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### **Meeting Notice**

Orlando City Hall, Veterans Conference Room, 2<sup>nd</sup> Floor at 3:00PM

Welcome,

We are glad you have joined us for the August 27, 2025, Community Redevelopment Agency Advisory Board meeting. If you are not on the agenda and would like to speak at the meeting and address the Board, please fill out an appearance request form and hand it to the Board Secretary. The Board is pleased to hear all non-repetitive public comment. Large groups are requested to name a spokesperson. When you are recognized, state your name and address, direct all your remarks to the Board and limit your comments to 3 minutes per item or as set during the meeting.

Written public comment must include your name, address, phone number, and topic. Comments are limited to a maximum of 700 words per item. To submit written public comment, select one of the following options: (1) complete an online comment form on [orlando.gov/publiccomments](https://orlando.gov/publiccomments), (2) email to [publiccomments@orlando.gov](mailto:publiccomments@orlando.gov), (3) mail to City Clerk, Public Comment 400 South Orange Avenue, Orlando, FL, 32801, or (4) drop off to the 1<sup>st</sup> floor Security Station at City Hall. Written public comments received 24 hours in advance of the meeting are distributed to the Board and attached to the related agenda item for public viewing.

Note: Comments that do not include the required information will not be distributed or attached to the agenda. All comments received are public record.

### **Agenda**

1. Call Meeting to Order
2. Roll Call
3. Approval of Minutes
  - a. July 23, 2025 – CRA Advisory Board Meeting
  - b. August 20, 2025 – DDB + CRA Advisory Board Budget Workshop
4. Public Comment
5. New Business
  - A. 2025-2026 Proposed Budget and Resolution – Molly Diaz, Fiscal Manager
  - B. 2025-2026 DDB/CRA Cost Share Agreement – Molly Diaz, Fiscal Manager
  - C. 2025-2026 City Services Agreement – Molly Diaz, Fiscal Manager
  - D. Budget Resolution Amendment Two for Fiscal Year 2024-2025 – Molly Diaz, Fiscal Manager
  - E. 2025-2026 Downtown Orlando Inc, Funding Agreement – Kelly Allen, Marketing and Communications Manager
  - F. 2025-2026 Homeless Outreach Funding Agreement – Samantha Levine, Housing and Homelessness Initiatives Manager
  - G. Mariposa Grove Affordable Housing Documents – Juliana Bernal Guinand, Project Manager
  - H. High Wage/High-Value Program Agreement with ECS Florida, LLC – Kim King-Maysonet, Business Development Assistant Manager
  - I. Amendment Three to Contract with Universal Protection Service, LLC – Dr. Kristen Holmes, Assistant Director
6. Date of Next Meeting
7. Adjournment

Persons wishing to appeal any decision made with respect to any matter considered at the Community Redevelopment Agency Advisory Board meeting, will need a record of the proceedings; for this purpose, such person may need to ensure that a verbatim record of the proceedings is made to include the testimony and evidence upon which the appeal is to be based. Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office 24 hours in advance of the meeting at 407-246-2251.

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**Downtown Development Board/Community Redevelopment Agency Advisory Board**  
Orlando City Hall, 6<sup>th</sup> Floor, 400 South Orange Ave, P.O. Box 4990, Orlando, FL 32802  
Phone: (407)-246-2555 [www.downtownorlando.com](http://www.downtownorlando.com)

**Memorandum**

**To** Kimberly Stewart, Chair  
Rachel Moalli, Vice Chair  
Steve Garrity  
Jason Chin  
Dr. Robert M. Spooner  
Kelly Martinez-Semrad, Orange County Commissioner

**From** David Barilla, Executive Director of the Downtown Development Board/Community Redevelopment Agency

**Date** August 27, 2025

**Subject** Agenda items to be considered at the Community Redevelopment Agency Advisory Board Meeting for Wednesday, August 27, 2025.

**Approval of Minutes**

Staff will be available to answer any questions prior to Board consideration of approving the minutes of the July 23, 2025, Community Redevelopment Agency Advisory Board Meeting and the August 20, 2025, DDB/CRAAB Budget Workshop Meeting.

**Public Comment****New Business****A. 2025-2026 Proposed Budget and Resolution**

*Molly Diaz, Fiscal Manager*

The Resolution sets forth the CRA budget for Fiscal Year 2025-2026.

Staff requests that the CRA Advisory Board recommend to the CRA approval of the attached Fiscal Year 2025-2026 Community Redevelopment Agency Budget, adoption of the Resolution, subject to review and approval by the City Attorney's Office, and authorize the Chair and Executive Director to execute the Resolution.

**B. 2025-2026 DDB/CRA Cost Share Agreement**

*Molly Diaz, Fiscal Manager*

The Cost Share Agreement between the CRA and DDB outlines the terms under which the DDB and CRA will share administrative costs for Fiscal Year 2025-2026.

Staff requests that the CRA Advisory Board recommend to the CRA approval of the Cost Share Agreement for Fiscal Year 2025-2026 between the Downtown Development Board and the Community Redevelopment Agency, subject to review and approval by the City Attorney's Office, and authorize the Chair and Executive Director to execute the Agreement.

Persons wishing to appeal any decision made with respect to any matter considered at the Community Redevelopment Agency Advisory Board meeting, will need a record of the proceedings; for this purpose, such person may need to ensure that a verbatim record of the proceedings is made to include the testimony and evidence upon which the appeal is to be based. Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office 24 hours in advance of the meeting at 407-246-2251.

**C. 2025-2026 City Services Agreement***Molly Diaz, Fiscal Manager*

The City Services Agreement outlines the terms under which the City will provide administrative and professional support to the CRA in its implementation of the Community Redevelopment Plan.

Staff requests that the CRA Advisory Board recommend to the CRA the approval of the City Services Agreement for Fiscal Year 2025-2026 between the City of Orlando and the Community Redevelopment Agency, subject to review and approval by the City Attorney's Office, and authorize the Chair and Executive Director to execute the Agreement.

**D. Budget Resolution Amendment Two for Fiscal Year 2024-2025***Molly Diaz, Fiscal Manager*

The Community Redevelopment Agency (CRA) is requesting approval of budget amendment two for Fiscal Year 2024–2025 to recognize additional revenue and allocate such funds to projects pursuant to Section 163.387(7)(d), Florida Statutes. This amendment proposes the transfer of \$1,700,000 from the Capital Improvement Fund to the CRA Operating Fund to be used towards the SED Conference Center obligation. Additionally, the amendment includes the reallocation of \$18,710 from the Highway Beautification Bridge District and the Under I-4 Grant Match projects, both of which have been completed. The following projects have been identified as projects for such allocations.

CRA-SED Conference Center - \$1,700,000  
DTO Implementation - \$15,165  
Arts & Culture - \$3,545

Staff requests that the CRA Advisory Board recommend to the CRA that it adopt Budget Resolution Amendment Two for Fiscal Year 2024-2025.

**E. 2025-2026 Downtown Orlando Inc., Funding Agreement***Kelly Allen, Marketing and Communications Manager*

The Downtown Orlando Inc. (Downtown Orlando Partnership - DOP) is a 501c (6) founded in 1961 and comprised of more than 200 corporate members. Their mission is to enhance business and community relationships through collaborative events and initiatives. The agreement between the CRA and the DOP provides funding to DOP for promotion of CRA initiatives and redevelopment projects within the Area through conducting the State of Downtown, the annual update on both completed and upcoming projects in the Area, and the Golden Brick Awards, featuring the year's most significant redevelopment projects, and by conducting CRA stakeholder engagement to promote CRA programs and obtain feedback on initiatives, thereby assisting the CRA in fulfilling its Redevelopment Plan goals.

In addition to conducting the State of Downtown and the Golden Brick Awards, other benchmarks for the DOP to meet including, but not limited to, maintaining an office in the

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Area, recognizing the CRA at the highest membership level, and enhancing business and community relationships through collaborative events and initiatives are included in the Funding Agreement.

Staff requests that the CRA Advisory Board recommend to the CRA that it approve the Funding Agreement between the CRA and Downtown Orlando, Inc. in the not to exceed amount of \$100,000 for FY 2025-2026, subject to review and approval by the City Attorney's Office, authorize the Chair and Executive Director to execute the Agreement.

**F. 2025-2026 Homeless Outreach Funding Agreement**

*Samantha Levine, Housing and Homelessness Initiatives Manager*

The Health Care Center for the Homeless, Inc. (HCCH), has been providing outreach services within the Downtown CRA (Area) to assist those experiencing homelessness for over a decade. The Community Redevelopment Agency (CRA) desires to partner with this agency again in order to retain the services of the two (2) homeless outreach specialists currently assisting the CRA in fulfilling its Downtown Orlando Community Redevelopment Area Plan goals of supporting and funding outreach programs to assist homeless persons in regaining self-sufficiency and minimizing the impacts of the homeless on residents and businesses within the Area. Pursuant to the terms of the Agreement, HCCH will supervise the activities of the homeless outreach specialists and provide quarterly progress and summary reports to the CRA and Homeless Services Network of Central Florida, Inc. (HSN).

The Agreement provides for the CRA to contribute \$116,974.36, the Homeless Services Network to contribute \$35,000, and HCCH covering all remaining costs for these outreach services during fiscal year 2025-2026.

Staff requests that the CRA Advisory Board recommend to the CRA that it approve the Homeless Outreach Funding Agreement with the Health Care Center for the Homeless, Inc. and Homeless Services Network of Central Florida, Inc., subject to review and approval of the City Attorney's Office, and authorize the Chair and Executive Director to execute the Agreement.

**G. Mariposa Grove Affordable Housing Documents**

*Juliana Bernal Guinand, Project Manager*

The Community Redevelopment Agency (CRA) and the CRA Redevelopment Area Plan outline goals to provide affordable housing, improve housing options, and ensure long-term affordability in the Downtown Orlando Area.

Mariposa Grove is a proposed multi-family residential building being developed within the Area at 417 E. Jackson Street, Orlando, Florida ('Project'). The project will be a 12-story, mixed-use, high-rise apartment building containing 138 affordable units for seniors (age 55+), 10,500 square feet of ground floor commercial/retail and 120 parking spaces.

The agreements in this package (Development and Loan Agreement for Mariposa Grove Apartments, Declaration of Affordable Housing Restrictive Covenant for Mariposa Grove Apartments, Promissory Note, Mortgage and Security Agreement, the Subordination

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Agreement with Florida Housing Finance Corporation, the Subordination Agreement Governmental Entity-TEL with The Bank of New York Mellon Trust Company, and the Subordination Agreement with Truist Bank ("Agreements")) outline the terms and conditions under which the CRA will provide an affordable housing incentive in the form of a loan in the amount of \$5,000,000 for the 138-unit project. No funds from the CRA Loan shall be advanced by the CRA until thirty (30) days after Project Completion, which is expected no later than June 30, 2028. Furthermore, as outlined in the terms of the Agreement's affordability requirement, for a period of 30 years from construction completion, units will be leased to households as follows:

- no fewer than 5 units will be leased to households earning 22% or less of the average area median income (AMI)
- no fewer than 21 units will be leased to households earning 30% or less of the AMI;
- no fewer than 16 units will be leased to households earning 50% or less of the AMI;
- no fewer than 17 units will be leased to households earning 60% or less of the AMI;
- and no fewer than 79 units will be leased to households earning 70% or less of the AMI.
- 11 units will be reserved for Permanent Supportive Housing for Eligible Persons with 30% AMI or below.

The overall project shall contain a mix of units consisting of nine (9) efficiency studio units, thirty-eight (38) studio units, seventy-seven (77) 1-bedroom units, and fourteen (14) 2-bedroom units.

The CRA loan is non-interest bearing and will reach maturity in 30 years with no payments due until maturity, subject to the terms of the Subordination Agreements. The loan is non-recourse and the rights to collect are limited to the mortgaged property. The Subordination Agreements give the construction and permanent loans of the Senior Lenders for the development precedence over the CRA Mortgage and Security Agreement, Promissory Note and Declaration of Restrictive Covenant.

As is common in Low Income Tax Credit projects, the final financial terms may be adjusted as final financing is put into place. Additionally, it is contemplated that Bank of New York Mellon will be the permanent lender, and its Subordination Agreement will not be signed at closing. It is contemplated that after construction is complete, there will be a closing of the permanent loan, and the Bank of New York Subordination Agreement will be signed at that time.

Staff requests that the CRA Advisory Board recommend to the CRA that, contingent upon a complete and satisfactory environmental review of the Project under HUD's environmental review rules at 24 CFR part 58 and HUD's approval of the request for release of HUD funds, it recommend to the CRA that it approve the Agreements, in substantially the form attached hereto, subject to review and approval of the City Attorney's Office, and authorize the Chair and Executive Director of the CRA to execute the Agreements. Additionally, authorize the CRA Executive Director to execute additional closing documents, such as closing statements, directions to closing agents, and other similar items to effectuate the transaction.

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**H. High Wage/High-Value Program Agreement with ECS, Florida, LLC**  
*Kim King-Maysonet, Business Development Assistant Manager*

On April 17, 2006, the Community Redevelopment Agency (CRA) approved the High Wage/ High Value Job Creation Program for the purpose of locating industries and headquarters with high-value jobs in Downtown Orlando. In 2023, the program was amended to include a new incentive, the Parramore HQ Incentive, for a company that locates high-wage, high-value jobs within the Parramore Planning Area, with a total package of eligible incentives of up to \$4,000 per job.

ECS Florida, LLC (Engineering Consulting Services) is a geotechnical, construction materials, environmental and facilities engineering firm. The company headquarters is currently located in Chantilly, Virginia, with offices along the east coast, including Orlando, in the Midwest and the West Coast. ESC is looking to expand its Orlando, Florida office into a regional headquarters.

ECS Florida will create 27 high-wage, high-value jobs over three years and relocate 51 existing jobs to Downtown Orlando that are more than 150% of the average annual private-sector wage in Orange County. ECS's capital investment for the build out is estimated to be \$1,000,000 in 2025. The maximum funding amount that ECS is eligible for is \$117,000 through the High Wage/ High Value Job Creation Program.

