, national origin, ethnicity, sexual orientation, age or disability in the solicitation,  
10 selection, hiring or treatment of any contractors or consultants, to participate in  
11 subcontracting/subconsulting opportunities. OWNER understands and agrees that violation of this  
12 clause shall be considered a material breach of this Covenant and may result in termination,  
13 debarment or other sanctions. This language shall be incorporated into all contracts between  
14 OWNER and any contractor, consultant, subcontractor, subconsultants, vendors and suppliers.  
15 OWNER shall comply with the provisions of the California Fair Employment and Housing Act  
16 (Government Code Sections 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352), as  
17 amended, and all Administrative Rules and Regulations issued pursuant to said Acts and Orders  
18 with respect to its use of the Property.

19         7)         OWNER herein covenants by and for itself, its successors and assigns, and all  
20 persons claiming under or through them, that this Covenant is made and accepted upon and subject  
21 to the following conditions: There shall be no discrimination against or segregation of any person  
22 or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the  
23 Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and  
24 paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code,  
25 in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall  
26 the transferee itself or any person claiming under or through him or her, establish or permit any  
27 such practice or practices of discrimination or segregation with reference to the selection, location,  
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1 number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the Property.

2 8) OWNER, its successors and assigns, shall refrain from restricting the rental, sale,  
3 or lease of the Property or any portion thereof, on the basis of race, color, creed, religion, sex,  
4 sexual orientation, marital status, national origin, or ancestry of any person. Every deed, lease, and  
5 contract entered into with respect to the Property, or any portion thereof, after the date of this  
6 Agreement shall contain or be subject to substantially the following nondiscrimination or  
7 nonsegregation clauses:

8 a) In deeds: "The grantee herein covenants by and for himself or herself, his or her  
9 heirs, executors, administrators, and assigns, and all persons claiming under or through them, that  
10 there shall be no discrimination against or segregation of, any person or group of persons on  
11 account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as  
12 those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of  
13 subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease,  
14 sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall  
15 the grantee or any person claiming under or through him or her, establish or permit any practice or  
16 practices of discrimination or segregation with reference to the selection, location, number, use or  
17 occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed.  
18 The foregoing covenants shall run with the land."

19 b) In leases: "The lessee herein covenants by and for himself or herself, his or her  
20 heirs, executors, administrators, and assigns, and all persons claiming under or through him or her,  
21 and this lease is made and accepted upon and subject to the following conditions: That there shall  
22 be no discrimination against or segregation of any person or group of persons, on account of any  
23 basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are  
24 defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of  
25 Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing,  
26 transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee  
27 himself or herself, or any person claiming under or through him or her, establish or permit any  
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1 such practice or practices of discrimination or segregation with reference to the selection, location,  
2 number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises  
3 herein leased.”

4 c) In contracts: “There shall be no discrimination against or segregation of any  
5 person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955  
6 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m)  
7 and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government  
8 Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor  
9 shall the transferee itself or any person claiming under or through him or her, establish or permit  
10 any such practice or practices of discrimination or segregation with reference to the selection,  
11 location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the  
12 land.”

13 In addition to the obligations and duties of OWNER set forth herein, OWNER shall,  
14 upon notice from COUNTY, promptly pay to COUNTY all fees and costs, including  
15 administrative and attorneys’ fees, incurred by COUNTY in connection with responding to or  
16 defending any discrimination claim brought by any third party and/or local, state or federal  
17 government entity, arising out of or in connection with the Agreement or this Covenant.

18 9) INSURANCE. Without limiting or diminishing OWNER’s obligation to indemnify  
19 or hold COUNTY harmless, OWNER shall procure and maintain or cause to be maintained, at its  
20 sole cost and expense, the following insurance coverage’s during the term of this Covenant.

21 a) Worker’s Compensation Insurance. If OWNER has employees as defined  
22 by the State of California, OWNER shall maintain statutory Workers’ Compensation Insurance  
23 (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers’  
24 Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per  
25 person per accident. The policy shall be endorsed to waive subrogation in favor of the County of  
26 Riverside

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

10 c) Vehicle Liability Insurance. If vehicles or mobile equipment are used in the  
11 performance of the obligations under this Covenant, then OWNER shall maintain liability  
12 insurance for all owned, non-owned or hired vehicles so used in an amount not less than  
13 \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate  
14 limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence  
15 limit. Policy shall name the County of Riverside, its Agencies, Districts, Special Districts, and  
16 Departments, their respective directors, officers, Board of Supervisors, employees, elected or  
17 appointed officials, agents or representatives as Additional Insured or provide similar evidence of  
18 coverage approved by County's Risk Manager ("Risk Manager").

19 d) General Insurance Provisions – All Lines.

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

25 (2) OWNER's insurance carrier(s) must declare its insurance self-insured  
26 retentions. If such self-insured retentions exceed \$500,000 per occurrence such retentions shall  
27 have the prior written consent of Risk Manager. Upon notification of self-insured retention  
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1 unacceptable to COUNTY, and at the election of Risk Manager, OWNER's carriers shall either:  
2 (a) reduce or eliminate such self-insured retention, or (b) procure a bond which guarantees payment  
3 of losses and related investigations, claims administration, and defense costs and expenses.

4 (3) OWNER shall cause OWNER's insurance carrier(s) to furnish the  
5 County of Riverside with copies of the Certificate(s) of Insurance and Endorsements effecting  
6 coverage as required herein, and 2) if requested to do so orally or in writing by Risk Manager,  
7 provide copies of policies including all Endorsements and all attachments thereto, showing such  
8 insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall  
9 contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given  
10 to the County of Riverside prior to any material modification, cancellation, expiration or reduction  
11 in coverage of such insurance. OWNER shall not commence or continue construction of the  
12 Project until COUNTY has been furnished Certificate(s) of Insurance and copies of endorsements  
13 and if requested, copies of policies of insurance including all endorsements and any and all other  
14 attachments as required herein. An individual authorized by the insurance carrier to do so, on its  
15 behalf, shall sign the original endorsements for each policy and the Certificate of Insurance.

16 (4) It is understood and agreed to by the parties hereto that OWNER's  
17 insurance shall be construed as primary insurance, and COUNTY's insurance and/or deductibles  
18 and/or self-insured retention's or self-insured programs shall not be construed as contributory.

19 (5) If, during the term of this Covenant or any extension thereof, there is a  
20 material change in the scope of services or there is a material change in the equipment to be used  
21 in the performance of the scope of work which will add additional exposures (such as the use of  
22 aircraft, watercraft, cranes, etc.), then COUNTY reserves the right to adjust the types of insurance  
23 required under this Covenant and the monetary limits of liability for the insurance coverage's  
24 currently required herein, if, in Risk Manager's reasonable judgment, the amount or type of  
25 insurance carried by OWNER has become inadequate.

26 (6) OWNER shall pass down the insurance obligations contained herein to  
27 all tiers of subcontractors.

1 (7) OWNER agrees to notify COUNTY in writing of any claim by a third  
2 party or any incident or event that may give rise to a claim arising from the performance of the  
3 Agreement.

4 10) HOLD HARMLESS/INDEMNIFICATION. OWNER shall indemnify and hold  
5 harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their  
6 respective directors, officers, Board of Supervisors, Board of Commissioners, elected and  
7 appointed officials, employees, agents and representatives (individually and collectively  
8 hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any  
9 services of OWNER, its officers, employees, subcontractors, agents or representatives arising out  
10 of or in any way relating to this Agreement, including but not limited to property damage, bodily  
11 injury, or death or any other element of any kind or nature whatsoever arising from the  
12 performance of OWNER, its officers, employees, subcontractors, agents or representatives  
13 Indemnitors from this Agreement. OWNER shall defend, at its sole expense, all costs and fees  
14 including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards,  
15 the Indemnitees in any claim or action based upon such alleged acts or omissions. With respect to  
16 any action or claim subject to indemnification herein by OWNER shall, at their sole cost, have the  
17 right to use counsel of their own choice and shall have the right to adjust, settle, or compromise  
18 any such action or claim without the prior consent of COUNTY; provided, however, that any such  
19 adjustment, settlement or compromise in no manner whatsoever limits or circumscribes OWNER's  
20 indemnification to Indemnitees as set forth herein. OWNER's obligation hereunder shall be  
21 satisfied when OWNER has provided to COUNTY the appropriate form of dismissal relieving  
22 COUNTY from any liability for the action or claim involved. The specified insurance limits  
23 required in this Agreement shall in no way limit or circumscribe OWNER's obligations to  
24 indemnify and hold harmless the Indemnitees herein from third party claims. In the event there is  
25 conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted  
26 to comply with Civil Code 2782. Such interpretation shall not relieve OWNER from indemnifying  
27 the Indemnitees to the fullest extent allowed by law. The indemnification set forth in this paragraph  
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1 14 shall survive the expiration and earlier termination of this Covenant.

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

6 COUNTY  
7 Director HWS  
8 County of Riverside  
9 3403 10<sup>th</sup> Street, Suite 300  
Riverside, CA 92501

BORROWER  
Attn.: Reid Bradshaw  
PD Millennium Partners LP  
Palm Communities  
100 Pacifica, Suite 203  
Irvine, CA 92618

10 12) REMEDIES. COUNTY shall have the right, in the event of any breach of any such  
11 agreement or covenant, to exercise all available rights and remedies, and to maintain any actions  
12 at law or suit in equity or other proper proceedings to enforce the curing of such breach of  
13 agreement or covenant.

14 13) TERM. The non-discrimination covenants, conditions and restrictions contained in  
15 Section 6 of this Covenant shall remain in effect in perpetuity. Every other covenant, condition  
16 and restriction contained in this Covenant shall continue in full force and effect for the Term, as  
17 defined in **Section 1** of this Covenant.

18 14) NOTICE AND OPPORTUNITY TO CURE. Prior to exercising any remedies  
19 hereunder, the COUNTY shall give OWNER notice of such default pursuant to **Section 11** above.  
20 Any monetary default shall be cured within ten (10) days of delivery of written notice. Except as  
21 otherwise set forth herein, if a non-monetary default is reasonably capable of being cured within  
22 thirty (30) days of delivery of such notice of default, OWNER shall have such period to effect a  
23 cure prior to exercise of remedies by COUNTY. If the non-monetary default is such that it is not  
24 reasonably capable of being cured within thirty (30) days of delivery of such notice of default, and  
25 OWNER (a) initiates corrective action within said period, and (b) diligently, continually, and in  
26 good faith works to effect a cure as soon as possible, then OWNER shall have such additional time  
27 as is reasonably necessary to cure the default prior to exercise of any remedies by the COUNTY;  
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1 but in no event no later than ninety (90) days from delivery of such notice of default, subject to  
2 force majeure (including government restrictions, pandemics, and acts of God). COUNTY, upon  
3 providing OWNER with any notice of default under this Covenant, shall, within a reasonable time,  
4 provide a copy of such default notice to a Permitted Lender(as hereinafter defined) who has given  
5 written notice to COUNTY of its interest in the Property and Project. From and after such notice  
6 has been delivered to a Permitted Lender and OWNER's limited partner(s) , such Permitted Lender  
7 and limited partner(s) shall have the same period for remedying the default complained of as the  
8 cure period provided to OWNER pursuant to this **Section 14**. COUNTY shall accept performance  
9 by a Permitted Lender or OWNER's limited partner(s) as if the same had been done by OWNER.