Staff requests that the CRA Advisory Board recommend to the CRA approval of the High Wage/High-Value Job Creation Program Agreement between the Community Redevelopment Agency and ECS Florida, LLC., subject to review and approval of the City Attorney's Office, and authorize the Chair and Executive Director to execute such High Wage/High-Value Program Agreement.

**I. Amendment Three to Contract with Universal Protection Service, LLC**  
*Dr. Kristen Holmes, Assistant Director*

In 2023, the CRA entered into a contract with Universal Protection Service LLC d/b/a Allied Universal Security Services (Allied) to provide downtown ambassador services. These services include engaging the community to provide directions, offering safety escorts to and from any location in the downtown area, and outreach to the unsheltered. In addition to these ambassador services, Allied provides janitorial services with Sani-Guards who provide cleaning and patrol services, as well as Porters who supplement the Clean Team's services by providing roving cleaning services.

By renewing this contract, the CRA would be able to continue providing ambassador and janitorial services within the boundaries of the Downtown Orlando Community Redevelopment Area (Area). These services support efforts to engage visitors and residents in the Area, while contributing to the beautification of our downtown streets. The estimated total annual cost for this renewal is \$1,020,925.05. The term of the renewal is one year.

Staff requests that the CRA Advisory Board recommend to the CRA approval of Amendment Three to the Contract with Universal Protection Service LLC, subject to

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review and approval by the City's Attorney's Office, and authorize the Chief Procurement Officer to execute Amendment Three.

**Date of Next Meeting**

The next Community Redevelopment Agency Advisory Board Meeting will be held Wednesday, August 27, 2025, at 3:00 p.m. in the Veterans Conference Room.

**Adjournment**

Persons wishing to appeal any decision made with respect to any matter considered at the Community Redevelopment Agency Advisory Board meeting, will need a record of the proceedings; for this purpose, such person may need to ensure that a verbatim record of the proceedings is made to include the testimony and evidence upon which the appeal is to be based. Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office 24 hours in advance of the meeting at 407-246-2251.

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**Downtown Development Board/Community Redevelopment Agency Advisory Board**  
Orlando City Hall, 6<sup>th</sup> Floor, 400 South Orange Ave, P.O. Box 4990, Orlando, FL 32802  
Phone: (407)-246-2555 [www.downtownorlando.com](http://www.downtownorlando.com)

**A RESOLUTION OF THE CITY OF ORLANDO COMMUNITY REDEVELOPMENT AGENCY ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2025 AND ENDING SEPTEMBER 30, 2026; MAKING FINDINGS; AUTHORIZING AMENDMENTS; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Executive Director of the City of Orlando Community Redevelopment Agency (the “CRA”) has submitted a budget for the CRA’s Fiscal Year beginning October 1, 2025 and ending September 30, 2026; and

WHEREAS, the budget includes the estimated expenditures necessary to carry out the functions of the CRA for the Fiscal Year beginning October 1, 2025, and ending September 30, 2026; and

WHEREAS, the budget includes the estimated revenues to be received by the CRA during said period from all sources, including increment revenue and any amounts carried over from prior fiscal years; and

WHEREAS, the CRA has examined and carefully considered the proposed budget in a duly assembled, properly noticed, public meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE CITY OF ORLANDO COMMUNITY REDEVELOPMENT AGENCY:

SECTION 1: The City of Orlando Community Redevelopment Agency does hereby adopt, confirm and approve the budget attached hereto as Exhibit "A" as the budget for the CRA for the Fiscal Year beginning October 1, 2025 and ending September 30, 2026.

SECTION 2: The governing board of the CRA does hereby find that:

- (a) The budget adopted in Section 1 has been prepared in accordance with generally accepted accounting principles; and
- (b) The estimated revenues to be received by the CRA during the Fiscal Year beginning October 1, 2025, and ending September 30, 2026 from all sources, including increment revenue and any amounts carried over from prior fiscal years, equals the total of appropriations for expenditures and reserves in the budget during said period, with increment revenue allocations further detailed on Exhibit “B”; and
- (c) The budget, as such budget may be amended from time to time, will govern expenditures of the CRA and no expenditures shall be made nor contracts for expenditures be entered into except in pursuance of budgeted appropriations;
- (d) The budget is adopted in accordance with Section 189.016, Florida Statutes (2024).

SECTION 3: In order to effect an orderly year-end closeout of all financial books and



records for the CRA, the City of Orlando's Chief Financial Officer (the "CFO"), on behalf of and subject to the direction of the CRA, is hereby authorized and directed, as needed, to increase the corresponding line item appropriations in the budget to the extent of those purchase orders which shall have been issued prior to September 30, 2025, but shall not have been filled prior to that date, and is authorized and directed to pay all such purchase orders upon receipt of the goods or services therein specified from the funds so appropriated. The CFO is hereby further authorized and directed to increase the appropriate budget line items to include any unexpended balances as of the end of business on September 30, 2025 from state, federal or other grants that were previously authorized by the CRA, and to include any unexpended balances from the prior fiscal year's budget, as amended whether or not encumbered, outstanding in projects as of the end of business on September 30, 2025 and all such balances shall be appropriated to the corresponding accounts in the same funds in which they were outstanding as of September 30, 2025; and the CFO shall be authorized to expend such appropriations for the purposes approved by the CRA in connection with such state, federal or other grants, and projects. Corresponding changes in the anticipated revenue accounts are hereby authorized.

SECTION 4: The CFO shall have the authority to transfer appropriations from one line item to another line item of the budget, upon approval of the CRA Executive Director, so long as the total appropriations shall not be increased or decreased thereby. Transactions affecting total appropriations, other than those previously authorized by the CRA shall require the prior approval of the CRA. Any such transactions are subject to any restrictive statutes or ordinances, including those authorizing the issuance of any outstanding bonds.

SECTION 5: Any changes to the budget made by the CFO, other than correction of errors, shall be reported to the CRA Executive Director on at least a quarterly basis. Any amendments to the budget shall be made in accordance with Section 189.016(6), Florida Statutes (2024).

SECTION 6: This resolution shall take effect immediately upon its adoption by the governing board of the CRA.

ADOPTED at a regular meeting of and by the City of Orlando Community Redevelopment Agency this \_\_\_\_ day of \_\_\_\_\_, 2025.

**Signatures on next page**

CITY OF ORLANDO COMMUNITY  
REDEVELOPMENT AGENCY

ATTEST:

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

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

APPROVED AS TO FORM AND LEGALITY FOR  
THE USE AND RELIANCE OF THE  
COMMUNITY REDEVELOPMENT AGENCY,  
OF THE CITY OF ORLANDO, ONLY.

\_\_\_\_\_, 2025.

\_\_\_\_\_  
Chief Assistant City Attorney

Exhibit "A"  
FY 2025/2026 Proposed Budget  
Revenue and Appropriations Summary

Community Redevelopment Agency - Downtown Area Operating  
Fund 1250

**Revenues**

Other Revenues	\$753,000
Transfers In	36,089,752
<u>Total Revenues</u>	<u>\$36,842,752</u>

**Appropriations**

<u>CRA Operating Fund</u>	<u>\$36,842,752</u>
Economic Development	36,842,752
<u>Total Appropriations</u>	<u>\$36,842,752</u>

**Project and Grant Appropriations within Total**

<u>CRA Operating Fund</u>	<u>\$28,011,264</u>
Parramore Task Force	15,000
Parramore/CRA Affordable Housing	1,000,000
Downtown Lighting	1,500,000
Streetscape Matching	50,000
Downtown Capital Maintenance	2,663,801
DTO Action Plan	6,098,071
Streetscapes, Plazas & Corridors	500,000
Under I Design	2,000,000
Real Estate	3,000,000
Community Outreach	2,400,000
Transportation Access	5,334,392
Arts & Culture	250,000
Community Policing	1,200,000
Lake Eola Master Plan	2,000,000

Community Redevelopment Agency - Downtown Area Trust  
Fund 1251

**Revenues**

Intergovernmental	\$49,076,301
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<u>Total Revenues</u>	<u>\$49,076,301</u>
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**Appropriations**

<u>CRA Trust Fund</u>	<u>\$49,076,301</u>
Economic Development	49,076,301

<u>Total Appropriations</u>	<u>\$49,076,301</u>
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Community Redevelopment Agency - Conroy Road Area  
Fund 1252

**Revenues**

Intergovernmental	\$11,152,107
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<u>Total Revenues</u>	<u>\$11,152,107</u>
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**Appropriations**

<u>CRA Trust Fund</u>	<u>\$11,152,107</u>
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Economic Development	11,152,107
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<u>Total Appropriations</u>	<u>\$11,152,107</u>
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Exhibit "B"  
FY 2025/2026 Proposed Budget  
Explanation of CRA Trust Fund Allocations

<u>Downtown Area Trust</u>	<u>\$49,076,301</u>
Debt Service ILF	968,448
Debt Service 2019A	4,458,201
Debt Service 2020A	4,458,875
Debt Service ILF-Geico	196,243
Debt Service 2023A-CISRB	2,904,782
Transfer of Balance for Operations/ Redevelopment Projects	36,089,752
<u>Conroy Road Area (Trust)</u>	<u>\$11,152,107</u>
Refund of Balance to Contributing Taxing Authorities	11,152,107

*Note that the figures above represent the best estimate available at this time. Tax increment and other revenues, debt service and related costs, as well as the resulting balances available for refunding/transferring, may vary.*

**COST-SHARE AGREEMENT**  
(Fiscal Year October 1, 2025 – September 30, 2026)

**DOWNTOWN DEVELOPMENT BOARD  
AND  
COMMUNITY REDEVELOPMENT AGENCY**

**THIS AGREEMENT**, effective as of October 1, 2025, is made and entered into by and between the Downtown Development Board, an agency of the City of Orlando created by referendum in December 1972 under the Orlando Central City Neighborhood Development Board Act, Chapter 71-810, Laws of Florida, codified in Chapter 18 of the Charter of the City of Orlando, hereinafter called "DDB", and the City of Orlando Community Redevelopment Agency, an agency created pursuant to Part III of Chapter 163, Florida Statutes, hereinafter called "Agency".

**WHEREAS**, the Downtown Development Board was created as a body corporate and agency of the City of Orlando for the purpose of, among other things, creating and implementing plans for the downtown Orlando area; and

**WHEREAS**, the Downtown Development Board is a five (5) member board created by state law; and

**WHEREAS**, the City Council of the City of Orlando (City Council) has created a Community Redevelopment Agency for the public purpose of carrying out redevelopment within designated community redevelopment areas specified by the City Council; and

**WHEREAS**, the City Council has designated itself as the Agency pursuant to Section 163.357, Florida Statutes; and

**WHEREAS**, it has been determined that the administration of both the DDB and the Agency would enhance cost efficiency and coordination through the sharing of certain staff time, and required services and programs; and

**WHEREAS**, there are legal distinctions between the DDB and the Agency which affect the financial and budgetary requirements of each; and

**WHEREAS**, the DDB has professional staff employed and on retainer to said DDB and the Agency has professional staff employed and on retainer to said Agency; and

**WHEREAS**, the DDB is willing to make available to the Agency and the Agency is willing to make available to the DDB, in accordance with the terms and conditions set forth in this Agreement, staff, staff support, and other costs.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:



1. In an effort to avoid the creation of additional categories of staff, the DDB and the Agency hereby agree to share in the costs of salary, benefits, and other related staff support costs during the 2025-2026 fiscal year commencing October 1, 2025, and ending September 30, 2026. These shall include, but not be limited to, executive salary, salaries and wages, and employee benefits. These items for fiscal year 2025-2026 are to be paid for and allocated in terms of work responsibilities along the following percentages:

<u>Staff Support</u>	<u>DDB Percent of Time and Costs</u>	<u>Agency Percent of Time and Cost</u>
Placemaking Director (50% of overall salary)	25 Percent	75 Percent
Director of Urban Development (50% of overall salary)	25 Percent	75 Percent
Executive Director	50 Percent	50 Percent
Assistant Director	50 Percent	50 Percent
Assistant Director	50 Percent	50 Percent
DDB/CRA Project Manager	30 Percent	70 Percent
DDB/CRA Project Manager	20 Percent	80 Percent
DDB/CRA Project Manager	20 Percent	80 Percent
DDB/CRA Project Manager	20 Percent	80 Percent
DDB/CRA Project Manager	20 Percent	80 Percent
Fiscal Manager Division	30 Percent	70 Percent
Marketing & Communications Manager	50 Percent	50 Percent
Marketing & Communications Coordinator	50 Percent	50 Percent
Economic Development Coordinator	50 Percent	50 Percent
Economic Development Coordinator	20 Percent	80 Percent
Economic Development Coordinator	20 Percent	80 Percent
Economic Development Coordinator	20 Percent	80 Percent
DDB/CRA Board Secretary	40 Percent	60 Percent
Downtown Orlando Services Liaison	50 Percent	50 Percent
Downtown Orlando Services	50 Percent	50 Percent

Coordinator		
Fiscal Coordinator CRA	30 Percent	70 Percent
Graphic Designer III	20 Percent	80 Percent
Interactive Media Coordinator	50 Percent	50 Percent
Sr Administrative Assistant	50 Percent	50 Percent
CRA Operations Manager	25 Percent	75 Percent

The above-referenced percentages shall represent the portion of the cost that the DDB and the Agency will be responsible for, regarding the staff positions designated. The percentages shall also indicate the allocation of the percentage of time that each such staff member shall devote to the respective work responsibilities of the DDB or the Agency.

2. The costs to be incurred by the DDB for staff support based on the percentages enumerated in paragraph 1 of this Agreement shall be based on actual expenditures estimated at three million, one hundred seventy eight thousand, four hundred and fifty one dollars (\$3,178,451) Funds will be transferred between the DDB and the Agency as necessary to reflect the correct final costs and account for the difference in budget responsibility for staff positions. The estimated amount to be transferred from DDB to Agency is one million, one hundred forty-one thousand, three hundred and twenty-one dollars (\$1,141,321) as approved in the DDB budget for fiscal year 2025-2026.

3. The DDB is willing to make available to the Agency and the Agency make available to the DDB required services provided by personnel on retainer to the DDB and the Agency.

4. This Agreement shall be effective as of October 1, 2025, and the term of this Agreement shall be from October 1, 2025 through September 30, 2026.

**IN WITNESS WHEREOF**, the DDB and the Agency have executed this Agreement on the date first written above.

Signatures on next page

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

ATTEST:

\_\_\_\_\_  
David Barilla  
Executive Director

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ and David Barilla. as the Chairman and Executive Director, respectively, for the Downtown Development Board.

\_\_\_\_\_  
Signature of Notary Public – State of Florida  
Print, Type, or Stamp Notary Name: \_\_\_\_\_

(Affix Notary Stamp or Seal Above)

APPROVED AS TO FORM AND LEGALITY  
for the use and reliance of the  
DDB, only.  
\_\_\_\_\_, 2025.

\_\_\_\_\_  
Chief Assistant City Attorney  
Orlando, Florida

**REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Buddy Dyer, Chairman

ATTEST:

\_\_\_\_\_  
David Barilla  
Executive Director

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Buddy Dyer and David Barilla as the Chairman and Executive Director, respectively, for the City of Orlando Community Redevelopment Agency.

\_\_\_\_\_  
Signature of Notary Public – State of Florida  
Print, Type, or Stamp Notary Name:\_\_\_\_\_

(Affix Notary Stamp or Seal Above)

APPROVED AS TO FORM AND LEGALITY  
for the use and reliance of the  
CRA, only.  
\_\_\_\_\_, 2025.

\_\_\_\_\_  
Chief Assistant City Attorney  
Orlando, Florida

**BUDGET RESOLUTION AMENDMENT TWO OF THE  
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY  
OF ORLANDO AMENDING THE BUDGET FOR THE  
FISCAL YEAR BEGINNING OCTOBER 1, 2024 AND  
ENDING SEPTEMBER 30, 2025; RECOGNIZING  
ADDITIONAL REVENUE, APPROVING ALLOCATION OF  
FUNDING FOR SPECIFIC PROJECTS AND LINE ITEMS;  
MAKING FINDINGS; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, on September 9, 2024, the Community Redevelopment Agency (“CRA”) approved, by resolution, a budget for Fiscal Year 2024-2025; and

WHEREAS, since the adoption of the budget for Fiscal Year 2024-2025, the CRA has received additional revenues that it desires to allocate to specific projects.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF ORLANDO:

SECTION 1: The Community Redevelopment Agency does hereby amend its budget for the Fiscal Year beginning October 1, 2024 and ending September 30, 2025, to include the changes specified on Exhibit “A”.

SECTION 2: This budget amendment is adopted in accordance with Section 189.418, Florida Statutes (2024).

SECTION 3: The budget for Fiscal Year 2024-2025 adopted by the Community Redevelopment Agency on September 9, 2024 shall otherwise remain in full effect as shall the terms of the resolution adopting such budget.

SECTION 4: This resolution shall take effect immediately upon its adoption by the CRA.

ADOPTED at a regular meeting of and by the Community Redevelopment Agency this \_\_\_\_ day of \_\_\_\_\_, 2024.

CITY OF ORLANDO COMMUNITY  
REDEVELOPMENT AGENCY

ATTEST:

By:

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

\_\_\_\_\_  
Chairman

APPROVED AS TO FORM AND LEGALITY FOR THE  
USE AND RELIANCE OF THE COMMUNITY  
REDEVELOPMENT AGENCY, OF THE CITY OF  
ORLANDO, ONLY.

\_\_\_\_\_, 2025.

\_\_\_\_\_  
Assistant City Attorney

Exhibit "A"  
FY 2024/2025 Budget Amendment Two  
Revenue and Appropriations Summary

Community Redevelopment Agency - Downtown Area Operating  
Fund 1250

**Revenues**

Fund Balance Allocation	0.00
Transfer In	1,718,710
<u>Total Revenues</u>	<u>\$1,718,710</u>

**Appropriations**

<u>CRA Operating Fund</u>	
Economic Development	\$1,718,710
<u>Total Appropriations</u>	<u>\$1,718,710</u>

**Project and Grant Appropriations within Total**

<u>CRA Operating Fund</u>	
CRA-SED Conference Center	\$1,700,000
DTO Implementation	\$15,165
Arts & Culture	\$3,545

## **SERVICES AGREEMENT-CITY/CRA**

THIS AGREEMENT, effective as of October 1, 2025, is made and entered into by and between the City of Orlando, Florida, a municipal corporation (hereinafter referred to as "CITY" or "the CITY") and the Community Redevelopment Agency for the City of Orlando, a body politic and corporate of the State of Florida and a community redevelopment agency created pursuant to Chapter 163, Part III, Florida Statutes, (hereinafter referred to as "CRA").

WHEREAS, by the enactment of an Ordinance on July 12, 1982, the City Council of the City of Orlando, Florida, created a community redevelopment trust fund for the downtown Orlando community redevelopment area (the "Area") as provided in Section 163.387, Florida Statutes;

WHEREAS, the City Council initially adopted a community redevelopment plan on July 12, 1982, that was most recently amended on July 17, 2023 pursuant to a resolution of City Council (the "Plan"); and

WHEREAS, pursuant to a resolution dated February 11, 1980, City Council designated itself to serve as the CRA and exercise the powers under the Community Redevelopment Act of 1969, as amended and codified as Part III , Chapter 163, Florida Statutes (the "Act"); and

WHEREAS, the CITY and the CRA are keenly interested in maintaining and revitalizing the CRA area as a visibly attractive, economically viable, and socially desirable area of the CITY; and

WHEREAS, the CITY has professional staff employed by CITY; and

WHEREAS, CITY staff time and expertise in various matters, including administration, personnel, engineering, finance, law, purchasing, public works and planning, can be beneficially utilized in the planning and implementation of the Plan; and

WHEREAS, CITY is willing to make available to the CRA, in accordance with the terms and conditions set forth in this Agreement, professional staff and administrative support;

NOW, THEREFORE, in consideration of the mutual promises and conditions contained in this Agreement and other good and valuable consideration, the receipt of which is acknowledged, CITY and CRA agree as follows:

### **ARTICLE 1**

#### **PREAMBLE**

In order to establish the background, context and frame of reference for this Agreement and to generally express the objectives and intentions of the respective parties herein, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.



1.1 Recitals. That each WHEREAS clause set forth above is true and correct and herein incorporated by this reference.

1.2 CITY Approval. On \_\_\_\_\_ the City Council, by motion, authorized the proper CITY officials to execute this Agreement.

1.3 CRA Approval. On \_\_\_\_\_ the CRA governing board by motion, authorized the proper CRA officials to execute this Agreement.

## ARTICLE 2

### SERVICES

2.1 General Services. The CITY, through various departments, agrees to perform the following functions and duties in accordance with established procedures, or in the absence of same, as provided for by CITY in the conduct of its own affairs.

2.1.1 The CITY shall provide financial services which shall include, but not be limited to, management of CRA fiscal accounts, investment of CRA assets, payroll, accounting, monthly and annual reporting, federal income and social security tax reporting, sales tax reporting, if any, and other fiscal needs in accordance with City Policies and Procedures related thereto. The Chief Financial Officer of the CITY shall act as the CRA Treasurer.

2.1.2 The CITY shall, when requested by the CRA, provide personnel services which shall include, but not be limited to, staff recruitment, record retention with respect to personnel actions and such other personnel services as may be needed.

2.1.3 The CITY shall provide legal, real-estate, communications, engineering and planning services to advise the CRA and to assist in the implementation of the Plan.

2.1.4 The CRA will be permitted to utilize the services of the CITY's Procurement and Contracts Division with respect to purchasing services and goods necessary for the operation of CRA activities.

2.1.5 The CRA will be permitted to utilize the services of the CITY's Public Works Department with respect to design services necessary for the operation of CRA activities, with the exception of construction services and project management services by the Capital Improvements Division of the Public Works Department, for which a separate fee will be paid by the CRA.

2.1.6 The CITY shall provide administrative and reception services to the CRA for the CRA offices and records management and other related services through the City Clerk's office.

2.1.7 The CRA may request the CITY to provide other special services on occasion not initially set forth in this Agreement, subject to the CITY's agreeing to do so.

2.2 Project Based Services. The CITY agrees to perform the following project related services in accordance with established procedures, or in the absence of same, as provided for by the CITY in the conduct of its affairs.

2.2.1 The CRA may utilize the design and construction related services of the Capital Improvements Division of the Public Works Department.

2.2.2 The CRA may utilize the services of the Fleet and Facilities Management Division of the Office of Business and Financial Services.

2.2.3 The CRA may utilize the services of the Housing and Community Development Department.

2.2.4 The CRA may utilize the services of the Transportation Department.

2.3 Insurance. The CITY may make available public officials liability insurance and other forms of insurance deemed necessary by the CITY. Said insurance is to be determined at the sole discretion of the CITY.

2.4 City Main Street Dedicated Employees. The City and CRA desire to jointly fund the Main Street Administrator position, with the CRA paying the City 33.33% of the costs of such position for the work done by the Administrator related to implementation of the Plan within the Main Streets located within the CRA.

2.5 Public Information Officer. The City and CRA desire to jointly fund the position of EDV Public Information Officer with the CRA paying the City 33.33% of the costs for such position for the work done by the PIO related to supporting the CRA with respect to downtown specific communication programs, initiatives, and news coverage of the CRA and its activities and projects.

2.6 Audio Visual Producer. The CRA agrees to provide the City fifty-five thousand dollars (\$55,000) towards the costs related to a staff audio visual producer to assist the CRA with a wide range of media for various CRA purposes, including promotion of CRA programs and initiatives.

2.7 Placemaking Director. The City and CRA desire to jointly fund the position of Placemaking Director, with the CRA paying the City 50% of the costs related to such position for its support in placemaking and other economic development projects within the CRA.

2.8 Urban Project Manager and Chief Urban Planner. The City and CRA desire to jointly fund the positions of Urban Project Manager and Chief Urban Planner, with the CRA paying the City 33.33% of the costs related to the management and planning of several large scale CRA projects, including the Canopy, Lake Eola Master Plan Implementation, and the Bob Carr redevelopment.

2.9 Director of Urban Development. The City and CRA desire to jointly fund the position of CRA Director of Urban Development with the City paying the CRA 50% of the costs for such position for the work done related to City initiatives and projects.

2.10 Code Enforcement Employees. The City and CRA desire to jointly fund the positions of three Code Enforcement Officers and one Code Enforcement Supervisor providing supplemental enforcement in the Area during evening hours, with the City paying the CRA 50% of the costs related thereto.

### ARTICLE 3

#### METHOD OF REIMBURSEMENT AND COMPENSATION

3.1 Reimbursement to CITY. In consideration of providing the services described in Section 2.1 hereof by the CITY commencing from October 1, 2025, the CRA will compensate the CITY, to the extent funds of the CRA are budgeted and available and eligible for payment in accordance with Section 163.387(6), Florida Statutes the amount set forth in the City of Orlando, Florida Full Cost Allocation Plan issued Summer 2025 as consideration for services provided to the CRA during fiscal year 2025-2026 by the CITY, estimated to be one million, two hundred seventy eight thousand, five hundred and seventy dollars (\$1,278,570.00). In consideration of providing the services described in Section 2.2 hereof by the CITY, the CRA shall pay fees for work performed as billed on an hourly basis and in an amount agreed to by the Executive Director of the CRA and the Department Director responsible for oversight of such service as stated in Section 2.2 above. Additionally, the CRA will pay the City one hundred ninety-two thousand, and eleven dollars (\$192,011.00) for the services contemplated by Sections 2.4-2.8 hereof and the City will pay the CRA two hundred seven nine thousand, eight hundred and fourteen dollars (\$279,814.00) for the services contemplated by Section 2.9 and 2.10 hereof.

The CRA's payment obligations under this Agreement constitute an obligation to pay and indebtedness in accordance with the Act.

3.2 Method of Payments. The parties agree that the CRA's obligation to compensate the CITY pursuant to Section 3.1 hereinabove shall be made to CITY in accordance with the CRA approved budget. It is recognized and acknowledged that full compensation to the CITY by the CRA may, during the term of this Agreement be waived, reduced, deferred or a combination thereof. Provided, however, any outstanding payment obligation not waived shall be budgeted by the CRA and made available to the CITY prior to the termination of the trust fund as provided in Chapter 163 of the Florida Statutes.

3.3 Annual Statement and Payments. The CITY shall prepare and present to the CRA an annual statement in time for the preparation and submission of the CRA annual budget. The annual statement shall reflect current year anticipated costs and all unpaid obligations from prior periods. Any amounts contained in the approved CRA budget for payment to CITY shall be paid by the CRA prior to September 30, 2026, the end of fiscal year 2025-2026. Payments for work performed on an hourly basis pursuant to Section 2.2 hereof shall be paid within 30 days of receipt of a proper invoice.

ARTICLE 4  
MISCELLANEOUS

4.1 Continued Cooperation. This Agreement assumes the close coordination and cooperation between the CRA and essential CITY staff and CITY functions particularly regarding financial administration, reporting, and auditing, and administration and implementation of the Plan and capital projects.

4.2 Term and Termination.

4.2.1 This Agreement shall take effect October 1, 2025, and shall continue in effect through September 30, 2026, unless either party seeks to renegotiate or terminate this Agreement prior to said expiration date.

4.2.2 This Agreement may be terminated by CITY or the CRA upon at least thirty (30) days' advance written notice to the other party. After termination of the Agreement, the CITY shall transfer to the CRA copies of any documents, data, and information requested by the CRA relating to the services accomplished herein. Regardless of the termination of this Agreement, the CRA shall pay to the CITY and outstanding statements or statements for costs incurred but not billed as of the termination date.

4.3 Records. CITY and CRA shall keep records and accounts which shall be available at all reasonable times for examination and audit by CRA and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement.

4.4 Sovereign immunity. Nothing in this Agreement shall be deemed to affect the rights, privileges and immunities of the CITY as set forth in Section 768.28, Florida Statutes.

4.5 Independent Contractor. The CITY is an independent contractor under this Agreement. Personal services provided by the CITY shall be by employees of the CITY and subject to supervision by the CITY, and not as officers, employees, or agents of the CRA. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of the CITY.

4.6 Assignments and Amendments.

4.6.1 This Agreement or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by CRA or CITY, without the prior written consent of the other party.