10 15) If a violation of any of the covenants or provisions of this Covenant remains  
11 uncured after the respective time period set forth above in **Section 14**, COUNTY and its successors  
12 and assigns, without regard to whether COUNTY or its successors and assigns is an owner of any  
13 land or interest therein to which these covenants relate, may institute and prosecute any  
14 proceedings at law or in equity to abate, prevent or enjoin any such violation or attempted violation  
15 or to compel specific performance by OWNER of its obligations hereunder. No delay in enforcing  
16 the provisions hereof as to any breach or violation shall impair, damage or waive the right of any  
17 party entitled to enforce the provisions hereof or to obtain relief against or recover for the  
18 continuation or repetition of such breach or violations or any similar breach or violation hereof at  
19 any later time.

20 16) Intentionally omitted.

21 17) SALE, ASSIGNMENT OR TRANSFER OF THE PROJECT OR PROPERTY.  
22 OWNER hereby covenants and agrees not to sell, transfer, assign or otherwise dispose of the  
23 Project, the Property or any portion thereof, without obtaining the prior written consent of  
24 COUNTY, which consent may be withheld or granted in its reasonable discretion. Any sale,  
25 assignment, or transfer of the Project or Property, shall be memorialized an assignment and  
26 assumption agreement the form and substance of which have been first approved in writing by the  
27 COUNTY. Such assignment and assumption agreement shall, among other things, provide that the  
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1 transferee has assumed in writing and in full, that the transfer of the Project complies with ARPA  
2 Rules and qualifies as an ARPA-Eligible Activity, and is reasonably capable of performing and  
3 complying with OWNER's duties and obligations under the ARPA Loan Agreement and this  
4 Covenant, provided, however OWNER shall not be released of all obligations under the ARPA  
5 Loan Agreement and this Covenant unless agreed to in a writing signed by COUNTY.  
6 Notwithstanding anything to the contrary contained herein, upon written notice to COUNTY,  
7 OWNER may (i) lease for occupancy of all or any of the ARPA Assisted Units in accordance with  
8 this Agreement; (ii) grant easements or permits to facilitate the development of the Property in  
9 accordance with this Agreement; (iii) transfer the OWNER'S limited partnership interest; (iv)  
10 remove and replace the OWNER'S general partner(s) for cause in accordance with OWNER'S  
11 amended and restated agreement of limited partnership; and (v) make transfers pursuant to that  
12 certain Purchase Option and Right of First Refusal Agreement (collectively a "Permitted  
13 Transfer"). All Permitted Transfers shall be subject to reasonable review of documentation by the  
14 COUNTY provided, however, that the affordability restrictions contained herein shall be preserved  
15 and remain a lien on the Property. The parties hereto acknowledge that "Affiliate" for purposes  
16 of this section means, as to any Person (as defined below), any general partnership, limited  
17 partnership, corporation, joint venture, trust, business trust, cooperative, association, limited  
18 liability company or individual (collectively, a "Person") that (A) directly or indirectly controls or  
19 is controlled by (such as any partnership or limited liability company in which the Person, directly  
20 or indirectly, serves as a general partner or managing member, respectively) or is under common  
21 control with the specified Person; (B) is an officer or director of, commissioner of, partner in,  
22 member of or trustee of, or serves in a similar capacity with respect to, the specified Person or of  
23 which the Specified Person is an officer, director, member, partner or trustee, or with respect to  
24 which the specified Person serves in a similar capacity; or (C) is the beneficial owner, directly or  
25 indirectly, of 10% or more of any class of equity securities of the specified Person or of which the  
26 specified Person is directly or indirectly the owner of 10% or more of any class of equity securities.  
27 The term "control" (including the term "controlled by" and "under common control with") means  
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1 the possession, direct or indirect, of the power to direct or cause the direction of the management  
2 and policies of a Person, whether through the ownership of voting securities, by contract or  
3 otherwise.

4 18) AMENDMENTS OR MODIFICATIONS. This Covenant may be changed or  
5 modified only by a written amendment signed by authorized representatives of both parties.

6 19) GOVERNING LAW; VENUE; SEVERABILITY. This Covenant shall be  
7 governed by the laws of the State of California. Any legal action related to the performance or  
8 interpretation of this Covenant shall be filed only in the Superior Court of the State of California  
9 located in Riverside, California, and the parties waive any provision of law providing for a change  
10 of venue to another location. In the event any provision in this Covenant is held by a court of  
11 competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will  
12 nevertheless continue in full force without being impaired or invalidated in any way.

13 20) BINDING EFFECT. The rights and obligations of this Covenant shall bind and  
14 inure to the benefit of the respective heirs, successors and assigns of the parties.

15 21) PERMITTED MORTGAGES. No violation or breach of the covenants, conditions,  
16 restrictions, provisions or limitations contained in this Covenant shall defeat or render invalid or  
17 in any way impair the lien or charge of any deed of trust or mortgage permitted by the ARPA Loan  
18 Agreement or the lien or charge of a deed of trust made by OWNER for the benefit of any lender  
19 first approved in writing by the COUNTY (each, a "Permitted Lender") and nothing herein or in  
20 the ARPA Loan Agreement shall prohibit or otherwise limit the exercise of a Permitted Lender's  
21 rights and remedies thereunder, including a foreclosure or deed-in-lieu of foreclosure and  
22 subsequent transfer thereafter.

23 22) SEVERABILITY. In any event that any provision, whether constituting a separate  
24 paragraph or whether contained in a paragraph with other provisions, is hereafter determined to be  
25 void and unenforceable, it shall be deemed separated and deleted from the agreement and the  
26 remaining provisions of this Agreement shall remain in full force and effect.

1           23)    PROJECT MONITORING AND EVALUATION.

2           a)    Tenant Checklist. OWNER shall submit a Tenant Checklist Form to  
3 COUNTY, as shown in Exhibit F of the Loan Agreement, which form may be revised by  
4 COUNTY, summarizing the racial/ethnic composition, number and percentage of very low-  
5 income households who are tenants of the ARPA-Assisted Units. The Tenant Checklist Form  
6 shall be submitted upon completion of the construction and thereafter, on a semi-annual basis on  
7 or before March 31 and September 30. OWNER shall maintain financial, programmatic,  
8 statistical and other supporting records of its operations and financial activities in accordance with  
9 the requirements of the ARPA, including the submission of Tenant Checklist Form. Except as  
10 otherwise provided for in this Covenant and in the Loan Agreement, OWNER shall maintain and  
11 submit records to COUNTY within ten (10) business days of COUNTY'S request which clearly  
12 documents OWNER's performance under each requirement of ARPA.

13           b)    Inspections. During the Affordability Period, COUNTY must perform on-  
14 site inspections of ARPA-Assisted Units to determine compliance with the property standards.  
15 The on-site inspections shall occur within 12 months after the completion of construction of the  
16 Project and at least once every 3 years thereafter during the Affordability Period. If there are  
17 observed deficiencies for any of the inspectable items in the property standards established by  
18 COUNTY, a follow-up on-site inspection to verify that deficiencies are corrected must occur  
19 within 12 months. COUNTY may establish a list of non-hazardous deficiencies for which  
20 correction can be verified by third party documentation (e.g., paid invoice for work order) rather  
21 than re-inspection. Health and safety deficiencies must be corrected immediately. COUNTY must  
22 adopt a more frequent inspection schedule for properties that have been found to have health and  
23 safety deficiencies. The property owner must annually certify to the COUNTY that each building  
24 and all ARPA Assisted-Units in the Project are suitable for occupancy, taking into account State  
25 and local health, safety, and other applicable codes, ordinances, and requirements, and the  
26 ongoing property standards established by the participating jurisdiction.

27           24)    ACCESS TO PROJECT SITE. Representatives of the COUNTY shall have the  
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1 right of access to the Property, upon 24 hours' written notice to OWNER (except in the case of an  
2 emergency, in which case COUNTY shall provide such notice as may be practical under the  
3 circumstances), without charges or fees, during normal business hours to review the operation of  
4 the Project in accordance with this Covenant and the Agreement.

5 25) COUNTERPARTS. This Covenant may be signed by the different parties hereto in  
6 counterparts, each of which shall be an original, but all of which together shall constitute one and  
7 the same agreement.

8 26) RECITALS. The Recitals set forth above are true and correct and incorporated  
9 herein by this reference.

10 27) This Covenant and the Agreement set forth and contain the entire understanding  
11 and agreement of the parties hereto. There are no oral or written representations, understandings,  
12 or ancillary covenants, undertakings or agreements, which are not contained or expressly referred  
13 to within this Covenant, and the Agreement, including all amendments and modifications to the  
14 Agreement.

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17 [Remainder of Page Intentionally Blank]

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IN WITNESS WHEREOF, COUNTY and OWNER have executed this Covenant as of the dates written below.

COUNTY:

COUNTY OF RIVERSIDE, a political subdivision of the State of California

By:   
Chuck Washington, Chair  
Board of Supervisors

Date: 11/05/2024

BORROWER:

PD MILLENNIUM PARTNERS LP, a California limited partnership

By: PC Gerald Ford Developers LLC, a California limited liability company, Its administrative general partner

By: Palm Companies LLC, a California limited liability company, Its managing member

By:   
Danavon L. Horn, President


Date: 10/28/2024

ATTEST:  
KIMBERLY A. RECTOR, Clerk

By:   
DEPUTY

(Above signatures need to be notarized)

APPROVED AS TO FORM:  
MINH C. TRAN, County Counsel

By:   
Amrit P. Dhillon  
Deputy County Counsel

(COUNTY and OWNER signatures need to be notarized)

NOV 05 2024 3.48



# ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of ORANGE)

On 10/28/2024 before me, HANNAH K. THIEROFF, Notary Public  
(insert name and title of the officer)

personally appeared DANANSON L. HORN,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature  (Seal)



**ALL-PURPOSE ACKNOWLEDGMENT NOTARY FOR CALIFORNIA**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, 2024, before me, \_\_\_\_\_,

personally appeared \_\_\_\_\_,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public



## EXHIBIT "A"

### LEGAL DESCRIPTION OF PROPERTY

The land referred to is situated in the City of Palm Desert, State of California, and is described as follows:

THOSE PORTIONS OF PARCEL 8 AND PARCEL 9 OF PARCEL MAP NO. 36792, IN THE CITY OF PALM DESERT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 239 OF PARCEL MAPS, PAGES 9 THROUGH 15, INCLUSIVE, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 8; THENCE ALONG THE SOUTH LINE OF SAID PARCEL 9, SOUTH 89°56'08" WEST 72.55 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT EASTERLY 138.45 FEET, MEASURED AT RIGHT ANGLES, FROM THE EAST RIGHT OF WAY LINE OF DINAH SHORE DRIVE, AS SHOWN ON SAID PARCEL MAP NO. 36792; THENCE LEAVING SAID SOUTH LINE AND ALONG SAID PARALLEL LINE, NORTH 0°00'00" EAST 317.11 FEET; THENCE NORTH 90°00'00" EAST 65.55 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT WESTERLY 7.00 FEET, MEASURED AT RIGHT ANGLES FROM THE WEST LINE OF SAID PARCEL 8; THENCE NORTH 0°00'00" EAST 102.00 FEET ALONG LAST SAID PARALLEL LINE TO A LINE THAT IS PARALLEL WITH AND DISTANT NORTHERLY 1.00 FEET; MEASURED AT RIGHT ANGLES, FROM THE NORTH LINE OF SAID PARCEL 8; THENCE NORTH 90°00'00" EAST 275.69 FEET ALONG LAST SAID PARALLEL LINE TO AN INTERSECTION WITH THE NORTHWESTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID PARCEL 8; THENCE SOUTH 68°15'29" EAST 409.78 FEET ALONG SAID NORTHWESTERLY PROLONGATION AND SAID NORTHEASTERLY LINE OF PARCEL 8 TO A TANGENT CURVE, CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 1445.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE AND SAID NORTHEASTERLY LINE OF PARCEL 8 AN ARC LENGTH OF 535.73 FEET, THROUGH A CENTRAL ANGLE OF 21°14'32" TO A NON-TANGENT LINE, SAID NON-TANGENT LINE BEING PARALLEL WITH AND DISTANT WESTERLY 36.00 FEET, MEASURED AT RIGHT ANGLES, FROM THE MOST EASTERLY LINE OF SAID PARCEL 8; THENCE LEAVING SAID NORTHEASTERLY LINE OF PARCEL 8, ALONG LAST SAID PARALLEL LINE, SOUTH 07°03'09" EAST 105.97 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID PARCEL 8, BEING A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 73.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 36°36'07" WEST; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL 8 THE FOLLOWING FIVE (5) COURSES, SOUTHERLY ALONG SAID NON-TANGENT CURVE AN ARC LENGTH OF 28.61 FEET, THROUGH A CENTRAL ANGLE OF 22°27'11" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY HAVING A RADIUS OF 60.00 FEET; A LINE RADIAL TO SAID BEGINNING OF CURVE BEARS SOUTH 59°03'18" EAST; THENCE SOUTHWESTERLY LONG LAST SAID CURVE AN ARC LENGTH OF 38.39 FEET THROUGH A CENTRAL ANGLE OF 36°39'18" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 336.00 FEET; A LINE RADIAL TO LAST SAID BEGINNING OF CURVE BEARS NORTH 22°24'00" WEST, THENCE SOUTHEASTERLY ALONG LAST SAID CURVE AN ARC LENGTH OF 120.80 FEET; THROUGH A CENTRAL ANGLE OF 20°36'00"; THENCE SOUTH 47°00'00" WEST 102.69 FEET; THENCE NORTH 89°13'34" WEST 25.84 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1075.00 FEET, A LINE RADIAL TO SAID BE-GINNING OF CURVE BEARS NORTH 44°07'38" EAST; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 8 THE FOLLOWING TWO (2) COURSES NORTHWESTERLY ALONG LAST SAID CURVE AN ARC LENGTH OF 829.14 FEET; THROUGH A CENTRAL ANGLE OF 44°11'30"; THENCE SOUTH 89°56'08" WEST 112.85 FEET TO SAID SOUTHWEST CORNER OF PARCEL 8 AND THE POINT OF BEGINNING.

## ENVIRONMENTAL INDEMNITY

THIS ENVIRONMENTAL INDEMNITY (this "Indemnity"), dated as of \_\_\_\_\_, 2024, is made by PD MILLENNIUM PARTNERS LP, A CALIFORNIA LIMITED PARTNERSHIP (referred to as "Indemnitor"), whose address for purposes of giving notices is 100 Pacifica, Suite 203, Irvine, CA 92618, Attention: Reid Bradshaw, in favor of the COUNTY OF RIVERSIDE, a political subdivision of the State of California ("COUNTY" or "County"), whose address for purposes of giving notices is 3403 Tenth Street, Suite #300, Riverside, CA 92501.

### WITNESSETH

WHEREAS, Indemnitor is the owner of the real property in the City of Lake Elsinore, County of Riverside, California, as more particularly described on **Exhibit A** attached hereto and made a part hereof, and the real property improvements thereon or to be constructed thereon (collectively referred to as the "Property");

WHEREAS, Indemnitor and COUNTY have entered into that certain Loan Agreement for the Use of American Rescue Plan Act (ARPA) Funds, dated as of \_\_\_\_\_, 2024 (the "Loan Agreement"), pursuant to which COUNTY agreed to loan to Indemnitor, or its assignee, Six Million Seven Hundred Thousand Dollars (\$6,700,000) in ARPA Program funds (the "ARPA Loan") for the purpose of developing the Palm Villas at Millennium Housing Project, a two phase, 241-unit affordable multifamily low-income housing project, and related improvements and amenities on the Property; and

WHEREAS, Indemnitor has agreed to execute and deliver to COUNTY this Indemnity to induce COUNTY to enter into the Loan Agreement and provide the ARPA Loan to Indemnitor.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual agreements hereinafter set forth, Indemnitor hereby agrees with COUNTY as follows:

#### Section 1. DEFINITIONS

For the purpose of this Indemnity, "Hazardous Materials" or "Hazardous Substances" shall include, but not be limited to, any substance or material (whether a raw material, building component or waste, a product or by-product of manufacturing or other activities, or any other substance or material) which is or becomes designated, classified or regulated as being "hazardous" or "toxic", or is or becomes otherwise similarly designated, classified or regulated, under any Federal, state or local law, regulation or ordinance, including without limitation (i) any substance defined as a "hazardous substance" or a "hazardous waste" for purposes of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., or the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., respectively, (ii) any substance defined as a "hazardous waste" or a "hazardous substance" for purposes of applicable state or local law, and (iii) petroleum, flammable explosives, urea formaldehyde insulation, asbestos and radioactive materials, substances defined as "extremely hazardous substances," "hazardous substances," "hazardous materials," "hazardous waste" or "toxic substances" under the Hazardous Materials Transportation Act, 49

U.S.C. Sections 1801, et seq.; and those substances defined as “hazardous waste” in Section 25117 of the California Health and Safety Code, as “infectious waste” in Section 25117.5 of the California Health and Safety Code, or as “hazardous substances” in Section 25316 of the California Health and Safety Code or “hazardous materials” as defined in Section 353 of the California Vehicle Code; and in the regulations adopted and publications promulgated pursuant to said laws. “Hazardous Materials” and “Hazardous Substances” shall expressly exclude substances typically used in the construction, development, operation and maintenance of an apartment complex provided such substances are used in accordance with all applicable laws.

For the purpose of this Indemnity, “ARPA Loan Documents” shall refer to the Loan Agreement, the Covenant Agreement, and any agreement entered into in the form of an Attachment thereto or in connection therewith, and any extensions, modifications or amendments thereto.

## Section 2. COVENANTS AND INDEMNITY

The following covenants and indemnities are hereby given and made by Indemnitor:

### 2.1 Covenants.

(a) Indemnitor covenants that it shall comply with any and all laws, regulations, and/or orders which may be promulgated, from time to time, with respect to the discharge and/or removal of Hazardous Materials, to pay immediately when due the costs of the removal of, or any other action required by law with respect to, any such Hazardous Materials, and to keep the Property free of any lien imposed pursuant to any such laws, regulations, or orders.

(b) Indemnitor covenants that the Property will not, while Indemnitor is the owner thereof, be used for any activities involving, directly or indirectly, the use, generation, treatment, storage, release, or disposal of any Hazardous Materials, except for de minimis quantities used at the Property in compliance with all applicable environmental laws and required in connection with the development of the Property in conformance with the ARPA Loan Documents.

(c) Indemnitor further agrees that Indemnitor shall not release or dispose of any Hazardous Materials at the Property, except for de minimis quantities released or disposed of at the Property in compliance with all applicable environmental laws, without the express written approval of COUNTY and that any such release or disposal shall be affected in strict compliance with all applicable laws and all conditions, if any, established by COUNTY.

(d) COUNTY shall have the right, upon reasonable notice and subject to rights of tenants, to conduct an environmental audit of the Property at COUNTY’s expense, unless Hazardous Materials are found in violation of this Indemnity, then at Indemnitor’s sole cost and expense, and Indemnitor shall cooperate in the conduct of any such environmental audit but in no event shall such audit be conducted unless COUNTY reasonably believes that such audit is warranted. Other than in an emergency, such audit shall be conducted only after prior notice has been given to Indemnitor and only in the presence of a representative of Indemnitor. Indemnitor shall give COUNTY and its agents and employees access to the Property to remove, or otherwise

to mitigate against the effects of, Hazardous Materials, provided, however, that COUNTY may exercise this right only if Indemnitor has failed to commence action to mitigate the effects of the Hazardous Materials within thirty (30) days of receipt of notice from COUNTY.

(e) Indemnitor shall not install, or permit to be installed, on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal or state regulations respecting such material, and, with respect to any such material currently present in the Property, Indemnitor shall promptly either (i) remove or cause to be removed any material that such regulations deem hazardous and require to be removed, or (ii) otherwise comply with such federal and state regulations, at Indemnitor's sole cost and expense. If Indemnitor shall fail to so do within the cure period permitted under applicable law, regulation, or order, COUNTY may do whatever is necessary to eliminate said substances from the premises or to otherwise comply with the applicable law, regulation, or order, and the costs thereof shall be added to the Obligations (as hereinafter defined) of Indemnitor under this Section 2.

(f) Indemnitor shall immediately advise COUNTY in writing of any of the following: (i) any pending or threatened environmental claim against Indemnitor or the Property, or (ii) any condition or occurrence on the Property that (A) results in noncompliance by Indemnitor with any applicable environmental law, (B) could reasonably be anticipated to cause the Property to be subject to any restrictions on the ownership, occupancy, use or transferability of the Property under any environmental law, or (C) could reasonably be anticipated to form the basis of an environmental claim against the Property or Indemnitor that could reasonably have material adverse effect on the Property.

2.2 Indemnity. Indemnitor shall indemnify, protect, and hold COUNTY and its directors, officers, employees, and agents (the "Indemnified Parties") harmless from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements, or expenses (including, without limitation, attorneys' and experts' fees and disbursements) of any kind or of any nature whatsoever (collectively, the "Obligations") which may at any time be imposed upon, incurred by or asserted or awarded against COUNTY and arising in connection with, from or out of:

- (a) The presence of any Hazardous Materials on, in, under, or affecting all or any portion of the Property, which were stored, discharged, released or emitted on the Property;
- (b) The breach of any covenant made by Indemnitor in Section 2.1 hereof; or
- (c) The enforcement by COUNTY of any of the provisions of this Section 2.2 or the assertion by Indemnitor of any defense to its obligations hereunder.

Notwithstanding the foregoing, Indemnitor's liability under this Section 2.2 shall not extend to (i) any Hazardous Substance present or released in, on, or around any part of the Property, or in the soil, groundwater, or soil vapor or under the Property that first arise, commence or occur after the actual dispossession of the Property from Indemnitor and all entities which control, are controlled by, or are under common control with Indemnitor, following foreclosure or

acquisition of the Property by a deed in lieu of foreclosure, or (ii) any Obligations arising from the gross negligence or intentional misconduct of COUNTY or any of its Indemnified Parties.

### Section 3. INDEMNITOR'S UNCONDITIONAL OBLIGATIONS

3.1 Unconditional Obligations. Indemnitor hereby agrees that the Obligations will be paid and performed strictly in accordance with the terms of this Indemnity, regardless of any law, regulation, or order now or hereafter in effect in any jurisdiction affecting the ARPA Loan Documents or affecting any of the rights of COUNTY with respect thereto. The obligations of Indemnitor hereunder shall be absolute and unconditional irrespective of:

- (a) The validity, regularity, or enforceability of the Loan Agreement or any other instrument or document executed or delivered in connection therewith;
- (b) Any alteration, amendment, modification, release, termination, or cancellation of the ARPA Loan Documents, or any change in the time, manner, or place of payment or performance of, or in any other term in respect of, all or any of the obligations of Indemnitor contained in any of the ARPA Loan Documents;
- (c) Any exculpatory provision in any of the ARPA Loan Documents or any document delivered in connection therewith limiting COUNTY's recourse to property encumbered by the deed of trust securing Indemnitor's obligations under the ARPA Loan Documents, or to any other security, or limiting COUNTY's rights to a deficiency judgment against Indemnitor;
- (d) The insolvency or bankruptcy of Indemnitor; or
- (e) Any other circumstance that might otherwise constitute a defense available to, or a discharge of, Indemnitor with respect to any or all of the Obligations.

3.2 Continuation. The Indemnity provided under Section 2.2 (a) is a continuing indemnity and shall remain in full force and effect until the satisfaction in full of all of the Obligations (notwithstanding the release or other extinguishment of the deed of trust securing Indemnitor's obligations under the ARPA Loan Documents); and (b) shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment of any of the Obligations is rescinded or must otherwise be returned by the COUNTY upon the insolvency, bankruptcy, or reorganization of Indemnitor, all as though such payment had not been made.

3.3 Termination. Notwithstanding the payment (and performance) in full of all of the Obligations and the payment (or performance) in full of all of Indemnitor's obligations under the ARPA Loan Documents, this Indemnity shall not terminate if any of the following shall have occurred:

- (a) COUNTY has at any time or in any manner participated in the management or control of, taken possession of (whether personally, by agent or by appointment of a receiver), or taken title to the Property or any portion thereof,

whether by foreclosure, deed in lieu of foreclosure, sale under power of sale or otherwise; or

(b) There has been a change, between the date hereof and the date on which all of the Obligations are paid and performed in full, in any Hazardous Materials laws, the effect of which may be to make a lender or mortgagee liable in respect of any of the Obligations, notwithstanding the fact that no event, circumstance, or condition of the nature described in paragraph (a) above ever occurred.

#### Section 4. WAIVER

Indemnitor hereby waives the following:

- (a) Promptness and diligence;
- (b) Notice of acceptance and notice of the incurrence of any obligation by Indemnitor;
- (c) Notice of any action taken by COUNTY, or any other interested party under the Loan Agreement or under any other agreement or instrument relating thereto;
- (d) All other notices, demands, and protests, and all other formalities of every kind, in connection with the enforcement of the Obligations, the omission of or delay in which, but for the provisions of this Section 4, might constitute grounds for relieving Indemnitor of its Obligations hereunder;
- (e) Any requirement that COUNTY protect, secure, perfect, or insure any security interest or lien in or on any property subject thereto,
- (f) Any requirement that COUNTY exhaust any right or take any action against Borrower or any other person or collateral;
- (g) Any defense that may arise by reason of:
  - (1) The incapacity, lack of authority, death or disability of, or revocation hereof by, any person or persons;
  - (2) The failure of COUNTY to file or enforce any claim against the estate (in probate, bankruptcy, or any other proceedings) of any person or persons; or
  - (3) Any defense based upon an election of remedies by COUNTY, including, without limitation, an election to proceed by non-judicial foreclosure or which destroys or otherwise impairs the subrogation rights of COUNTY or any other right of COUNTY to proceed against Indemnitor.

#### Section 5. NOTICES

Any notice, demand, statement, request, or consent made hereunder shall be in writing and shall be personally served, mailed by first-class registered mail, return receipt requested, to the address set forth in the first paragraph of this Indemnity, above, or given by telecopier to the telecopier numbers stated below, with confirmations mailed by first class registered mail, return receipt requested to the address set forth above, of the party to whom such notice is to be given (or to such other address as the Parties hereto, shall designate in writing):

In the case of COUNTY:

County of Riverside  
Housing and Workforce Solutions  
3403 Tenth Street, Suite #300  
Riverside, CA 92501  
Attn: Director

In the case of Indemnitor:

PD Millennium Partners LP  
Attn.: Reid Bradshaw  
Palm Communities  
100 Pacifica, Suite 203  
Irvine, CA 92618

Any notice that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt; and any notice that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

#### Section 6. MISCELLANEOUS

6.1 Indemnitor shall make any payment required to be made hereunder in lawful money of the United States of America, and in same day funds, to COUNTY at its address specified in the first paragraph hereof.

6.2 No amendment of any provision of this Indemnity shall be effective unless it is in writing and signed by Indemnitor and COUNTY, and no waiver of any provision of this Indemnity, and no consent to any departure by Indemnitor from any provision of this Indemnity, shall be effective unless it is in writing and signed by COUNTY, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

6.3 No failure on the part of COUNTY to exercise, and no delay in exercising, any right hereunder or under the ARPA Loan Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right preclude any other or further exercise thereof or the exercise of any other right. The rights and remedies of COUNTY provided herein and in the

other loan documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law.

6.4 Any provision of this Indemnity that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof and without affecting the validity or enforceability of such provision in any other jurisdiction.

6.5 This Indemnity shall (a) be binding upon Indemnitor, and Indemnitor's successors and assigns; and (b) inure, together with all rights and remedies of COUNTY hereunder, to the benefit of COUNTY, its respective directors, officers, employees, and agents, any successors to COUNTY's interest in the Property, any other person who acquires any portion of the Property at a foreclosure sale or otherwise through the exercise of COUNTY's rights and remedies under the ARPA Loan Documents, any successors to any such person, and all directors, officers, employees, and agents of all of the aforementioned parties. Without limiting the generality of clause (b) of the immediately preceding sentence, COUNTY may, subject to, and in accordance with, the provisions of the ARPA Loan Documents, assign or otherwise transfer all or any portion of its rights and obligations under the ARPA Loan Documents, to any other person, and such other person shall thereupon become vested with all of the rights and obligations in respect thereof that were granted to COUNTY herein or otherwise. None of the rights or obligations of Indemnitor hereunder may be assigned or otherwise transferred without the prior written consent of COUNTY, except as provided in the ARPA Loan Documents.

6.6 Indemnitor hereby (a) irrevocably submits to the jurisdiction of the Superior Court of Riverside County in any action or proceeding arising out of or relating to this Indemnity, (b) waives any defense based on doctrines of venue or forum non convenient or similar rules or doctrines, and (c) irrevocably agrees that all claims in respect of any such action or proceeding may be heard and determined in such California or federal court. Indemnitor irrevocably consents to the service of any and all process which may be required or permitted in any such action or proceeding to the address specified in the first paragraph of this Indemnity, above. Indemnitor agrees that a final judgment in any such action or proceeding shall be inclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law.

6.7 The title of this document and the captions used herein are inserted only as a matter of convenience and for reference and shall in no way define, limit, or describe the scope or the intent of this Indemnity or any of the provisions hereof.

6.8 This Indemnity shall be governed by, and construed and interpreted in accordance with, the laws of the State of California applicable to contracts made and to be performed therein, except to the extent that the laws of the United States preempt the laws of the State of California.

6.9 This Indemnity may be executed in any number of counterparts, each of which shall constitute an original and all of which together shall constitute one agreement.



[Signatures on the Following Page]

IN WITNESS WHEREOF, Indemnitor has duly executed this Indemnity as of the date first set forth above.

**INDEMNITOR:**

PD MILLENNIUM PARTNERS LP, a California limited partnership

By: PC Gerald Ford Developers LLC, a California limited liability company,  
Its administrative general partner

By: Palm Companies LLC, a California limited liability company,  
Its managing member

By:   
Danavon L. Horn, President

Date: 10/28/2024

Exhibit A  
LEGAL DESCRIPTION

The land referred to is situated in the City of Palm Desert, State of California, and is described as follows:

THOSE PORTIONS OF PARCEL 8 AND PARCEL 9 OF PARCEL MAP NO. 36792, IN THE CITY OF PALM DESERT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 239 OF PARCEL MAPS, PAGES 9 THROUGH 15, INCLUSIVE, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 8; THENCE ALONG THE SOUTH LINE OF SAID PARCEL 9, SOUTH 89°56'08" WEST 72.55 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT EASTERLY 138.45 FEET, MEASURED AT RIGHT ANGLES, FROM THE EAST RIGHT OF WAY LINE OF DINAH SHORE DRIVE, AS SHOWN ON SAID PARCEL MAP NO. 36792; THENCE LEAVING SAID SOUTH LINE AND ALONG SAID PARALLEL LINE, NORTH 0°00'00" EAST 31711 FEET; THENCE NORTH 90°00'00" EAST 65.55 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT WESTERLY 7.00 FEET, MEASURED AT RIGHT ANGLES FROM THE WEST LINE OF SAID PARCEL 8; THENCE NORTH 0°00'00" EAST 102.00 FEET ALONG LAST SAID PARALLEL LINE TO A LINE THAT IS PARALLEL WITH AND DISTANT NORTHERLY 1.00 FEET; MEASURED AT RIGHT ANGLES, FROM THE NORTH LINE OF SAID PARCEL 8; THENCE NORTH 90°00'00" EAST 275.69 FEET ALONG LAST SAID PARALLEL LINE TO AN INTERSECTION WITH THE NORTHWESTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID PARCEL 8; THENCE SOUTH 68°15'29" EAST 409.78 FEET ALONG SAID NORTHWESTERLY PROLONGATION AND SAID NORTHEASTERLY LINE OF PARCEL 8 TO A TANGENT CURVE, CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 1445.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE AND SAID NORTHEASTERLY LINE OF PARCEL 8 AN ARC LENGTH OF 535.73 FEET, THROUGH A CENTRAL ANGLE OF 21°14'32" TO A NON-TANGENT LINE, SAID NON-TANGENT LINE BEING PARALLEL WITH AND DISTANT WESTERLY 36.00 FEET, MEASURED AT RIGHT ANGLES, FROM THE MOST EASTERLY LINE OF SAID PARCEL 8; THENCE LEAVING SAID NORTHEASTERLY LINE OF PARCEL 8, ALONG LAST SAID PARALLEL LINE, SOUTH 07°03'09" EAST 105.97 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID PARCEL 8, BEING A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 73.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 36°36'07" WEST; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL 8 THE FOLLOWING FIVE (5) COURSES, SOUTHERLY ALONG SAID NON-TANGENT CURVE AN ARC LENGTH OF 28.61 FEET, THROUGH A CENTRAL ANGLE OF 22°27'11" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY HAVING A RADIUS OF 60.00 FEET; A LINE RADIAL TO SAID BEGINNING OF CURVE BEARS SOUTH 59°03'18" EAST; THENCE SOUTHWESTERLY LONG LAST SAID CURVE AN ARC LENGTH OF 38.39 FEET THROUGH A CENTRAL ANGLE OF 36°39'18" TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 336.00 FEET; A LINE RADIAL TO LAST SAID BEGINNING OF CURVE BEARS NORTH 22°24'00" WEST, THENCE SOUTHEASTERLY ALONG LAST SAID CURVE AN ARC LENGTH OF 120.80 FEET; THROUGH A CENTRAL ANGLE OF 20°36'00"; THENCE SOUTH 47°00'00" WEST 102.69 FEET; THENCE NORTH 89°13'34" WEST 25.84 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1075.00 FEET, A LINE RADIAL TO SAID BEGINNING OF CURVE BEARS NORTH 44°07'38" EAST; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 8 THE FOLLOWING TWO (2) COURSES NORTHWESTERLY ALONG LAST SAID CURVE AN ARC LENGTH OF 829.14 FEET; THROUGH A CENTRAL ANGLE OF 44°11'30"; THENCE SOUTH 89°56'08" WEST 112.85 FEET TO SAID SOUTHWEST CORNER OF PARCEL 8 AND THE POINT OF BEGINNING.

SCHEDULE A  
Housing and Workforce Solutions  
Budget Adjustment  
Fiscal Year 2024/2025

Increase in Appropriations:

|                         |                              |    |           |
|-------------------------|------------------------------|----|-----------|
| 21735-5501000000-536200 | Contrib To Non-County Agency | \$ | 6,700,000 |
|-------------------------|------------------------------|----|-----------|

Increase in Estimated Revenues:

|                         |                              |    |           |
|-------------------------|------------------------------|----|-----------|
| 21735-5501000000-763520 | Fed-American Rescue Plan Act | \$ | 6,700,000 |
|-------------------------|------------------------------|----|-----------|



# CITY OF PALM DESERT

73-510 FRED WARING DRIVE  
PALM DESERT, CALIFORNIA 92260-2578  
TEL: 760 346-0611  
info@cityofpalmdesert.org

## PLANNING COMMISSION MEETING NOTICE OF ACTION

August 17, 2022

Mr. Danavan Horn  
Palm Communities  
100 Pacifica, Suite 203  
Irvine, California 92618

**Subject: Consideration of a Precise Plan (PP) and a Tentative Parcel Map (TPM) for a 241-unit Multi-family Development**

The Planning Commission of the City of Palm Desert considered your request and took the following action at its regular meeting on August 16, 2022:

*Waived further reading and adopted Planning Commission Resolution No. 2817, approving a recommendation to the City Council to approve Case Nos. PP22-0003/TPM 38366 contingent upon that City staff communicate to the City Council with the following Planning Commission's concerns: 1) The applicant to incorporate access to the retention basin for recreational use; 2) the City of Palm Desert to consult with SunLine Transit Agency to assess future transit facility needs at this project location. If said transit facilities are needed, the project applicant shall determine if adequate space is available to meet the future requirement; and 3) the inclusion of a water feature that is accessible to all residents of the Palm Villas community. The motion was carried by a 4-0, with Chair DeLuna ABSENT.*

Enclosed for your records is a fully executed copy of Resolution No. 2817. Any appeal of the above action may be made in writing to the City Clerk, City of Palm Desert, within 15 days of the date of the decision. If you have any questions or require additional information, please do not hesitate to contact Senior Planner Nick Melloni at nmelloni@cityofpalmdesert.org or (760) 346-0611, Extension 479.

Sincerely,

CHRIS ESCOBEDO, SECRETARY  
PALM DESERT PLANNING COMMISSION

cc: File  
Building & Safety Division  
Fire Marshal

**PLANNING COMMISSION RESOLUTION NO. 2817**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM DESERT, CALIFORNIA, FINDING NO FURTHER ENVIRONMENTAL REVIEW IS NECESSARY UNDER THE STATE OF CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES SECTION 15183, AND RECOMMENDING THAT THE CITY COUNCIL APPROVE A TENTATIVE PARCEL MAP (TPM) AND A PRECISE PLAN (PP) FOR A 241-UNIT MULTI-FAMILY (AFFORDABLE HOUSING) PROJECT ON A 10.49-ACRE SITE LOCATED AT THE NORTHWEST CORNER OF GERALD FORD DRIVE AND TECHNOLOGY DRIVE  
CASE NOS. PP22-0003/TPM 38366**

**WHEREAS**, Palm Communities, a California Corporation (“Applicant”), submitted a TPM establishing two (2) parcels, a PP application for a 241-unit multi-family (affordable housing) development community consisting of 10 three-story apartment buildings, one (1) two-story community building with an on-site manager’s unit, outdoor recreation areas, and associated parking areas on a 10.49-acre site, including related off-site improvements (“Project”); and

**WHEREAS**, the Project site has a land use designation of Town Center Neighborhood (TCN) in the General Plan adopted November 10, 2016, and a zoning designation of Planning Residential (PR-22) in Planning Area 8 High Density (10 acres), and Open Space in Planning Area 9 (0.49 acres) within the Millennium Palm Desert Specific Plan. The Director of Development Services has administrative authority to approve Minor changes in Planning Areas boundaries that increase or decrease any Planning Area acreage by 15% or less; and

**WHEREAS**, under Section 21067 of the Public Resources Code, Section 15367 of the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), and the City of Palm Desert’s (“City’s”) Local CEQA Guidelines, the City is the lead agency for the Project; and

**WHEREAS**, an Environmental Impact Report (EIR) was prepared and certified by the City Council as part of the Palm Desert General Plan (SCH# 2015081020); and

**WHEREAS**, the proposed Project is consistent with the development density and use characteristics considered by the General Plan EIR in the TCN land use designation; and

**WHEREAS**, on March 10, 2022, the City Council of the City of Palm Desert adopted the 2021-2029 Housing Element for the 6<sup>th</sup> Cycle, which allocates that the Project site provides a minimum of 240 units for affordable housing; and

**WHEREAS**, the Applicant has agreed to provide 239 units within the development at affordable levels for income-qualified persons and two (2) manager units as determined by a housing agreement and, as such, is eligible for a density bonus provided by AB 2222 (Government Code section 65915 et seq.) and Palm Desert Municipal Code Section (PDMC) 25.34.040; and

**WHEREAS**, the Applicant did, on July 15, 2022, enter into an Exclusive Negotiation Agreement (ENA) with the City of Palm Desert per Contract No. C41030C; and

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**WHEREAS**, the Architectural Review Commission (ARC) of the City of Palm Desert, California, did on the 12<sup>th</sup> day of April 2022, consider the request by the Applicant at its meeting and recommended approval with conditions to the Planning Commission of the above-noted Project request; and

**WHEREAS**, State CEQA Guidelines Section 15183 (Public Resources Code §21083.3) provides that projects which are consistent with a Community Plan, General Plan, or Zoning for which an EIR has been certified “shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the Project or its site;” and

**WHEREAS**, the Planning Commission of the City of Palm Desert, California, did on the 16<sup>th</sup> day of August 2022, hold a duly noticed public hearing to consider the request by the Applicant for approval of the above-noted Project request; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred; and

**WHEREAS**, at the said public hearing, upon hearing and considering all testimony and arguments, if any, of all interested persons desiring to be heard, the Planning Commission did find the following facts and reasons, which are outlined in the staff report, exist to justify approval of said request:

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF PALM DESERT, CALIFORNIA, AS FOLLOWS:**

**SECTION 1. Recitals.** The Planning Commission hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

**SECTION 2. Findings on Tentative Parcel Map.** In recommending approval of this Project, the Planning Commission, and under PDMC Section 26.20.100(C), shall deny approval of a tentative map if any of the following findings are made:

1. That the density of the proposed subdivision is not consistent with applicable general and specific plans.

*The proposed map has been reviewed and found to be consistent with the density standards of the TCN designation and the Millennium Specific Plan (MSP). The TCN zone allows densities between seven (7) and 40 units per acre. The MSP allows up to 22 dwelling units per acre in Planning Area 8. The project proposes 23.5 dwelling units per acre. This density is consistent with the TCN designation and exceeds the MSP; however, is allowable as the Project is requesting a density bonus pursuant to Government Code 65915-65918 for providing affordable housing and is permitted to exceed the allowable zoning density.*

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2. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

*The design and improvement of the proposed subdivision is consistent with the applicable TCN requirements, circulation element requirements, and requirements of the MSP. The dedications for public right-of-way are consistent with the applicable circulation elements of the General Plan and Specific Plan. The proposed vehicle access points are consistent with the MSP.*

3. That the site is not physically suitable for the type of development.

*The site is physically suitable for the proposed multi-family housing development. The site has suitable access, grading, drainage, and zoning to allow the proposed development.*

4. That the site is not physically suitable for the proposed density of development.

*The site is physically suitable for the proposed density of development. The allowable density for the site has been evaluated by the General Plan. The Applicant has prepared the appropriate technical studies to assess that the site is physically suitable to develop.*

5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat.