4.6.2 It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

4.7 Notice. Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, or by hand-

delivery with a written receipt of delivery, addressed to the party for whom it is intended and the remaining party, at the place last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this Article. For the present, the parties designate the following as the respective places for giving of notice:

CITY: Chief Administrative Officer  
City of Orlando  
400 S. Orange Avenue  
Orlando, FL 32801

With a copy to:

City Attorney  
City of Orlando  
400 S. Orange Avenue  
Orlando, FL 32801

CRA: Community Redevelopment Agency for the  
City of Orlando  
400 S. Orange Avenue  
Orlando, FL 32801  
Attention: Executive Director

With a copy to:

City Attorney  
City of Orlando  
400 S. Orange Avenue  
Orlando, FL 32801

4.8 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

4.9 Severability. If any provision of this Agreement or the application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to the persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be effected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

4.10 Governing Law. This Agreement shall be governed by the law of the State of Florida with venue lying in Orange County.

4.11 Entire Agreement. This Agreement embodies the entire agreement between the parties. It may not be modified or terminated except as provided herein. It is further understood and

agreed that this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements, whether oral or written.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed as of the day and year first written above.

**CITY OF ORLANDO**

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

ATTEST:

\_\_\_\_\_  
Stephanie Herdocia, City Clerk

APPROVED AS TO FORM AND LEGALITY  
for the use and reliance of the City of Orlando only.

\_\_\_\_\_, 2025.

\_\_\_\_\_  
Chief Assistant City Attorney

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Buddy Dyer and Stephanie Herdocia, as Mayor and City Clerk, respectively, for the City of Orlando.

(Affix Notary Stamp or Seal Above)

\_\_\_\_\_  
Signature of Notary Public – State of Florida  
Print, Type, or Stamp Notary Name: \_\_\_\_\_

**CITY OF ORLANDO COMMUNITY  
REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Buddy Dyer, Chairman

**ATTEST:**

\_\_\_\_\_  
David Barilla  
Executive Director

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Buddy Dyer and David Barilla as the Chairman and Executive Director, respectively, for the Community Redevelopment Agency.

\_\_\_\_\_  
Signature of Notary Public – State of Florida  
Print, Type, or Stamp Notary Name:\_\_\_\_\_

(Affix Notary Stamp or Seal Above)

APPROVED AS TO FORM AND LEGALITY  
for the use and reliance of the CRA only.

\_\_\_\_\_, 2025.  
Chief Assistant City Attorney



### Fiscal Impact Statement

Indicate the **Total Fiscal Impact** of the action requested, including personnel, operating, and capital costs. Indicate costs for the current fiscal year and annualized costs. Include all related costs necessary to place the asset in service.

**Description:** The Community Redevelopment Agency (CRA) is requesting approval of budget amendment two for Fiscal Year 2024–2025 to recognize additional revenue and allocate such funds to projects pursuant to Section 163.387(7)(d), Florida Statutes. This amendment proposes the transfer of \$1,700,000 from the Capital Improvement Fund to the CRA Operating Fund to be used towards the SED Conference Center obligation. Additionally, the amendment includes the reallocation of \$18,710 from the Highway Beautification Bridge District and the Under I-4 Grant Match projects, both of which have been completed.

### Expenses

Will the action be funded from the Department's current year budget? ☐ Yes ☒ No

If No, please identify how this action will be funded, including any proposed Budget Resolution Committee (BRC) action(s). (enter text here).

	<b>Current Fiscal Year Cost Estimate</b>	<b>Estimated Annualized Cost Thereafter</b>
Personnel	\$0	\$0
Operating/Capital	\$0	\$0
<b>Total Amount</b>	\$0	\$0

Comments (optional): (enter text here)

### Revenues

What is the source of any revenue and the estimated amount? 3001 F = \$1,700,000 and 1250 F= \$18,710 Amount \$1,718,710.00

Is this recurring revenue? ☐ Yes ☒ No

Comments (optional): (enter text here)

### Funding

Expenses/Revenues will be recorded to:

	<b>Source #1</b>	<b>Source #2</b>	<b>Source #3</b>
Fund	<u>1250 F</u>	<u>1250 F</u>	<u>1250 F</u>
Department /Division	<u>EDV/CRA</u>	<u>EDV/CRA</u>	<u>EDV/CRA</u>
Cost Center/Project/Grant	<u>CRA00XX</u>	<u>CRA0017 P</u>	<u>CRA0025 P</u>
Total Amount	\$1,700,000.00	\$15,165.00	\$3,545.00

**DOWNTOWN ORLANDO, INC. / CITY OF ORLANDO COMMUNITY  
REDEVELOPMENT AGENCY FUNDING AGREEMENT**

THIS AGREEMENT, effective as of October 1, 2025 (the “Effective Date”), is made and entered into by and between the, **DOWNTOWN ORLANDO, INC., d/b/a DOWNTOWN ORLANDO PARTNERSHIP (“DOP”)**, a Florida not-for-profit corporation and the **CITY OF ORLANDO COMMUNITY REDEVELOPMENT AGENCY (“CRA”)**, an entity created pursuant to Part III of Chapter 163, Florida Statutes.

**W I T N E S S E T H:**

WHEREAS, the CRA was created as a public body corporate and agency of the City of Orlando for the purpose of, among others, carrying out the community redevelopment purposes of Ch. 163, Part III, Florida Statutes; and

WHEREAS, the City Council initially adopted a community redevelopment plan on July 12, 1982, which has most recently been amended on July 17, 2023, pursuant to resolution of City Council (the “Redevelopment Plan”); and

WHEREAS, the CRA notes the importance of Downtown Orlando being “an active community recognized as the premier destination of choice for business, community and culture” as contemplated by DOP’s Vision; and

WHEREAS, in accordance with its Redevelopment Plan, the CRA administers various programs and implements numerous projects throughout the Downtown Orlando Community Redevelopment Area (the “Area”) each year; and

WHEREAS, the CRA desires to promote the CRA initiatives and redevelopment projects within the Area through conducting the State of Downtown, the annual update on both completed and upcoming projects in the Area, and the Golden Brick Awards, featuring the year’s most significant redevelopment projects, and by conducting of CRA stakeholder engagement to promote CRA programs and obtain feedback on initiatives, thereby assisting the CRA in fulfilling its Redevelopment Plan goals as contemplated by this Agreement; and

WHEREAS, the CRA finds and declares it is in the public’s best interest to provide funding to DOP for the purposes set forth herein in the amount of one hundred thousand dollars (\$100,000.00) contingent upon the DOP meeting the performance standards set forth in Exhibit “A” attached hereto, and incorporated herein, by reference.

NOW, THEREFORE, in consideration of the premises and mutual covenants hereinafter contained, the parties do agree as follows:

- 1) Incorporation of Premises: The preamble of this Agreement set forth above is true and correct and is incorporated herein as if fully set out below. All exhibits to this Agreement are hereby deemed a part hereof.

- 2) Term: The term of this Agreement shall commence on October 1, 2025, and shall, unless sooner terminated as provided herein, automatically terminate on September 30, 2026.
- 3) Obligations of DOP: DOP shall work with the CRA to conduct the State of Downtown and the Golden Brick Awards, to feature and promote CRA projects and programs. Additionally, the DOP shall perform stakeholder engagement on at least a quarterly basis and as specifically requested by the CRA to promote CRA programs and obtain feedback on CRA initiatives from stakeholders as requested by the CRA. DOP shall use the Funds provided by the CRA pursuant to section 4 below only for the purposes described in this Agreement, including the exhibits attached hereto. DOP shall remain in compliance with the performance standards set forth in Exhibit "A" at all times during the term of this Agreement.
- 4) CRA's Obligations:
  - a) The CRA shall pay DOP a fixed amount of one hundred thousand dollars (\$100,000.00) (the "Funds") for DOP's work and the costs of conducting of the State of Downtown and the Golden Brick Awards, and provision of services related to stakeholder engagement as stated in Exhibit "A" hereto, to be paid pursuant to the terms and conditions set forth herein.
  - b) The CRA's obligation to make any payment under this Agreement is expressly contingent upon DOP's compliance at all times with the performance standards outlined in Exhibit "A". Provided the CRA has determined that DOP has complied with the terms and conditions of this Agreement, including compliance with the performance standards in Exhibit "A", the CRA shall make the appropriate payments as provided in subsection c below.
  - c) The payments shall be paid by the CRA to DOP in two (2) equal installments during the CRA's Fiscal Year (FY) 2025-2026, each within thirty (30) days of the CRA's receipt of a written invoice from DOP. The DOP shall submit the first written invoice for payment at any time during the term of this Agreement after submittal of the first report required under section five below, and the second invoice at any time during the term of this Agreement and after submittal of the third report required under section 5 below.
  - d) DOP expressly understands that the total amount to be paid by the CRA under this Agreement shall not exceed one hundred thousand dollars (\$100,000.00).
- 5) Progress and Financial Reporting: DOP shall submit quarterly progress and summary financial reports to the CRA. The first report, for the period from October 1, 2025-December 31, 2025, shall be provided to the CRA by January 15, 2026. The second report shall include information from the January 2026-March 2026 time frame and shall be provided to the CRA by April 15, 2026. The third report shall include information from the April 2026-June 2026 time frame and shall be provided to the CRA by July 15, 2026. The final report shall include year-end

information as well as information from July 2026-September 2026 and shall be provided to the CRA by October 15, 2026. Progress reports shall be submitted on the form attached as Exhibit "B" hereto and shall include demonstrated compliance with the performance standards in Exhibit "A". The reports should be sent by regular mail to the Community Redevelopment Agency, Attn: DDB Fiscal Manager, 400 South Orange Avenue, 6<sup>th</sup> floor, Orlando, Florida 32801 and emailed to CRAFiscal@orlando.gov, the Division Fiscal Manager for CRA. Moreover, the reports shall be consistent with the programs and services described in Exhibit "A". Failure to comply with the requirement for submission of such reports shall constitute grounds for termination of this Agreement and may result in the ineligibility of DOP to receive the Funds from the CRA.

6) Books and Records/Audit:

- a) DOP shall maintain books, records, and other evidence relating to DOP's use of the Funds provided by the CRA hereunder (hereinafter referred to as the "Books and Records") in accordance with generally accepted accounting principles, procedures and practices, which documents the incubation program in a manner that fulfills the requirements of this Agreement.
- b) DOP expressly acknowledges that the CRA shall have the right to audit the Books and Records from time to time for compliance by DOP with the terms, conditions, limitations, restrictions and requirements of this Agreement, which shall extend for a period of three (3) years after the term of this Agreement.
- c) The CRA shall, upon reasonable notice, have full access during normal business hours for inspection, review and audit of the Books and Records.

7) Repayment of Funds: DOP shall be liable for repayment of any Funds dispersed under the terms of this Agreement, which may be deemed by the CRA to have been dispersed in error, or which are used by DOP in violation of this Agreement.

8) Monitoring: DOP shall permit the CRA to monitor the operation of the downtown facility by DOP to ensure compliance with the terms of this Agreement. DOP shall, to assist monitoring of its program, provide to the CRA or the CRA's designee access to all client records and such other information as the CRA may deem necessary.

9) Termination:

- a) If DOP breaches any material term of this Agreement and such breach remains uncured, the CRA may terminate the whole or any part of this Agreement. Before the CRA may exercise its right of termination, the CRA shall provide written notice to DOP of DOP's

breach or default and DOP shall have thirty (30) days thereafter within which to cure the breach or default.

- b) Waiver by the CRA of breach of any of the provisions of this Agreement shall not be deemed a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
  - c) In the event of termination of this Agreement by the CRA for DOP's breach, DOP shall return to the CRA all unused Funds as of the date of termination.
  - d) If the CRA breaches any material term of this Agreement and such breach remains uncured, DOP may terminate the whole or any part of this Agreement. Before DOP may exercise its right of termination, DOP shall provide written notice to the CRA of the CRA's breach or default and the CRA shall have thirty (30) days thereafter within which to cure the breach or default.
  - e) Waiver by DOP of breach of any of the provisions of this Agreement shall not be deemed a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
  - f) In the event of termination of this Agreement by DOP for the CRA's breach, the CRA shall reimburse DOP for all reasonable and provable costs incurred by DOP as of the date of termination that DOP would have paid with the Funds but for the termination, provided that any unused Funds previously paid to DOP shall be applied to such reimbursement, and any unused Funds thereafter shall be returned to the CRA.
- 10) Indemnification: DOP agrees to indemnify, defend and hold harmless the CRA, City, their employees, agents and elected and appointed officials, from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and cost of actions, including attorneys' fees for trial and on appeal, of any kind and nature arising or growing out of or in any way connected with any or all of the following: (1) the acts or omissions of DOP, its employees, officers, directors, or agents related to this Agreement, (2) the operation of DOP's Downtown facility, or (3) the mere existence of this Agreement itself.
- 11) Insurance: DOP shall have in force during the Term of this Agreement the insurance coverage listed below. DOP will provide valid Certificates of Insurance to the CRA, within ten (10) days of the effective date of this Agreement to verify such coverage. For Commercial General Liability and Commercial Automobile Coverage, the insurance coverage shall contain a provision that any company issuing an insurance policy for the Services shall provide not less than thirty (30) days advance written notice to the CRA prior to cancellation, termination, or material change of any policy of insurance (except for notice of non-payment of premium for which not less than ten (10) days advance notice in writing shall be required). In addition, DOP shall immediately provide written notice to the CRA upon receipt of notice of cancellation of an insurance policy or a decision to terminate an insurance policy. All certificates of insurance shall clearly state that all applicable requirements have been satisfied, including certification that the policies are of the

“occurrence” type. All insurance coverages furnished except workers’ compensation and employers’ liability shall include the City and CRA and their officers, elected officials, and employees as additional insured with respect to the provision of the programs described in Exhibit “A”. The City and CRA shall not by reason of their inclusion under these policies incur liability to the insurance carrier for payment of premium for these policies. DOP shall require their insurance carriers, with respect to all insurance policies, to waive all rights of subrogation against the City and CRA and their officers, elected officials, agents and employees.

- a) Commercial General Liability – DOP will provide and maintain a commercial general liability policy (“occurrence” type policy) with limits of not less than \$1,000,000 Combined Single Limit (CSL) each occurrence bodily injury and property damage, or its equivalent.
- b) Commercial Automobile Liability -- DOP will provide coverage for all owned, non-owned and hired vehicles for limits of not less than \$1,000,000 Combined Single Limit (CSL) each occurrence bodily injury and property damage, or its equivalent.
- c) Workers' Compensation and Employer’s Liability -- DOP will provide full and complete Workers' Compensation coverage as required by Florida state law, as well as Employer’s Liability coverage of not less than \$100,000 each occurrence.

12) Force Majeure: The parties shall use reasonable diligence to ultimately fulfill the intent of this agreement but shall not be liable to each other, or their successors or assigns, for damages, costs, attorney's fees (including costs or attorney's fees on appeal) for breach of contract, or otherwise for failure, suspension, diminution, or other variations of services occasioned by any cause beyond the control and without the fault of the parties. Such causes may include but shall not be limited to, Acts of God, or of the public enemy, acts of other government (including regulatory entities or court) in its sovereign or prior contractual capacity, fires, floods, epidemics, quarantines, restrictions, strikes, or failure or breakdown of transmission or other facilities.

13) Nonassignability: DOP may not assign its rights hereunder without the prior written consent of the CRA, which assignment may be agreed to, denied, or conditioned in part or in whole as CRA deems appropriate in its sole discretion. A successor agency does not automatically have any rights to the Funds disbursed under this Agreement by its position as a successor. A successor agency must receive prior approval from the CRA before it can receive Funds. Failure to comply with this section may result in immediate termination of this Agreement.

14) Controlling Laws:

- a) This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida, and all duly adopted ordinances,

regulations, and policies of the City of Orlando and the CRA now in effect and those hereinafter adopted.

- b) The location for settlement of any and all claims, controversies, or disputes, arising out of or relating to any part of this Agreement, or any breach hereof, shall be Orange County, Florida.

15) Miscellaneous:

- a) DOP warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for them, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual for firm, other than a bona fide employee working solely for them, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.
- b) DOP warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin or marital status.
- c) This Agreement constitutes the entire agreement between the parties with respect to the specific matters contained herein and supersedes all previous discussions, understandings, and agreements. Amendment to or waivers of the provisions herein shall be made by the parties in writing.
- d) This Agreement is solely for the benefit of the parties signing hereto and no right, nor any cause of action shall accrue to or for the benefit of any third party.
- e) If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed and independent provision and such holding shall not affect the validity of the remaining portion hereto.
- f) It is mutually understood and agreed that nothing contained in this Agreement is intended, or shall be construed, as in any way creating or establishing the relationship as partner or joint ventures' between the parties hereto or as constituting DOP as the agent or representative of the City for any purpose or in any manner whatsoever.
- g) Additionally, DOP certifies that no officer or employee of the CRA, nor their spouse or child, serves as an officer, partner, director or proprietor of, nor has a material interest in DOP.
- h) The DOP must provide professional images and b-roll from State of Downtown and the Golden Brick Awards; delivered within 30 days of the event.
- i) DOP hereby represents, warrants, and certifies that it does not use coercion for labor or services as defines in Section 787.06 Florida Statutes and that it has provided the Human Trafficking Affidavit attached hereto as Exhibit "C".

16) Notices: Any notices required or allowed herein under shall be in writing and given by certified mail, return receipt requested, or in person with proof of delivery to the addresses below or such other addresses either party shall have specified by written letters to the other party delivered in accordance herewith:

CRA: Executive Director  
City of Orlando Community Redevelopment Agency  
400 South Orange Avenue, 6<sup>th</sup> Floor  
Orlando, FL 32801

AND

Office of Economic Development Director  
City of Orlando  
400 South Orange Avenue, 6<sup>th</sup> Floor  
Orlando, FL 32801

DOP: Executive Director  
333 South Garland Avenue, 13<sup>th</sup> floor  
Orlando, FL 32801

IN WITNESS WHEREOF, the parties hereto have executed these presents and have set their hands and seals each upon the date so indicated.

**\*\*Signatures on following pages\*\***



**DOWNTOWN ORLANDO, INC.**

By \_\_\_\_\_

**WITNESSES:**

(1) \_\_\_\_\_

(2) \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of  
☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2025,  
by \_\_\_\_\_ (name of person) as \_\_\_\_\_ (type of authority,  
(e.g., officer, trustee, attorney in fact, etc.) for Downtown Orlando, Inc.

\_\_\_\_\_  
Signature of Notary Public – State of Florida  
Print, Type, or Stamp Notary Name: \_\_\_\_\_

(Affix Notary Stamp or Seal Above)

\_\_\_ Personally Known or \_\_\_ Produced Identification  
Type of Identification Produced \_\_\_\_\_:

**COMMUNITY REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Buddy Dyer  
Chairman

ATTEST:

By: \_\_\_\_\_  
David Barilla  
Executive Director

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2025, by Buddy Dyer and David Barilla, the CRA Chairman and CRA Executive Director, respectively, of the Community Redevelopment Agency of the City of Orlando, Florida, who are both personally known to me.

\_\_\_\_\_  
Signature of Notary Public – State of Florida  
Print, Type, or Stamp Notary Name: \_\_\_\_\_

(Affix Notary Stamp or Seal Above)

\_\_\_\_ Personally Known or \_\_\_\_ Produced Identification  
Type of Identification Produced \_\_\_\_\_:

APPROVED AS TO FORM AND LEGALITY  
for the use and reliance of the CRA, only.  
\_\_\_\_\_, 2025.

\_\_\_\_\_  
Chief Assistant City Attorney  
Orlando, Florida

## **Exhibit “A”**

### **Performance Standards**

- DOP will enhance business and community relationships through collaborative events and initiatives that seek to achieve the vision of making downtown Orlando the premier destination of choice for business & community relationships.
- DOP will maintain an office presence in the downtown CRA and consistent office hours of at least 8am to 5pm, Monday through Friday.
- DOP will recognize CRA at the highest membership level, Chairman’s Circle
- DOP will collaborate with the CRA to showcase CRA initiatives and projects through the conducting of the State of Downtown and the Golden Brick Awards within the Area, assisting in promoting the CRA and its implementation of the Redevelopment Plan.
- Additionally, with respect to the Golden Brick Awards, DOP will provide CRA:
  - Recognition as Event Partner and Sponsor
  - Opportunity to present Award of Excellence
  - Reserved VIP seating for 30
  - Six (6) complimentary Golden Brick Awards applications provided to DDB
  - Grant funding to support 20 free Golden Brick Applications to downtown businesses
  - Venue selection input
  - Premier logo with website link placement on event website
  - Premium logo placement on event marketing
  - Opportunity to provide marketing collateral to guests
  - Exclusive option to deliver a two-minute sponsor message
  - Verbal recognition during opening and closing remarks
  - Full page ad in digital program
  - Logo on event screens and/or event signage
- Additionally, with respect to the State of Downtown, DOP will provide the CRA:
  - Recognition as Event Partner and Sponsor
  - Reserved VIP seating for up to 50
  - Opportunity to speak and introduce Mayor/CRA Chairman
  - Venue selection input
  - Coordination of event and Mayor/CRA Chairman speech with the CRA and City of Orlando
  - Premier logo placement on event website
  - Premium logo placement on event marketing

- Opportunity to provide marketing collateral to guests
  - Exclusive option to deliver a two-minute sponsor message
  - Verbal recognition during program
  - Tabling/display booth opportunity at event
  - Full page ad in digital program
  - Logo on event screens and/or event signage
- DOP will conduct stakeholder engagement to promote CRA programs and obtain feedback on CRA initiatives contemplated in the Redevelopment Plan in formats, including, but not limited to:
  - DOP Urban Collective
  - Roundtables
  - Surveys
  - Focus Groups
  - Support of Redevelopment Plan initiatives

## **Exhibit “B”**

### **DOP FY25/26 Funding Agreement Benchmarks Report**

Term: October 1, 2025 to September 30, 2026

Submitted by:

Date Submitted:

#### **Program Benchmarks:**

- DOP will enhance business and community relationships through collaborative events and initiatives that seek to achieve the vision of making downtown Orlando the premier destination of choice for business & community relationships.
  - How was this achieved/details:
- DOP will maintain an office presence in the downtown CRA and consistent office hours of at least 8am to 5pm, Monday through Friday.
- DOP will recognize CRA at the highest membership level, Chairman’s Circle.
- DOP will collaborate with the CRA to showcase CRA initiatives and projects at the State of Downtown and the Golden Brick Awards within the Area, assisting in promoting the CRA and its implementation of the Redevelopment Plan.
  - How was this achieved/details:
- DOP will highlight the CRA projects and initiatives at the Golden Brick Awards and provide those items listed in Exhibit A.
  - How was this achieved/details:
- DOP will highlight the CRA projects and initiatives at the State of Downtown and provide those items listed in Exhibit A.
  - How was this achieved/details:
- DOP will conduct stakeholder engagement to promote CRA programs and obtain feedback on CRA initiatives.
  - How was this achieved/details:

Exhibit "C"  
Human Trafficking Affidavit

**Instruction: "Vendor"**, defined as any person or nongovernmental entity seeking to engage in business with the Community Redevelopment Agency of the City of Orlando ("CRA"), must complete the following form.

The undersigned, on behalf of Vendor, hereby attests as follows:

- A. Vendor understands and affirms that Section 787.06(13), Florida Statutes, prohibits the CRA from executing, renewing, or extending a contract to entities that use coercion for labor or services, with such terms defined as follows:
- **"Coercion"** means: (1) using or threatening to use physical force against any person; (2) restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; (3) using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; (4) destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; (5) causing or threatening to cause financial harm to any person; (6) enticing or luring any person by fraud or deceit; or (7) providing a controlled substance as outlined in Schedule I or Schedule II of Section [893.03](#), Florida Statutes, to any person for the purpose of exploitation of that person.
  - **"Labor"** means work of economic or financial value.
  - **"Services"** means any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.
- B. Vendor hereby attests, under penalty of perjury, that Vendor does not use coercion for labor or services as defined in Section 787.06(2), Florida Statutes.

I, the undersigned, am an officer or representative of the nongovernmental entity named below and hereby represent that I: make the above attestation based upon personal knowledge; am over the age of 18 years and otherwise competent to make the above attestation; and am authorized to legally bind and make the above attestation on behalf of the Vendor. **Under penalties of perjury, I declare that I have read the forgoing document and that the facts stated in it are true.** Further Affiant sayeth naught.

**Vendor:** \_\_\_\_\_

**Authorized Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, as \_\_\_\_\_ on behalf of the company/corporation. They ☐ are personally known to me or ☐ have produced \_\_\_\_\_ as identification.

Signature of Notary Public

\_\_\_\_\_  
Name of Notary Typed, Printed or Stamped

My Commission Expires: \_\_\_\_\_

## **HOMELESS OUTREACH FUNDING AGREEMENT**

THIS AGREEMENT is entered into this 1<sup>st</sup> day of October, 2025 (the “Effective Date”), by and between the **HEALTH CARE CENTER FOR THE HOMELESS, INC. (“HCCH”)**, a Florida not-for-profit corporation, **HOMELESS SERVICES NETWORK OF CENTRAL FLORIDA, INC. (“HSN”)**, a Florida not-for-profit corporation, and the **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF ORLANDO (“CRA”)**, an entity created pursuant to Part III of Chapter 163, Florida Statutes.

### **W I T N E S S E T H:**

WHEREAS, the CRA was created as a public body corporate and agency of the City of Orlando for the purpose of, among others, carrying out the community redevelopment purposes of Ch. 163, Part III, Florida Statutes; and

WHEREAS, the City Council initially adopted a community redevelopment plan for the Downtown Orlando Community Redevelopment Area (“Area”) on July 12, 1982, which was most recently amended on July 17, 2023, pursuant to resolution of City Council (the “Redevelopment Plan”); and

WHEREAS, the Redevelopment Plan provides that the CRA may support and fund outreach programs to assist homeless persons in regaining self-sufficiency and minimizing the impacts of the homeless on the residents and businesses within the Area; and

WHEREAS, the loitering of homeless persons in the Area is an impediment to further redevelopment of the Area; and

WHEREAS, the CRA desires to have persons knowledgeable with respect to available homeless services in the Area to provide outreach to the homeless persons within the Area in an effort to meet goals for the Plan and reduce the number of homeless persons in the Area; and

WHEREAS, the HCCH desires to provide a homeless outreach services program within the Area through the use of homeless outreach specialists as more specifically described on Exhibit “A” (“Services”); and

WHEREAS, the HCCH has available the necessary qualified and trained personnel, facilities, materials, and supplies to perform the Services and operate its Program described in Exhibit “A”; and

WHEREAS, the CRA desires to assist in funding HCCH’s provision of the Services in the Area in partial fulfillment of Redevelopment Plan goals; and

WHEREAS, HSN also desires to assist in funding the provision of the Services in the Area; and

WHEREAS, these Services benefit, directly and indirectly, the homeless population within the Area as well as the businesses and residents in the Area; and

WHEREAS, the CRA declares it is in the public's best interest to provide funding to HCCH in the amount of up to one hundred sixteen thousand nine hundred seventy-four dollars and thirty six cents (\$116,974.36) ("CRA Funds") to be used towards the costs of providing the Services in accordance with the terms and conditions set forth herein; and

WHEREAS, HSN agrees to contribute thirty-five thousand dollars (\$35,000.00) to HCCH to be used towards the cost of providing the Services ("HSN Funds"); and

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the parties hereby agree as follows:

1. Incorporation of Preamble: The preamble of this Agreement set forth above is true and correct and is incorporated herein as if fully set out below. All exhibits to this Agreement are hereby deemed a part hereof.

2. Term: The term of this Agreement shall commence on October 1, 2025, and shall, unless sooner terminated as provided herein, automatically terminate on September 30, 2026.

3. Funding: Under the terms and conditions set forth in this Agreement, the CRA agrees to contribute the CRA Funds to the HCCH to assist in its provision of the Services and in partial fulfillment of the Redevelopment Plan goals. Such CRA Funds shall be distributed to HCCH in two equal payments of fifty-eight thousand four hundred eighty-seven dollars and eighteen cents (\$58,487.18) each, the first to be made upon invoice to the CRA at any time following execution of this Agreement by the parties and the second to be made upon invoice to the CRA at any time following submission of the second report under section 5 below. HSN agrees to contribute the HSN Funds to HCCH to assist in its provision of the Services. Such HSN Funds shall be distributed to HCCH through a cost reimbursement process from October 1, 2025 to September 30, 2026, based on a subcontract between HSN and HCCH. The CRA Funds and the HSN Funds shall collectively be referred to as "Funds".