*The design of the subdivision and proposed improvements will not cause damage or substantially injure wildlife habitat. The subject property is in an urbanized area of Palm Desert and is adjacent to major roadways, including Gerald Ford Drive. The site is vacant and surrounded by residential development to the west and commercial development to the east. A biological assessment of the site was prepared for the MSP and did not identify suitable habitats for wildlife that could be damaged or affected as a result of the development of the Project. Ground disturbing activities for the development of the project shall comply with the Migratory Bird Treaty Act, as well as preparation of a burrowing owl survey prior to ground-disturbing activities, and prior to the removal of vegetation or tree removal shall ensure no habitat is damaged.*

6. That the design of the subdivision or the type of improvements is likely to cause serious public health problems.

*The design of the subdivision is not likely to cause serious health problems. The Project is not located within a hazardous area that would be subject to flooding, liquefaction, landslide, fault zones, or other natural hazards. The project does not generate adverse effects that would cause public health problems. Ground disturbing*



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*activities are conditioned to prepare plans to control fugitive dust. The access locations to the subdivision have been evaluated in accordance with the Millennium Specific Plan and will not adversely affect public health.*

**SECTION 3. Finding.** The application has complied with the requirements of the “City of Palm Desert Procedure for Implementation of CEQA” Resolution No. 2019-41, in that the Director of Development Services has determined that the Project is consistent with the approved General Plan and MSP and that other project-specific impacts were evaluated in the approval of the MSP and that no further environmental review is required under State CEQA Guidelines 15183. CEQA Guidelines Section 15183 allows for a streamlined environmental review process for projects, which are consistent with the development density established by existing zoning, community plan, or General Plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the Project or its sites. If the above qualifications are met, as stated in Section 15183(b), “a public agency shall limit its examination of environmental effects to those which the agency determines, in an initial study or other analysis: (1) are peculiar to the Project or the parcel on which the Project would be located, (2) were not analyzed as significant effects in a prior EIR on the zoning action, General Plan, or community plan, with which the Project is consistent, (3) are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the General Plan, community plan or zoning action, or the Project’s CEQA Section 15183 Analysis (4) are previously identified significant effects which, as a result of substantial new information, which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.” This document has been prepared to satisfy the requirements of CEQA Guidelines Section 15183. It analyzes the potential environmental effects of the proposed Project and evaluates whether they were adequately analyzed in a prior EIR such that the above-identified streamlining criteria apply. The Project is consistent with the Palm Desert General Plan Update (General Plan Update), for which an EIR (SCH No. 2015081020) was certified. The General Plan Update provides a framework for future growth of the City and projects the development reasonably expected to occur during the buildout period. The Genal Plan Update EIR analyzed the environmental impacts associated with the adoption and implementation of the General Plan Update. The proposed Project is permitted in the zoning district where the Project site is located and consistent with the land uses, density, and vision of the General Plan Update; and

**SECTION 4. Project Recommendations.** The Planning Commission hereby recommends approval of PP22-0003 and TPM 38366 to the City Council, subject to the findings and conditions of approval.

**SECTION 5. Custodian of Records.** The documents and materials that constitute the record of proceedings on which these findings are based are located at the City’s office at 73510 Fred Waring Drive, Palm Desert, CA 92260. Chris Escobedo, the Secretary to the Palm Desert Planning Commission, is the custodian of the record of proceedings.

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**SECTION 6. Execution of Resolution.** The Chairperson of the Planning Commission signs this Resolution and the Secretary to the Commission shall attest and certify to the passage and adoption thereof.

**SECTION 7. Recitals.** The Planning Commission hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

**PASSED, APPROVED, AND ADOPTED** by the Planning Commission of the City of Palm Desert, California, at its regular meeting held on the 16<sup>th</sup> day of August 2022, by the following vote, to wit:

**AYES: GREENWOOD, GREGORY, HOLT, and PRADETTO**

**NOES: NONE**

**ABSENT: DE LUNA**

**ABSTAIN: NONE**

  
\_\_\_\_\_  
NANCY DE LUNA, CHAIR

ATTEST:

  
\_\_\_\_\_  
CHRIS ESCOBEDO, SECRETARY  
PALM DESERT PLANNING COMMISSION

**EXHIBIT "A"  
CONDITIONS OF APPROVAL  
CASE NOS. PP22-0003/TPM 38366**

**PLANNING DIVISION:**

1. The development of the property shall conform substantially with exhibits on file with the Development Services Department, as modified by the following conditions.
2. The Applicant agrees that in the event of any administrative, legal, or equitable action instituted by a third party challenging the validity of any of the procedures leading to the adoption of these Project Approvals for the Project, or the Project Approvals themselves, the Developer and City each shall have the right, in their sole discretion, to elect whether or not to defend such action. Developer, at its sole expense, shall defend, indemnify, and hold harmless the City (including its agents, officers, and employees) from any such action, claim, or proceeding with counsel chosen by the City, subject to the Developer's approval of counsel, which shall not be unreasonably denied, and at the Developer's sole expense. If the City is aware of such an action or proceeding, it shall promptly notify the Developer and cooperate in the defense. The Developer, upon such notification, shall deposit with City sufficient funds in the judgment of the City Finance Director to cover the expense of defending such action without any offset or claim against said deposit to assure that the City expends no City funds. If both Parties elect to defend, the Parties hereby agree to affirmatively cooperate in defending said action and to execute a joint defense and confidentiality agreement in order to share and protect the information under the joint defense privilege recognized under applicable law. As part of the cooperation in defending an action, City and Developer shall coordinate their defense in order to make the most efficient use of legal counsel and to share and protect information. Developer and City shall each have sole discretion to terminate its defense at any time. The City shall not settle any third-party litigation of Project Approvals without the Developer's consent, which consent shall not be unreasonably withheld, conditioned, or delayed unless the Developer materially breaches this indemnification requirement.
3. The development of the property described herein shall be subject to the restrictions and limitations set forth herein, which are in addition to the approved development standards listed in the PDMC, and state and federal statutes now in force, or which hereafter may be in force.
4. The PP shall expire if construction of the said Project shall not commence within two (2) years from the date of final approval unless an extension of time is granted by the Palm Desert Planning Commission; otherwise, said approval shall become null, void, and of no effect whatsoever.
5. The PP approval is for a two-phase, 241-unit apartment development, however, may be constructed as a single phase in the future:

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- A. Phase 1 consists of 121 apartment units, a community building, facilities, a common area, and related on-site and off-site improvements (including the temporary access to Dinah Shore Drive).
  - B. Phase 2 consists of 120 apartment units, facilities, the remaining common area, and related on-site and off-site improvements.
6. The approved PP shall only be modified with written City approval per PDMC Chapter 25.72.030. Any proposed changes to this PP will require an amendment to the application, which may result in a new public hearing.
  7. All construction documentation shall be coordinated for consistency, including, but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape and irrigation, grading, and street improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Development Services Department.
  8. The Applicant shall execute a written acknowledgment to the Planning Division stating acceptance of and compliance with all the Conditions of Approval of Resolution No. 2817 for PP22-0003 and TPM 38366 and that the plans submitted are in compliance with the Conditions of Approval. No modifications shall be made to said plans without written approval from the appropriate decision-making body.
  9. Prior to issuance of a building permit for construction of any use or structure contemplated by this approval, the Applicant shall first obtain permits and or clearance from the following agencies:  
  
Coachella Valley Water District (CVWD)  
Public Works Department  
Fire Department  
Building and Safety Division  
  
Evidence of said permit or clearance from the above agencies shall be presented to the Building & Safety Division at the time of issuance of a building permit for the use contemplated herewith.
  10. This Project is subject to payment of the City's Public Art fee. The fee will be applied at the time of a building permit issuance and shall remain in the City's public art fund.
  11. Final lighting plans shall be submitted per PDMC Section 24.16 for any landscape, architectural, street, or other lighting types within the Project area.
  12. All exterior lighting sources shall be fully shielded and directed downwards and is subject to approval by the Development Services Department. Luminaries with total lamp lumens above 16,000 lumens shall not be used.

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13. Access to trash and service areas shall be placed so as not to conflict with parking areas. Said placement shall be approved by the applicable waste company and the Development Services Department and shall include a recycling program and organic waste programs as required by law.
14. Final landscape and irrigation documents shall be prepared by a landscape architect registered with the State of California and shall be submitted to the Development Services Department and the CVWD for review and approval. All sheets shall be signed by the landscape architect and shall include the license number and the expiration date. The landscape plan shall conform to the preliminary landscape plans prepared as part of this application and shall include dense plantings of landscape material. All plants shall be a minimum of five (5) gallons in size, and all trees shall be a minimum 24-inch box in size.
  - A. The Applicant shall submit final landscape construction plans to the Palm Desert Development Services Department for review and acceptance prior to submittal to CVWD.
15. All Project irrigation systems shall function properly, and landscaping shall be maintained in a healthy and thriving condition. The maintenance of landscaping and the irrigation system shall be permanently provided for all areas of the Project site, as well as walkways and the portion of public right-of-way abutting the Project site (parkways). Furthermore, the plans shall identify responsibility for the continued maintenance.
16. Prior to the issuance of the Certificate of Occupancy, the Project landscape architect shall submit written verification to the Planning Division that the landscaping and irrigation have been installed per the approved landscape plan.
17. All exterior equipment and all appurtenances thereto shall be completely screened from public view by walls or roof screens that are architecturally treated to be consistent with the building. The final construction plans shall include appropriate drawings demonstrating how such equipment is to be screened from view. No rooftop equipment shall be permitted.
18. All roof drainage systems and devices shall be designed such that they are fully screened from view from all public streets. Drainage devices, including but not limited to down-spouts, shall not be located on any street-facing building elevation or area that is clearly visible from the public right-of-way. Drainage devices shall be fully integrated into the building structure.
19. All ground-mounted utility structures including, but not limited to, transformers, HVAC equipment, and backflow prevention valves shall be located out of view from any public street or adequately screened using landscaping and/or masonry walls.

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20. Exterior building elevations showing building wall materials, roof types, exterior colors, and appropriate vertical dimensions, shall be included in the development construction drawings.
21. The Applicant shall construct the pedestrian circulation network as shown on the approved preliminary site plan.
22. All roof access ladders shall be located on the inside of the building.
23. All parking spaces shall be clearly marked with white or yellow paint or other easily distinguished material. Except as required by State and ADA requirements, all markings shall be a minimum four-inch (4") wide double ("hairpin" style) stripe designed to provide 18 inches measured outside to outside under City Council Resolution No. 01-5.
24. The Applicant shall provide a minimum of on-site parking spaces per Government Code Section 65915(p)(1), per the State Density Bonus Law. The Applicant shall provide covered parking to ensure each Phase of development provides each unit with a minimum of one (1) covered parking stall.
25. The Applicant shall comply with the recommendations made by the City's ARC, as referenced on the April 22, 2022, Notice of Action for the April 12, 2022, meeting.
26. The Applicant or any successor in interest shall comply with all applicable local, state and federal laws, and regulations.
27. A copy of the herein-listed Conditions of Approval shall be included in the construction documentation package for the Project, which shall be continuously maintained on-site during Project construction.
28. Prior to permit issuance, the Applicant shall submit plans for the final design of all site walls subject to review and approval by the Palm Desert Development Services Department. The design of the walls shall be consistent with the height, material, and design (smooth plaster finish, pilaster, and cap) on the approved conceptual landscape plan.
  - A. The Applicant shall incorporate noise abatement measures into the Project, including the construction of an eight-foot-tall (8') and six-foot (6') sound walls, as identified by the REC-1 of Project Acoustical Assessment dated December 2021.
  - B. The Applicant shall provide pedestrian access points to Gerald Ford Drive and along the northern property boundary. The design of these access points shall include a decorative gate, pilasters, decorative cap, and arbors.
  - C. The interim fencing between Phase 1 and Phase 2 shall consist of windscreen fencing. The fencing shall be removed upon commencement of

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Phase 2. The windscreen fencing shall be placed along the western boundary of Phase 1 and the northern boundary of Phase 2 and shall remain in place and maintained until the commencement of Phase 2. The temporary windscreen fencing shall be constructed per Section 304-3 of the Standard Specifications for Public Works Construction. The fence shall have an overall height of six (6) feet measured from the top of the grade. The chain link fabric shall be nine (9) gauge, two inches (2") galvanized material. The fence shall include a top rail and an 88% opacity, tan, knitted, High-Density Polyethylene windscreen. Fence post footings shall be 12" diameter and 36" depth for end posts, eight inches (8") diameter and 36" depth for line posts.