4. Obligations of HCCH: Within the Area, HCCH will provide the outreach Services as generally described in Exhibit "A" throughout the Term of this Agreement. HCCH shall use the Funds pursuant to section 3 above only within the Area and only for the purposes described in this Agreement, including the exhibits attached hereto. HCCH shall remain in compliance with the performance standards set forth in Exhibit "B" at all times during the term of this Agreement.

5. Progress and Financial Reporting: HCCH shall submit quarterly progress and summary financial reports to the CRA and HSN in the form attached hereto as Exhibit "C" and incorporated herein by this reference. The first report, for the period from October 2025-December 2025, shall be provided by January 15, 2026. The second report, for January 2026-March 2026, shall be provided by April 15, 2026. A third report, for April 2026-June 2026 shall be provided by July 15, 2026 and a final report for July-September shall be provided by September 15, 2026 and shall include information from the entire term of the Agreement as well as a separate reporting for the July-September time frame. Progress reports shall include an evaluation of the Services provided (including numbers served, placement, and progress towards meeting objectives of resident stability/housing and increase in income and/or skills. The reports shall also contain a specific accounting of the number of referrals to the Men's Service Center operated by the Coalition for the Homeless and the outcome of those referrals. The reports should be sent by regular



mail to the Community Redevelopment Agency, Attn: Executive Director, 400 South Orange Avenue, 6<sup>th</sup> floor, Orlando, Florida 32801 and emailed to [crafiscal@orlando.gov](mailto:crafiscal@orlando.gov), the Division Fiscal Manager for the CRA. Moreover, the reports shall be consistent with the Services described in Exhibit "A" and shall identify expenditures associated with or related to the Funds. Failure to comply with the requirement for submission of such reports shall constitute grounds for termination of this Agreement and may result in the ineligibility of HCCH to receive or retain the Funds received from the CRA or HSN.

6. Books and Records/Audit:

a. HCCH shall maintain books, records, and other evidence relating to the Services provided and use of the Funds hereunder (hereinafter referred to as the "Books and Records") in accordance with generally accepted accounting principles, procedures and practices, which documents the homeless outreach program in a manner that fulfills the requirements of this Agreement.

b. HCCH expressly acknowledges that the CRA and HSN shall have the right to audit the Books and Records from time to time for compliance by HCCH with the terms, conditions, limitations, restrictions and requirements of this Agreement, which shall extend for a period of three (3) years after the term of this Agreement.

c. The CRA and HSN shall, upon reasonable notice, have full access during normal business hours for inspection, review and audit of the Books and Records.

7. Repayment of Funds: HCCH shall be liable for repayment of any Funds dispersed under the terms of this Agreement, which may be deemed by the funding entity to have been dispersed in error, or which are used by HCCH in violation of this Agreement.

8. Monitoring: HCCH and shall permit the CRA and HSN to monitor the provision of the Services by HCCH and to ensure compliance with the terms of this Agreement. HCCH shall, to assist monitoring of its program, provide to the CRA and HSN or their designees access to all client records and such other information as the CRA and HSN may deem necessary.

9. Termination:

a. In the event of a breach or default by HCCH, the CRA, or HSN shall provide written notice to HCCH of HCCH's breach or default and HCCH shall have thirty (30) days thereafter within which to cure the breach or default. If such breach or default remains uncured for a period of 30 days after the provision of the notice of such breach or default, the CRA or HSN terminate the whole or any part of this Agreement.

b. Waiver by the CRA or HSN of breach of any of the provisions of this Agreement shall not be deemed a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

c. In the event of termination of this Agreement for HCCH's breach, HCCH shall return all unused Funds to the appropriate funding entity as of the date of termination.

d. In the event of a breach or default by the CRA or HSN by non-payment of Funds due HCCH, HCCH shall provide written notice to all parties of the breach and the breaching party shall have thirty (30) days thereafter within which to cure the breach or default. If such breach or default remains uncured for a period of 30 days after the provision of the notice of such breach or default, HCCH may: a) continue provision of the Services with Funds already obtained or by other funds available to HCCH, b) propose alternate actions to be taken to continue provision of the Services or c) terminate this Agreement and cease provision of the Services and return any Funds not used to provide Services to date to the party providing such portion of the Funding. In any event, should HCCH terminate this Agreement, HCCH shall be responsible for repayment of any Funds that have been provided to HCCH, but not yet used in the provision of Services.

10. Indemnification: HCCH agrees to indemnify, defend and hold harmless the CRA, HSN, and the City or Orlando, their board members, employees, agents and elected and appointed officials, from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and cost of actions, including attorneys' fees for trial and on appeal, of any kind and nature arising or growing out of or in any way connected with any or all of the following: (1) the acts or omissions of HCCH, its employees, officers, directors, or agents related to this Agreement, (2) the operation the Services, or (3) the mere existence of this Agreement itself.

11. Insurance: HCCH shall have in force during the term of this Agreement the insurance coverage listed below. HCCH will provide valid Certificates of Insurance to the CRA and HSN within ten (10) days of the effective date of this Agreement to verify such coverage. For Commercial General Liability and Commercial Automobile Coverage, the insurance coverage shall contain a provision that any company issuing an insurance policy for the Services shall provide not less than thirty (30) days advance written notice to the CRA and HSN prior to cancellation, termination, or material change of any policy of insurance (except for notice of non-payment of premium for which not less than ten (10) days advance notice in writing shall be required). In addition, HCCH shall immediately provide written notice to the CRA and HSN upon receipt of notice of cancellation of an insurance policy or a decision to terminate an insurance policy. All certificates of insurance shall clearly state that all applicable requirements have been satisfied, including certification that the policies are of the "occurrence" type. All insurance coverages furnished expect workers' compensation and employers' liability shall include the City, CRA, and HSN and their officers, elected officials, and employees as additional insured with respect to the provision of the Services. The City, CRA, and HSN shall not by reason of their inclusion under these policies incur liability to the insurance carrier for payment of premium for these policies. HCCH shall require their insurance carriers, with respect to all insurance policies, to waive all rights of subrogation against the City, CRA, and HSN, and their officers, elected officials, agents and employees.

a. Commercial General Liability – HCCH will provide and maintain a commercial general liability policy ("occurrence" type policy) with limits of not less than \$1,000,000 Combined Single Limit (CSL) each occurrence bodily injury and property damage, or its equivalent.

b. Commercial Automobile Liability -- HCCH will provide coverage for all owned, non-owned and hired vehicles for limits of not less than \$1,000,000 Combined Single Limit (CSL) each occurrence bodily injury and property damage, or its equivalent.

- c. Workers' Compensation and Employer's Liability -- HCCH will provide full and complete Workers' Compensation coverage as required by Florida state law, as well as Employer's Liability coverage of not less than \$100,000 each occurrence.

12. Force Majeure: The parties shall use reasonable diligence to ultimately fulfill the intent of this agreement but shall not be liable to each other, or their successors or assigns, for damages, costs, attorney's fees (including costs or attorney's fees on appeal) for breach of contract, or otherwise for failure, suspension, diminution, or other variations of services occasioned by any cause beyond the control and without the fault of the parties. Such causes may include but shall not be limited to, Acts of God, or of the public enemy, acts of other government (including regulatory entities or court) in its sovereign or prior contractual capacity, fires, floods, epidemics, quarantines, restrictions, strikes, or failure or breakdown of transmission or other facilities.

13. Nonassignability: HCCH may not assign the rights hereunder without the prior written consent of the CRA and HSN which assignment may be agreed to, denied, or conditioned in part or in whole as CRA and HSN deem appropriate in their sole discretion. A successor agency does not automatically have any rights to the Funds disbursed under this Agreement by its position as a successor. A successor agency must receive prior approval from the CRA before it can receive Funds. Failure to comply with this section may result in immediate termination of this Agreement.

14. Controlling Laws:

a. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida, and all duly adopted ordinances, regulations, and policies of the City of Orlando and the CRA now in effect and those hereinafter adopted.

b. The location for settlement of any and all claims, controversies, or disputes, arising out of or relating to any part of this Agreement, or any breach hereof, shall be Orange County, Florida.

15. Miscellaneous:

a. HCCH warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for them, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual for firm, other than a bona fide employee working solely for them, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

b. HCCH warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin or marital status.

c. This Agreement constitutes the entire agreement between the parties with respect to the specific matters contained herein and supersedes all previous discussions, understandings, and agreements. Amendment to or waivers of the provisions herein shall be made by the parties in writing. The continued performance by any party hereto after an event of default shall not be deemed a waiver of any rights by the CRA. Furthermore, the waiver of any default by the CRA shall in no event be construed as a waiver of rights with respect to any other default, past or present.

d. This Agreement is solely for the benefit of the parties signing hereto and no right, nor any cause of action shall accrue to or for the benefit of any third party.

e. If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed and independent provision and such holding shall not affect the validity of the remaining portion hereto.

f. It is mutually understood and agreed that nothing contained in this Agreement is intended, or shall be construed, as in any way creating or establishing the relationship as partner or joint venturers between the parties hereto or as constituting HCCH as the agent or representative of the CRA or HSN for any purpose or in any manner whatsoever. The performance of the Services outlined in this Agreement is as independent entities and not as agents of each other.

g. HSN and HCCH hereby represent, warrant, and certify that they do not use coercion for labor or services as defines in Section 787.06 Florida Statutes and that they have provided the Human Trafficking Affidavit attached hereto as Exhibit "C".

16. Notices: Any notices required or allowed herein under shall be in writing and given by certified mail, return receipt requested, or in person with proof of delivery to the addresses below or such other addresses either party shall have specified by written letters to the other party delivered in accordance herewith:

CRA: Executive Director  
City of Orlando Community Redevelopment Agency  
400 South Orange Avenue, 6<sup>th</sup> Floor  
Orlando, FL 32801  
AND  
Office of Economic Development Director  
City of Orlando  
400 South Orange Avenue, 6<sup>th</sup> Floor  
Orlando, FL 32801

HCCH: Chief Operating Officer  
Health Care Center for the Homeless  
232 N Orange Blossom Trail  
Orlando, FL 32805

HSN: Executive Director  
Homeless Services Network of Central Florida  
2828 Edgewater Drive  
Orlando, FL 32854

IN WITNESS WHEREOF, the parties hereto have executed these presents and have set their hands and seals each upon the date so indicated.

**Signatures on next page**

**HEALTH CARE CENTER FOR THE HOMELESS**

By\_\_\_\_\_

WITNESSES:

(1) \_\_\_\_\_

(2) \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

☐ The foregoing instrument was acknowledged before me by means of ☐ physical presence or  
☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
\_\_\_\_\_ as the \_\_\_\_\_ of Health Care Center for the Homeless.

\_\_\_\_\_  
Signature of Notary Public – State of Florida

Print, Type, or Stamp Notary Name:\_\_\_\_\_

(Affix Notary Stamp or Seal Above)

\_\_\_\_ Personally Known or \_\_\_\_ Produced Identification

Type of Identification Produced \_\_\_\_\_

**HOMELESS SERVICES NETWORK OF CENTRAL  
FLORIDA, INC.**

By \_\_\_\_\_

WITNESSES:

(1) \_\_\_\_\_

Print Name: \_\_\_\_\_

(2) \_\_\_\_\_

Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ as the \_\_\_\_\_ for Homeless Services Network of Central Florida, Inc.

\_\_\_\_\_  
Signature of Notary Public – State of Florida

Print, Type, or Stamp Notary Name: \_\_\_\_\_

(Affix Notary Stamp or Seal Above)

\_\_\_\_ Personally Known or \_\_\_\_ Produced Identification

Type of Identification Produced \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires:

**CITY OF ORLANDO COMMUNITY  
REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Buddy Dyer  
Chairman

ATTEST:

By: \_\_\_\_\_  
David Barilla  
Executive Director

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Buddy Dyer and David Barilla as the Chairman and Executive Director, respectively, for the Community Redevelopment Agency.

\_\_\_\_\_  
Signature of Notary Public – State of Florida  
Print, Type, or Stamp Notary Name: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY  
for the use and reliance of the  
CRA, only.

\_\_\_\_\_, 2025.

\_\_\_\_\_  
Chief Assistant City Attorney  
Orlando, Florida

## **Exhibit “A”**

### **Downtown Homeless Outreach Services Program**

#### **Overview**

The Downtown Homeless Outreach Services program is committed to transforming the lives of individuals experiencing homelessness through comprehensive street outreach that restores dignity and partners with them to reach their housing and life goals. The purpose of the Downtown Homeless Outreach Services program is to engage daily with homeless clients in the downtown Orlando. Using the philosophy of Housing First, this program will provide outreach and engagement services to conduct interventions to quickly assess and link clients to long term housing, health, mental health and other supportive services.

**1. The HOPE Team will attend:**

City Unsheltered Response Team meetings on a weekly basis (Mon. 12:30 p.m., 30 minutes)

**2. The HOPE Team will be available:**

Monday – Friday – 9 a.m. – 5 p.m.

Evenings and Saturdays as directed by City Unsheltered Response Team and available.

**3. HOPE Team will be accessible to City staff/OPD and Ambassadors via a phone number/text number during operating hours.**

The program will refer clients for necessary services and offer transportation assistance. Two individuals serving as Navigators will work as part of a HOPE Team to identify solutions to trends within the homeless community.

#### **Program Goals**

- The program will refer clients for necessary services and offer transportation assistance.
- Provide targeted outreach to homeless individuals living in downtown Orlando as well as homeless encampments within the CRA.
- The program strives to build trust with homeless individuals with the goal of linking them to sustainable housing, shelter, medical care, housing, public benefits, and other services.
- Engage the unsheltered homeless and help them in accessing stable housing.
- Work with police, fire, service providers and faith-based community
- Work with downtown Ambassadors, providing information and resolving issues related to the downtown homeless.
- Assisting with outreach for cold night, hurricanes and others special circumstances as needed.

#### **Program Objectives:**

- Reduce the number of homeless on the streets within the Area.
- Provide navigation to homeless households to enable them to access and maintain stable housing.
- Significantly reduce the average length of time a family or person spends homeless
- Develop systems to collect, maintain and monitor meaningful data

**Term of Project:** October 1, 2025 through September 30, 2026



**Annual Program Budget:**

Outreach Navigators	\$132,174.36
Direct assistance to individual and families	\$ 4,000
Supplies & communications	\$ 5,500
Reporting/Admin	\$ 10,300

**Total** \$151,974.36

**Collaborating Agencies' Responsibilities****The Health Care Center for the Homeless: Management and Administration of Outreach Team**

To continue the important work of this program, the Health Care Center for the Homeless (HCCH) proposes to act as management and implementation agent for this program to ensure objectives and reporting requirements are met.

HCCH has a history of managing outreach teams that work with the homeless, specifically the HOPE Team. HCCH would manage the Downtown Homeless Outreach Team in the following manner:

- Maintain oversight of outreach coordinators and additional necessary staff.
- Provide any necessary office space within the downtown Community Redevelopment Area for outreach coordinators.
- Coordinate staff training updates, certifications, licenses as needed to work with this population.
- Develop clear expectations and process for evaluating individual client and staff needs, and safety precautions.
- Ensure the use of a "Vulnerability Assessment" is implemented to gauge the client's immediate needs.
- Enter client data and track care plans or ensure that referral agencies enter data and track through HMIS.
- Prepare outreach schedule for downtown businesses to become aware of the services.
- Develop and print a brochure (current Downtown Street Card) with contact info to distribute to downtown businesses, providers, and clients. The draft brochure shall be sent to the CRA for its input prior to printing brochures for distribution.
- Coordinate quarterly check-in meetings with OPD, OFD, and downtown faith community.
- Meet on a weekly basis with the City of Orlando's Senior Advisor for Homelessness and Social Services.
- Establish weekly client staffing meeting to ensure use of most currently recognized best standards of practice and resolve any issues.
- Refer clients to appropriate agencies for case management, housing placement, access to healthcare, mental health services, substance abuse services, disability services, domestic violence counseling, safe refuge and transportation services.

**City of Orlando Community Redevelopment Agency and Homeless Services Network:** Funding Source, Reporting and Monitoring

The CRA and HSN will continue to coordinate and participate in regularly scheduled meetings with the appropriate community partners to monitor progress and evolve practices with respect to the Program.

## **Budget Narrative**

### **Program Funding:**

The CRA will allocate up to \$116,974.36 in funding to this Project to be used towards the costs of the two outreach specialists and program operations. HSN will provide \$35,000 and HCCH will provide the remaining funds needed to fund the Program for the period of October 1, 2025 through September 30, 2026. The cost to continue this program from October 1, 2025 through September 30, 2026 is approximately \$151,974.36.

## **Exhibit “B”**

### **Performance Standards**

- Conduct daily street outreach within the Area to develop relationships and build rapport with clients to assist them with finding a home. Services may include assisting the individual with gathering documentation, increasing income, accessing appropriate mental and physical health services, and any other services that assist an individual to improve his/her quality of life.
- Complete all necessary paperwork to track client progress, (daily logs, ISP, etc.).
- Document results, complete match initiation form, and submit all paperwork to CES Coordinator.
- Help client to obtain various forms of identification including birth certificates and social security cards.
- Assist with applications for supportive and subsidized housing and prospect potential locations for affordable rental housing.
- Collaborate with community substance abuse and mental health providers to ensure seamless referral services.
- Work with local law enforcement and interim service providers to ensure a smooth transition from street living to interim housing.
- Provide ongoing information, referrals, linkages, and advocacy for all other identified needs.
- Creatively use and develop community resources to broker and link clients to services.
- Participate in meetings and training as requested by the CDRDA/ B and the City of Orlando's Sr. Advisor on Homelessness and Social Services.
- Respond, upon notification by the CRA or HSN of the existence of such, to areas of highly concentrated homeless persons or homeless activity within the Area in need of outreach services by developing and implementing a programmatic plan of action to address such need and provide the CRA and HSN a report of such actions taken within 15 days of initial notification.
- 55 homeless persons and families will receive housing beyond emergency shelter (transitional, permanent, permanent supportive, and/or reunification).
- 20 clients identified from DT Outreach will be tracked from assessment to housing navigation to leasing.
- 25 homeless persons will obtain emergency shelter.
- 80 rides or bus passes provided to shelter or services.
- 50 homeless persons with current medical issues will obtain medical or dental services at HCCH.

**Term of Project:** October 1, 2025 through September 30, 2026

Exhibit “C”

**FY 2025-2026 Quarterly & Final Reports - Homeless Outreach Funding**

<b>Grantee Name</b>	Health Care Center for the Homeless, Inc.
<b>Grantor Names</b>	City of Orlando Community Redevelopment Agency
	Homeless Services Network
	HCCH
<b>Total Project</b>	Total Project Amount
<b>Program Name</b>	Homeless Outreach Funding
<b>Term of Project</b>	10/1/2025- 9/30/2026

**Submitted By:** \_\_\_\_\_

<b>Program Data</b>		
<b>GOAL:</b>	<b>ACTUAL Report Period</b>	<b>Objective Narratives/explanati</b>
100% of clients provided street outreach services will be located within the Community Redevelopment Agency boundaries		
55 homeless persons and families will receive housing beyond emergency shelter (transitional, permanent, permanent supportive, and/or reunification.	(Q1): ____ (Q2): ____ (Q3): ____ (Q4): ____	
20 clients identified from DT Outreach will be tracked from assessment to housing navigation to leasing.	(Q1): ____ (Q2): ____ (Q3): ____ (Q4): ____	

25 homeless persons will obtain emergency shelter at shelters participating in HMIS.	(Q1): ____ (Q2): ____ (Q3): ____ (Q4): ____	
Transportation assistance for clients. 80 rides or bus passes to shelter or services.	(Q1): ____ (Q2): ____ (Q3): ____ (Q4): ____	
50 homeless persons with current medical issues will obtain medical or dental services at HCCH.	(Q1): ____ (Q2): ____ (Q3): ____ (Q4): ____	
Conduct daily street outreach within the Area to develop relationships and build rapport with clients to assist them with finding a home.		
Complete all necessary paperwork to track client progress.		
Document results, complete match initiation form, and submit all paperwork to CES Coordinator.		
Help client to obtain various forms of identification including birth certificates and social security cards.		

Assist with applications for supportive and subsidized housing and prospect potential locations for affordable rental housing.		
Collaborate with community substance abuse and mental health providers to ensure seamless referral services.		
Work with law enforcement and interim service providers to ensure a smooth transition from street living to interim housing.		
Provide ongoing information, referrals, linkages, and advocacy for all other indentified needs.		
Creatively use and develop community resources to broker and link clients to services.		
Participate in meetings and trainings as requested by the CDRDA/B and the City of Orlando's Sr. Advisor on Homelessness and Social Services.		
Respond upon notification by the CRA or HSN of areas with high concentrations of homeless persons or activities; provide HSN and the CRA the implemented plan of action within 15 days of initial notification.		

Exhibit "D"  
Human Trafficking Affidavit

**Instruction: "Vendor"**, defined as any person or nongovernmental entity seeking to engage in business with the Community Redevelopment Agency of the City of Orlando ("CRA"), must complete the following form.

The undersigned, on behalf of Vendor, hereby attests as follows:

- A. Vendor understands and affirms that Section 787.06(13), Florida Statutes, prohibits the CRA from executing, renewing, or extending a contract to entities that use coercion for labor or services, with such terms defined as follows:
- **"Coercion"** means: (1) using or threatening to use physical force against any person; (2) restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; (3) using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; (4) destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; (5) causing or threatening to cause financial harm to any person; (6) enticing or luring any person by fraud or deceit; or (7) providing a controlled substance as outlined in Schedule I or Schedule II of Section [893.03](#), Florida Statutes, to any person for the purpose of exploitation of that person.
  - **"Labor"** means work of economic or financial value.
  - **"Services"** means any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.
- B. Vendor hereby attests, under penalty of perjury, that Vendor does not use coercion for labor or services as defined in Section 787.06(2), Florida Statutes.

I, the undersigned, am an officer or representative of the nongovernmental entity named below and hereby represent that I: make the above attestation based upon personal knowledge; am over the age of 18 years and otherwise competent to make the above attestation; and am authorized to legally bind and make the above attestation on behalf of the Vendor. **Under penalties of perjury, I declare that I have read the forgoing document and that the facts stated in it are true.** Further Affiant sayeth naught.

Vendor: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, as \_\_\_\_\_ on behalf of the company/corporation. They ☐ are personally known to me or ☐ have produced \_\_\_\_\_ as identification.

Signature of Notary Public

\_\_\_\_\_  
Name of Notary Typed, Printed or Stamped

My Commission Expires: \_\_\_\_\_

THIS INSTRUMENT PREPARED BY:  
and after recording return to:

Daniel L. DeCubellis  
Carlton Fields, P.A.  
200 South Orange Avenue, Suite 1000  
Orlando, Florida 32801

**Subordination.** Notwithstanding anything to the contrary set forth in this Covenant, the City and CRA acknowledge that the rights of the City and CRA pursuant to this Covenant are affected by and may be limited by the following Subordination Agreements between each Senior Lender (defined below) and the City and CRA: (i) a Subordination Agreement dated as of \_\_\_\_\_, 2025 among Truist Bank and the holder of this Covenant on the date of such Subordination Agreement, and (ii) a Subordination Agreement as of the date of execution by and among Permanent Lender and the holder this Covenant on the date of such Subordination Agreement, and (iii) a Subordination Agreement dated \_\_\_\_\_, 2025 by and among FHFC and the holder of this Covenant on the date of such Subordination Agreement (collectively, the “Subordination Agreements”). Among other things, the Subordination Agreement(s) may provide for the elimination of the City’s and CRA’s rights to recover funds from the Developer in the event of foreclosure, and, in the event of foreclosure, limit the City’s and CRA’s remedies for breach of this Covenant to specific performance. Truist, Permanent Lender and FHFC may be referred to collectively as the “Senior Lenders” or individually as a “Senior Lender.”

**DECLARATION OF AFFORDABLE HOUSING RESTRICTIVE  
COVENANT FOR MARIPOSA GROVE APARTMENTS**

BY AND AMONG

**CITY OF ORLANDO, FLORIDA**

and

**COMMUNITY REDEVELOPMENT AGENCY  
OF THE CITY OF ORLANDO, FLORIDA**

and

**BDG MARIPOSA GROVE, LLC**

Dated as of \_\_\_\_\_, 2025



**DECLARATION OF AFFORDABLE HOUSING RESTRICTIVE COVENANT FOR  
MARIPOSA GROVE APARTMENTS**

**THIS DECLARATION OF AFFORDABLE HOUSING RESTRICTIVE COVENANT FOR MARIPOSA GROVE APARTMENTS** (this “Covenant”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2025, (the “Effective Date”) by BDG Mariposa Grove, LLC, a Florida limited liability company with an address of 501 North Magnolia Avenue, Orlando, Florida 32801 (“Developer”) to and for the benefit of the City of Orlando, Florida, a municipal corporation organized and existing under the laws of the state of Florida with an address of 400 South Orange Avenue, Orlando, Florida 32801 (“City”), and the Community Redevelopment Agency of the City of Orlando, Florida, an entity created pursuant to Part III of Chapter 163, Florida Statutes with an address of 400 South Orange Avenue, Orlando, Florida 32801 (“CRA”). City, CRA and Developer may together be referred to herein as the “Parties”, or individually as a “Party”.

**W I T N E S S E T H:**

**WHEREAS**, the Developer seeks to construct a mixed-use 12 story high-rise apartment building containing 138 Senior mixed-income, affordable, multifamily rental housing community with ground floor commercial retail at 417 E. Jackson Street, Orlando, Florida to be known as Mariposa Grove Apartments; and

**WHEREAS**, all 138 residential units in the Project, as defined herein, will be restricted in accordance with this Covenant; and

**WHEREAS**, the Developer has a contract (the “Purchase Contract”) to purchase the property described on attached **Exhibit “A-1”** (the “Property”); and

**WHEREAS**, the Developer, as the declarant, will record a Declaration of Condominium (the “Declaration”) for the Mariposa Grove Condominium (the “Condominium”) and create the Condominium association (the “Association”), and will develop and construct the Condominium; and

**WHEREAS**, the Condominium will consist of residential apartments, including parking components and other elements and amenities that may serve the residential apartments (collectively, the “Residential Unit”) and retail use components, including parking components and other elements that may serve the retail use components (“Retail Unit”), and this Covenant shall be recorded against and encumber the Residential Unit, as more particularly described on **Exhibit “A-2”**; and

**WHEREAS**, the Project, as defined herein, will be constructed on the Property and generally in accordance with the development plan shown on attached **Exhibit “B”** and shall include the Features and Amenities as described on Exhibit 2 of the FHFC Credit Underwriting Report for Mariposa Grove prepared by Seltzer Management Group, Inc. dated March 17, 2025, as it may be amended and approved by FHFC (collectively, the “Development Plan”); and

**WHEREAS**, the Project will fulfill a general goal of the Downtown Orlando Community Redevelopment Area Plan (“Plan”) to improve the variety of housing options within the Downtown Orlando Community Redevelopment Area (“Area”); and

**WHEREAS**, the Area is in need of additional affordable housing for all ages, including for retirement or Senior housing; and

**WHEREAS**, the Property is within the Area; and

**WHEREAS**, the City has recognized the need for additional affordable housing for all ages, including for retirement or senior housing within the City and established an Affordable Housing Trust Fund pursuant to Section 67.700 of the City’s Code of Ordinances; and

**WHEREAS**, the Project will be age and income restricted, shall contain the mix of Unit types described herein, and will be otherwise restricted as set forth in this Covenant; and

**WHEREAS**, the Project will help to achieve the CRA’s and City’s goals of providing affordable housing within the Area and the City; and

**WHEREAS**, the City and the CRA have identified the Project as a matter of importance to the community, and

**WHEREAS**, the Developer has applied for financial assistance from the City and from the CRA for the Project, and

**WHEREAS**, the Developer, City and the CRA have entered into a Development and Loan Agreement (“Development Agreement”) contemporaneously herewith providing for loans from the City and the CRA for the Project; and

**WHEREAS**, because the purpose of the CRA Loan and the City Loan (as defined in the Development Agreement) are to provide affordable housing, the CRA Loan and the City Loan are conditioned upon the continuous use of the Project for affordable housing with the limitations and requirements set forth in this Covenant; and

**WHEREAS**, this Covenant and the Affordability Requirements set forth herein are intended to and shall run with the land and shall be binding on all parties and all persons claiming an interest in the Property for the Affordability Period; and

**WHEREAS**, in the event the Project fails to meet the affordable housing requirements of this Covenant at any time during the Affordability Period, defined below, then the City and the CRA will have the remedies set forth in this Covenant; and

**WHEREAS**, Section 163.400, Florida Statutes, encourages cooperation by public bodies in carrying out redevelopment within community redevelopment areas and Sections 163.370(c) and 163.387(6)(c)(7), Florida Statutes, specifically authorize the expenditure of CRA funds for the development of affordable housing.