- D. The Applicant shall provide a detailed construction plan for all access gates to staff prior to permit issuance.
  - E. All ground-mounted HVAC shall be screened by a minimum 42" low wall or greater to screen the equipment. The design of the wall shall be consistent with site walls and as shown on the approved preliminary landscape plans.
29. The Applicant shall construct the pedestrian circulation network as shown on the approved preliminary site plan.
  30. All mitigation measures identified in the CEQA Environmental Assessment and Initial Study shall be incorporated into the planning, design, development, and operation of the Project.
  31. The Applicant shall incorporate all noise abatement measures as recommended by the Project Acoustical Assessment dated December 2021.
  32. All monument signage shall be subject to review and approval by the Development Services Department and shall substantially conform with the exhibits approved by the ARC.
  33. The Applicant shall remove temporary facilities, including temporary access, signage, and fencing prior to commencement of Phase 2.
  34. The Applicant shall comply with all Conditions of Approval of City Council Resolution 2015-15 except as modified herein.
  35. The Applicant shall incorporate all mitigation measures identified by the Millennium Palm Desert Specific Plan Mitigated Negative Declaration.
  36. The Applicant shall enter into a Housing Agreement (HA) with the City agreeing to make 100% of the Project affordable providing all units to extremely low, very low, and low-income households. The HA will create such conditions, covenants, restrictions, liens, and charges in favor of the City upon and subject to which the Project shall be occupied, leased, and rented. The provisions of the HA shall run with

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title to each and every portion of the Apartment Site and the Project and shall inure to and pass with each and every portion thereof and shall apply to and bind any successors-in-interest of Owner for a minimum period of 55 years from the date on which the City issues the Certificate of Occupancy for the Project. The HA shall be signed and completed by both the City and the Applicant prior to issuance of a Building Permit.

### **LAND DEVELOPMENT DIVISION/PUBLIC WORKS DEPARTMENT:**

37. The following plans, studies, and exhibits are hereby referenced: TPM 38366, prepared by Kimley Horn and dated January 2022; Preliminary Grading and Utility Plan Phase 1, prepared by Kimley Horn and dated March 2022; Preliminary Grading & Utility Plan Phase 2, prepared by Kimley Horn and dated March 2022.
38. It is assumed that easements shown on the preliminary grading exhibit are shown correctly and include all the easements that encumber the subject property. A current preliminary title report for the site will be required to be submitted at technical plan. The Applicant shall secure approval from all, if any, easement holders for all grading and improvements, which are proposed over the respective easement or provide evidence that the easement has been relocated, quitclaimed, vacated, abandoned, easement holder cannot be found, or is otherwise of no effect. Should such approvals or alternate actions regarding the easements not be provided and approved by the City, the Applicant may be required to amend or revise the proposed site configuration as may be necessary.
39. It is understood that the conceptual exhibits correctly show acceptable centerline elevations, all existing easements, traveled ways, and drainage courses with appropriate Qs and that an omission or unacceptability may require the Applicant to amend or revise the site plan as may be.
40. All private streets and common areas will be permitted as shown on the conceptual exhibit subject to these Conditions of Approval and the Applicant providing adequate provisions, by means of a homeowners' association (HOA) or another equivalent responsible mechanism as approved by the City Engineer and City Attorney, for the continued and perpetual maintenance of these streets, common areas, and on-site post-construction Best Management Practices (BMPs) to the satisfaction of the City Engineer and City Attorney.
41. The Applicant shall pay all signalization fees per the City's Resolution Nos. 79-17 and 79-55.
42. Prior to map approval, the Applicant shall pay all, appropriate drainage fees in per PDMC Section 26.49.050 and Palm Desert Ordinance No. 653.
43. The Applicant shall pay all appropriate park fees per PDMC Section 26.48.060.



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44. The Applicant shall comply with Pam Desert Ordinance No. 843, Section 24.20 Stormwater Management and Discharge.
45. All utility extensions within the site shall be placed underground unless otherwise specified or allowed by the respective utility purveyor.
46. Prior to a grading permit, the Applicant shall prepare a final grading plan for the site. No grading or other improvements shall be permitted until a final grading plan has been approved by the City Engineer. Grading plans and all grading shall conform to the approved Conceptual Grading Plan, the California Building Code, PDMC Title 27 Grading, and all other relevant laws, rules, and regulations governing grading in the City of Palm Desert.
47. The grading plan shall provide for acceptance and proper disposal of all off-site drainage flowing onto or through the site. Should the quantities exceed the street capacity, the Applicant shall provide adequate drainage facilities and/or appropriate easements as approved by the City Engineer.
48. The grading plan shall provide for the protection of downstream properties from damages caused by alteration of the drainage patterns, i.e., concentration or diversion of flow.
49. Pad elevations, as shown on the conceptual exhibit, are subject to review and modification per Chapter 27 of the PDMC.
50. Prior to approval of the grading plan, the Applicant shall prepare a detailed final flood hazard/hydrology and hydraulics report for approval of the City Engineer.
51. Prior to approval of the grading plans, the Applicant shall provide the City Engineer with evidence that a Notice of Intent (NOI) has been filed with the State Water Resources Control Board. Such evidence shall consist of a copy of the NOI stamped by the State Water Resources Control Board or the Regional Water Quality Control Board or a letter from either agency stating that the NOI has been filed.
52. The Applicant shall submit a final Hydrology and Hydraulics Report for the entire site. The report shall comply with all relevant laws, rules, and regulations governing the City of Palm Desert.
53. All drainage and storm drain improvements shall be designed per PDMC Title 24, Riverside County Flood Control and Water Conservation District's standards for the Drainage Element of the Palm Desert General Plan, and all other relevant laws, rules, and regulations governing grading in the City of Palm Desert.

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54. Prior to the issuance of a grading permit, the Applicant shall submit a PM10 application for review and approval. The Applicant shall comply with all provisions of PDMC Section 24.12 regarding Fugitive Dust Control.
55. Prior to the issuance of a grading permit, the Applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP) for review and approval from the Land Development Division.
56. Where grading involves import or export, the Applicant shall obtain permits from the Public Works Department, including import/export quantities and hauling route.
57. It shall be the sole responsibility of the Applicant to obtain any and all proposed or required easements and/or permissions necessary to perform the grading shown on the tentative grading plan exhibit. Proof shall be provided to the Land Development Division prior to the issuance of a grading permit.
58. Prior to a grading permit and if grading is required off-site, the Applicant shall obtain written permission from the property owner(s) to grade as necessary and provide a copy to the Engineering Department.
59. Prior to the issuance of a grading permit, the Applicant shall submit a signed and notarized WQMP Operations and Maintenance Agreement to the City. The agreement shall provide for the maintenance and operation of open space areas, common spaces such as parking lot and recreational facilities, trash disposal for common areas, and water quality BMP facilities, by either the property owner's association or the owners of each individual lot or unit as tenants in common.
60. Prior to the issuance of a grading permit and in compliance with the PDMC Section 27.24, the Applicant shall enter into an agreement and post financial security guarantee for all grading work related to this Project.
61. Prior to the issuance of a grading permit, the Applicant shall submit for review and approval of the City Engineer a final Geotechnical Report that includes project-specific recommendations.
62. Upon completion of grading, the Project' Geotechnical Engineer shall certify the completion of rough grading in conformance with the approved grading plans and the recommendations of the geotechnical report approved for this project. A licensed land surveyor shall certify the completion of grading in conformance with the lines and grades shown on the approved grading plans.
63. It is assumed that the grading and the provisions for water quality management shown on the conceptual grading exhibit can comply with all requirements for a Final Water Quality Management Plan (F-WQMP), without substantial change from that shown. Prior to the approval of the grading plan, the landowner shall prepare, or

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cause to be prepared, a Final WQMP in conformance with the requirements of the Riverside County Flood Control and Water Conservation District (RCFC&WCD) Whitewater River Watershed area for approval of the City Engineer.

64. The Applicant shall submit a final Water Quality Management Plan. The report shall comply with all relevant laws, rules, and regulations governing in the City of Palm Desert.
65. All post-construction BMPs shall be designed based on the City of Palm Desert's maximum infiltration criteria of one (1) inch/hour unless otherwise approved by the City Engineer for which an alternate of 2 inches/hour has been specifically approved for this Project.
66. Prior to the issuance of a grading permit, the Applicant shall submit plans for review and approval to the City Engineer for all public improvements, including but not limited to street and roadway improvements and landscape and irrigation improvements.
67. Prior to the issuance of an encroachment permit, for public improvements and/or map recordation, whichever comes first, the Applicant shall enter into an agreement and post financial security guarantee for the construction of all off-site/public improvements per Section 27.24 of the PDMC. The form and amount of the financial security shall be reviewed and approved by the City Engineer. The Applicant shall guarantee all improvements for a period of one (1) year from the date of final acceptance, and the improvement guarantee shall be backed by a bond or cash deposit in the amount of 10% of the surety posted for the improvements.
68. Prior to the map recordation, the Applicant shall submit improvement plans for Dinah Shore Drive and the proposed access road to the site. The Applicant is responsible for the construction and installation of improvements for Dinah Shore Drive per the following:
  - A. Prior to the issuance of a building Certificate of Occupancy for the first building of Phase 1 of the development, the Applicant shall construct parkway improvements along site frontage and along the proposed access road ("Proposed Public Street" on TPM exhibit) to Dinah Shore Drive; including sidewalk, curb and gutter, and landscape and irrigation improvements, as approved by the City Engineer.
  - B. Prior to the issuance of a building Certificate of Occupancy for the last building of Phase 1 of the development, the Applicant shall complete improvements for the proposed access road and intersection improvements for Dinah Shore Drive and the proposed access road to the site intersection; including Americans with Disabilities Act (ADA) compliant curb ramps, signing and striping, pedestrian, and bicycle facilities.
  - C. The Applicant shall provide one (1) driveway to provide access for Phase 1 and Phase 2 of the development to the proposed access road to Dinah Shore Drive.

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The location and design shall be per the approved conceptual exhibits and the Palm Desert Standard Drawings and Specifications.

- D. The Applicant shall provide a second emergency vehicle-only access for Phase 2 to the proposed access road to Dinah Shore Drive.
  - E. The Applicant shall show, as reference only, all existing and proposed utility connections. Utility plans shall be processed and approved by CVWD.
69. Technology Drive is identified in the Millennium Palm Desert Specific Plan as a Collector Street with a 72-foot ultimate right-of-way, looping from the existing intersection with Gerald Ford Drive to a northwesterly intersection with Gerald Ford Drive adjacent to the project site. If ultimate improvements for Technology Drive are not present at the time of project construction, the Applicant shall provide interim intersection improvements, as described on these Conditions of Approval and approved by the City Engineer, to provide access from the site to Gerald Ford Drive.
70. If interim intersection improvements are applicable per Condition of Approval No. 69, prior to the issuance of an encroachment permit for public improvements and/or map recordation, whichever comes first, the Applicant shall submit improvement plans for Technology Drive/Site Access - Gerald Ford Drive interim improvements, which include:
- A. Curb adjacent landscape and irrigation improvements along the site frontage.
  - B. Sidewalk along the site frontage and around the westerly side of the Technology Drive roundabout.
  - C. Roadway improvements for half-width of the street plus 12 feet.
  - D. Fire Department and City approved turnaround for vehicles at Technology Drive and project access drive intersection.
  - E. Separate signing and striping plans.
  - F. All plans shall show, as reference only, all existing and proposed utility connections. Utility plans shall be processed and approved by CVWD.
71. Prior to the map recordation, the Applicant shall submit improvement plans for Gerald Ford Drive. The Applicant is responsible for the construction and installation of improvements for Gerald Ford Drive, including, but not limited to:
- A. The Applicant shall construct parkway improvements along site frontage, including landscape and irrigation improvements along Phase 1 and meandering sidewalk from the northerly intersection with Technology Drive to the intersection with Dinah Shore Drive.
  - B. Prior to the issuance of the building Certificate of Occupancy for the first building of the development, the Applicant shall construct parkway improvements along site frontage, including sidewalk, and landscape and irrigation improvements, as approved by the City of Palm Desert Planning Division.

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- C. The Applicant shall be responsible for repairs to the existing curb and gutter along the project frontage, as needed and required by the City Engineer.
  - D. If not in place at the time of project construction, the Applicant shall provide for the installation of a streetlight at the northerly intersection of Gerald Ford Drive and Technology Drive.
72. Prior to the map recordation, the Applicant shall provide a full-scale signing and striping improvement plan for Dinah Shore Drive as a separate set of plans from street improvement plans for review and approval of the City Engineer. Signing and striping plans shall show existing improvements and modifications including, but not limited to, bike lanes, roundabout(s), travel lanes, pavement markings, turning arrows, etc.
  73. Prior to the map recordation, the Applicant shall provide a full-scale signing and striping improvement plan for Gerald Ford Drive as a separate set of plans from street improvement plans for review and approval of the City Engineer. Signing and striping plans shall show existing improvements and modifications including, but not limited to, bike lanes, roundabout(s), travel lanes, pavement markings, turning arrows, etc.
  74. The Applicant shall provide a private easement for reciprocal access between proposed Lot 1 and Lot 2 of the subdivision. If rights are reserved outside the final parcel map, proof of recorded document shall be provided to the City Engineer prior to Final Parcel Map recordation.
  75. The Applicant shall provide drainage easement for proposed Lot 2 over proposed Lot 1 of the subdivision. If rights are reserved outside the Final Parcel Map, proof of recorded document shall be provided to the City Engineer prior to Final Parcel Map recordation.
  76. Prior to map approval, covenants, conditions, and restrictions (CC&Rs) related to this development shall be submitted to the City for review and approval of the City Engineer.
  77. Abutter's rights along Parcel 8 of Parcel Map No. 36792 shall be perpetuated on the final map.
  78. Prior to the map recordation, the Applicant shall enter into a subdivision improvement agreement and post financial securities with the City for the required public improvements. The form and amount of the financial security shall be reviewed and approved by the City Engineer and comply with PDMC Section 26.28.030 and Section 26.28.040.
  79. Prior to the map recordation, the Applicant shall submit grading and improvement plans for all private (on-site), improvements for review and approval of the City

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Engineer. Signing and striping shall be part of the plans and shall include stop signs and stop bars for vehicles exiting the development via the approved driveways.

80. Prior to the issuance of a building permit, the Applicant shall provide the City Land Development Division with a copy of the Fire Department clearance for the secondary access road. Access road shall be designed and constructed per the Fire Department standards and shall be clearly shown and identified on the project grading plans.
81. Prior to a building final inspection, the Applicant is responsible for the completion of construction of all grading and improvements for which plans are required and shall comply with all requirements within the public and private road right-of-ways.
82. Modifications, if any, to approved plans shall be submitted to the City for review as delta revisions and will require approval of the City Engineer.

### **BUILDING AND SAFETY DIVISION:**

83. This project shall comply with the latest adopted edition of the following codes:
  - A. California Building Code and its appendices and standards.
  - B. California Residential Code and its appendices and standards.
  - C. California Plumbing Code and its appendices and standards.
  - D. California Mechanical Code and its appendices and standards.
  - E. California Electrical Code.
  - F. California Energy Code.
  - G. California Green Building Standards Code.
  - H. Title 24, California Code of Regulations.
  - I. California Fire Code and its appendices and standards.
84. This project will fall under the review and compliance of Chapters 11-A and Chapter 11-B of the 2019 California Building Code.
85. The Applicant shall coordinate directly with:

Riverside County Fire Marshal's Office  
CAL FIRE/Riverside County Fire Department  
Main: (760) 863-8886  
77933 Las Montañas Road, Suite 201  
Palm Desert, CA 92211
86. Plan approval must be obtained from the County of Riverside Department of Environmental Health (Health Department) before constructing or altering structure or equipment (such as fencing and decking). The Applicant shall coordinate directly with the Health Department for the application, plans, and specifications.

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87. All trash enclosures are required to be accessible. Provide an accessible path of travel to the trash enclosure. Trash enclosures shall comply with the minimum requirements established by Section 8.12 of the PDMC.
88. All contractors and subcontractors shall have a current City of Palm Desert Business License before permit issuance per PDMC, Title 5.
89. All contractors and/or owner-builders must submit a valid Certificate of Workers' Compensation Insurance coverage before the issuance of a building permit per California Labor Code, Section 3700.
90. Address numerals shall comply with Palm Desert Ordinance No. 1351 (PDMC Section 15.28). Compliance with Ordinance 1351 regarding street address location, dimension, a stroke of line, distance from the street, height from grade, height from the street, etc., shall be shown on all architectural building elevations in detail. Any possible obstructions, shadows, lighting, landscaping, backgrounds, or other reasons that may render the building address unreadable shall be addressed during the plan review process. The Applicant may request a copy of Ordinance 1351 or PDMC Section 15.28 from the Building and Safety Division counter staff.

### **FIRE DEPARTMENT:**

91. Fire Hydrants and Fire Flow: Prior to the issuance of building permits, plans for the water system shall be submitted to the Fire Department for review and approval. The water system shall be capable of delivering 1,500 GPM at 20 psi for a two-hour duration. Fire hydrant location and spacing shall comply with the fire code. Off-site (public) hydrants are required to be located next to the access walkways providing access to the property from Gerald Ford Drive and Technology Drive. (Reference the preliminary fire access site plan and the preliminary fire service water plan.) An approved water supply for fire protection during construction shall be made available before the arrival of combustible materials on-site. Reference 2019 California Fire Code (CFC) 507.5.1, 507.5.1, 3312, Appendices B and C.
92. Fire Department Access: Prior to building permit issuance, a fire access site plan shall be approved. The access roads shall be capable of sustaining 60,000 lbs. over two axels in all weather conditions. An approved access walkway shall be provided around the buildings. For ground ladder placement, the level grade shall be provided around the buildings for a minimum of eight (8) feet measured perpendicular from the exterior building walls. Approved vehicle access, either permanent or temporary, shall be provided during construction. CFC 503.1.1, 3310.1 and 503.2.1.
93. Requests for installation of traffic calming designs and devices on fire apparatus roads shall be submitted and approved by the Office of the Fire Marshal. Ref. CFC 503.4.1.

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94. **Phased Construction Access:** If construction is phased, each phase shall provide approved access for fire protection prior to any construction. An additional fire apparatus access road shall be provided to the site for Phase 1. The additional access point may be restricted to fire apparatus access only with approved Knox equipment installed for the gates. (Ref. CFC 503.1)
95. **Construction Permits:** Prior to the building permit issuance, building construction plans shall be submitted to the Office of the Fire Marshal for review and approval. Construction plans for solar photovoltaic power systems and electrical energy storage systems (ESS) shall be provided to the Office of the Fire Marshal for review and approval. (CFC 1206)
96. **Fire Sprinkler System:** All new commercial structures 3,000 square feet or larger shall be protected with a fire sprinkler system. All new apartment buildings shall be protected with fire sprinklers regardless of building size. Ref CFC 903.2.8 and CFC 903.2 as amended by the City of Palm Desert.
97. **Fire sprinkler system risers** shall not be obstructed in any manner. If a system riser is to be concealed by means of a wall, soffit, column, or other building construction, it shall be provided with 18-inch clearance to each side and to the front of the system riser. Access shall be provided by means of a door with the minimum dimensions of two (2) feet, six (6) inches in width by six (6) feet, and eight (8) inches in height from the exterior of the building directly to the riser as approved by the fire code official. (Ref. RVC Fire IB 06-07)
98. **Fire Alarm and Detection System:** A water flow monitoring system and/or the fire alarm system may be required and determined at the time of building plan review. (Ref. CFC 903.4, CFC 907.2 and NFPA 72)
99. **Knox Box and Gate Access:** Buildings shall be provided with a Knox Box. The Knox Box shall be installed in an accessible location approved by the Office of the Fire Marshal. Electric gate operators shall be provided with Knox key switches. Electric gate operators shall also be connected to a remote signal receiver compatible for use with the preemption devices on the Riverside County fire apparatus. The gate shall automatically open upon receiving a remote signal from the fire apparatus and remain in the fully open position for a minimum of 30 seconds. (Ref. CFC 506.1)
100. **Addressing:** All residential dwellings and commercial buildings shall display street numbers, building number/letter designators, and unit designators in a prominent location on the street side of the premises and additional locations as required. The premises shall have an illuminated diagrammatic representation of the actual site layout which shows the name of the complex, all streets, building designators, unit numbers, and fire hydrant locations within the complex. These directories shall be a minimum of four feet by four feet (4'x4') in dimension and located next to roadway



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access. Ref. CFC 505.1 and County of Riverside Office of the Fire Marshal Standard No. 07-01.

101. Energy Systems: Construction plans for solar photovoltaic power systems and electrical energy storage systems (ESS) shall be provided to the Office of the Fire Marshal for review and approval. (CFC 1206)

**END OF CONDITIONS OF APPROVAL**