**NOW, THEREFORE**, in consideration of the CRA Loan and the City Loan, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer agrees with and for the benefit of the City and the CRA as follows:

## **Article I** **BACKGROUND**

**1.1 Incorporation of Recitals.** The recitals set forth above are true and correct and are incorporated herein as if fully set out below.

**1.2 Benefits to City and CRA.** City and CRA hereby acknowledge that the Project is located in an area of the City which is underserved by developments such as the Project, and that the Project will enhance and benefit the downtown core. The City and CRA have determined that the Project is consistent with the Downtown Orlando Community Redevelopment Area Plan (“Plan”), the City’s Growth Management Plan and all other applicable planning goals and requirements of the City. Based on the foregoing findings and the specific terms and conditions set forth in this Covenant, City and CRA are willing to enter into this Covenant for the purpose of and to allow Developer to construct, develop, maintain, and operate the Project in accordance with the terms and conditions of this Covenant and all applicable ordinances, approvals and permits. The development of the Project will assist the CRA in implementing the Plan by providing affordable housing, all to enhance the quality of life in the Area in accordance with the Plan and the Community Redevelopment Act, Part III, Chapter 163, Florida Statutes.

**1.3 Certain Definitions.** For purposes of this Covenant, the following terms shall have the following meanings:

“Adjusted for Family Size” means adjusted in a manner that results in an income eligibility level that is lower for households having fewer than four people, or higher for households having more than four people, than the base income eligibility determined as provided in Florida Statutes for Seventy Percent Income, Sixty Percent Income, Fifty Percent Income, Thirty Percent Income or Twenty-two Percent Income, as applicable, based upon a formula established by HUD.

“Affordable” or “Affordability Requirements” means that the 138 Assisted Units must be rented to individuals who meet the income, rent, and other requirements as set forth in this Covenant, with the exception of the Manager Unit, if applicable; additionally, Affordable includes the requirement that monthly rents do not exceed thirty percent (30%) of that amount which represents the percentage of the median Annual Gross Income for the households qualifying under the definition of Seventy Percent Income, Sixty Percent Income, Fifty Percent Income, Thirty Percent Income, or Twenty-two Percent Income, as applicable, and the Affordability Requirements include all Developer’s reporting obligations set forth in this Covenant.

“Affordability Period” means that the Assisted Units shall remain Affordable for thirty (30) years commencing on the date of Project Completion.

“Annual Gross Income” means the annual income as defined under the Section 8 housing assistance payments programs in 24 CFR part 5. The annual gross income shall be calculated by

annualizing verified sources of income for the household as the amount of income to be received in a household during the twelve (12) months following the effective date of the determination.

“Assisted Units” means all the dwelling units in the Project, consisting of approximately one hundred thirty-eight (138) Affordable housing Senior rental apartments.

“Disability” means a person’s disability that meets all of the following four criteria: 1. is expected to be of long, continuing, or indefinite duration; 2. substantially impedes the individual’s ability to live independently; 3. could be improved by the provision of more suitable housing conditions; and 4. is one or more of the following: (a) physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post-traumatic stress disorder, or brain injury; and/or (b) developmental disability; and/or (c) the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

“Eligible Person or Eligible Household” means a Senior who is Seventy Percent Income, as defined herein, for seventy-nine (79) of the Assisted Units; Sixty Percent Income, as defined herein, for seventeen (17) of the Assisted Units; Fifty Percent Income, as defined herein, for sixteen (16) of the Assisted Units, Thirty Percent Income, as defined herein, for twenty-one (21) of the Assisted Units, and Twenty-two Percent Income, as defined herein, for five (5) of the Assisted Units. Notwithstanding the foregoing, an Eligible Person or Eligible Household for the PSH/Homeless Units shall mean the requirements set forth in Section 2.1.2.

“FHFC” means the Florida Housing Finance Corporation, a public corporation and a public body corporate and politic, with headquarters located at 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301.

“Homeless” means an individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

1. Has a primary nighttime residence that is a public or private place not meant for human habitation; **or**
2. Is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state and local government programs); **or**
3. Is exiting an institution where (s)he has resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution; **or**
4. Is otherwise approved by HSN, CSC or HCD.

“HCD Director” means the Director of the Housing and Community Development Department of the City of Orlando, Florida, or his or her designee.

“HUD” means the United States Department of Housing and Urban Development, its successors or assigns.

“Investor Member” means, collectively, TCC BDG Mariposa Grove LLC, a Georgia limited liability company, as investor member of Developer, and CDC Special Limited Partner, L.L.C., a Georgia limited liability company, as special member of Developer.

“Manager Unit” means a dwelling unit in the Project that is designated for on-site staff that may be employed by the Developer or its affiliate and is not subject to the Affordability Requirements or restrictions otherwise set forth herein with respect to the Assisted Units.

“Multifamily Rental Program” means, when used with respect to a given unit, the program or programs of the FHFC to which such unit is subject based on such unit being financed or funded under such program, including but not limited to, the Multifamily Mortgage Revenue Bond (MMRB) and LIHTC programs of the FHFC.

“Orlando MSA” means the Orlando Metropolitan Statistical Area including the cities of Orlando, Sanford and Kissimmee located in Central Florida.

“Permanent Supportive Housing” means affordable rental housing leased for continued occupancy with an indefinite length of stay (subject to applicable lease terms) to Homeless persons with a Disability and with supportive services provided for such tenants.

“Project” means the construction of a mixed-use 12 story high-rise apartment building containing 138 Senior, mixed-income, affordable, multifamily rental apartments with ground floor commercial retail finished shell (with interior tenant retail space to be completed in accordance with applicable permit approvals separately from initial construction of the Project), located at 417 E. Jackson Street, Orlando, Florida in accordance with the Development Plan. All 138 residential units in the Project are Assisted Units and shall be rented and occupied by Eligible Persons at Affordable rents for the duration of the Affordability Period, except for the Manager Unit, if applicable. The Project shall contain the following mix of unit sizes and each unit shall have the floor areas and be restricted to Eligible Persons with the applicable percentage of Area Median Income as set forth below for the duration of the Affordability Period:

Unit Mix:

9 efficiency units

38 studio units

77 1 bedroom/1 bath units

14 2 bedroom/1 bath units

Type	# of Units	Avg. Sq. Ft.	AMI
0br/1b (efficiency)	4	451	70%
0br/1b (efficiency)	2	451	60%
0br/1b (efficiency)	1	451	50%
0br/1b (efficiency)	2	451	30%
0br/1b (Studio)	24	626	70%
0br/1b (Studio)	4	626	60%
0br/1b (Studio)	5	626	50%

0br/1b (Studio)	5	626	30%
1br/1b	43	683	70%
1br/1b	8	683	60%
1br/1b	9	683	50%
1br/1b	12	683	30%
1br/1b	5	683	22%
2br/1b	8	971	70%
2br/1b	3	971	60%
2br/1b	1	971	50%
2br/1b	2	971	30%
TOTAL	138		

\* 11 units will be reserved for Permanent Supportive Housing for Eligible Persons with 30% Income or below. The requirements for rental of these PSH/Homeless Units are set forth in Section 2.1.2.

Rental rates shall not exceed the maximum rental rates determined annually by FHFC for the Multifamily Rental Program. Developer will provide updated rental rates to HCD to verify compliance with the FHFC Multifamily Rental Program all in the manner as described herein and all according to the income limits published annually by FHFC based on the Annual Gross Income of the household.

“Project Completion” means that all necessary title transfer requirements and construction work has been completed and a Certificate of Occupancy or Certificate of Completion or similar evidence of completion has been issued for the Project, including each of the 138 units in the Project; the Project meets all regulations and the requirements of this Covenant; the Project passes the required property standards of the Development Agreement and this Covenant; and the final drawdown of funds has been disbursed for the Project.

“Senior” means a natural person that, when taken collectively with all other tenants of the Project, meets the Senior Requirement.

“Senior Lender” means Truist Bank, its successors and assigns (“Truist”), in connection with a construction loan to Developer in the original principal amount of \$[\_\_\_\_\_]; (b) The Bank of New York Mellon Trust Company, as fiscal agent, and its successors and assigns (“Permanent Lender”), in connection with a permanent loan to Developer in the original principal amount of up to \$[\_\_\_\_\_]; and (c) FHFC in connection with the following loans to Developer: (i) a SAIL loan in the amount of \$11,000,000.00, (ii) an ELI loan in the amount of \$750,000.00, and (iii) a HOME ARP loan in the amount of \$1,675,000.00; in each case as the same may be assigned, amended, restated and/or supplemented from time to time.

“Senior Requirement” has the meaning set forth in Section 2.1.1 hereof.

“Seventy Percent Income”, “Sixty Percent Income”, “Fifty Percent Income”, “Thirty Percent Income” and “Twenty-two Percent Income” mean one or more natural persons or a family who has a total Annual Gross Income that does not exceed seventy percent (70%), sixty percent

(60%), fifty percent (50%), thirty percent (30%) or twenty-two percent (22%), respectively, of the median income within the Orlando MSA, as determined by FHFC, Adjusted for Family Size.

“Stabilization” means the date after Project Completion when the Project has achieved and maintained 95% physical occupancy of Assisted Units continuously over any ninety (90) day time period.

“SHIP” means the FHFC’s State Housing Initiatives Partnership Program.

**Unless defined herein, additional capitalized terms used in this Covenant shall have the meanings ascribed to them herein or in accordance with Section 420.9071, Florida Statutes.**

## **Article II**

### **RESTRICTIVE COVENANTS AND BINDING NATURE OF RESTRICTIONS**

Developer hereby declares, covenants and agrees, for the benefit of the City and the CRA, that no portion of the Property may be used for any purpose except for the Project as described in this Covenant. Further, Developer hereby declares, covenants and agrees, for the benefit of the City and the CRA, that this Covenant and the Affordability Requirements set forth herein are intended to and shall run with the ownership of the Residential Unit and shall be binding on the Residential Unit and on all parties and all persons claiming an interest in the Residential Unit for the entire Affordability Period. Developer hereby agrees with and for the benefit of the City and the CRA that neither it nor any successor or assign shall have authority to enter into any lease in violation of the Affordability Requirements of this Covenant and the Developer, for itself and its successors and assigns, hereby relinquishes any right or authority to enter into any such lease and any such lease is void ad initio. Except as may be provided in any subordination agreement with a Senior Lender, this Covenant shall be recorded prior to any mortgage on the applicable Property and the Affordability Requirements of this Covenant shall not be subordinate to any mortgage.

**2.1.1 Senior Housing.** Developer shall operate the Project so as to qualify for the Fair Housing Act’s exemption for Housing for Older Persons as determined by HUD and set forth in 24 CFR, Part 100, Subpart E, § 100.304, § 100.305, and § 100.306 (the “Senior Requirement”).

**2.1.2 Affordable Housing and Permanent Supportive Housing/Homeless Set-Asides for the Project.** Each of the 138 residential units in the Project shall be set-aside for Affordable housing as set forth and described in this Covenant, with the exception of the Manager Unit, if applicable. The City requires that some of the Assisted Units be set-aside for occupancy by the Homeless and those requiring Permanent Supportive Housing. Developer has agreed and must set-aside and rent eleven (11) Assisted Units (the “PSH/Homeless Units”) to Eligible Persons who meet the qualifications and requirements set forth below.

- (i) Income Requirements for Tenants of PSH/Homeless Units. Tenants of the PSH/Homeless Units must have incomes equal to or less than the definition of Thirty Percent Income; and
- (ii) Homelessness Requirements for Tenants of PSH/Homeless Units. Developer will follow the procedures outlined below to rent the PSH/Homeless Units to Tenants that are Homeless immediately prior to occupancy of the PSH/Homeless Unit.

Referral of Tenants for PSH/Homeless Units. In order to accomplish the City's goals of providing Affordable housing to the Homeless and those requiring Permanent Supportive Housing, Developer has agreed and shall comply with the procedures below for rental of the PSH/Homeless Units.

- (i) Notice to Vacancy to Agencies. In order to maximize the accomplishment of the rental of the PSH/Homeless Units to Homeless individuals who require Permanent Supportive Housing ("PSH Tenants") or to Homeless individuals in the broader community who do not require supportive services (a "Homeless Tenant"), when a PSH/Homeless Unit becomes available for lease, the Developer will notify the COC/Homeless Services Network of Central Florida (the "HSN"), Christian Service Center ("CSC") and any other City-approved agency as the City may direct (a "Vacancy Notice"). If HSN does not promptly provide a qualified PSH Tenant, this notification will give CSC or other agency some lead time to find a Homeless Tenant.
- (ii) HSN Referrals of PSH Tenants. Upon receiving a Vacancy Notice, HSN will have 30 calendar days (or such shorter period as may be approved by FHFC) (the "HSN Priority Period") to refer a proposed PSH Tenant to Developer. The Developer understands and acknowledges that HSN provides a Coordinated Entry System, called the Homeless Management Information System (HMIS) for Homeless individuals, and Developer must coordinate with HSN and rent the PSH/Homeless Units to PSH Tenants referred through HSN during this HSN Priority Period, provided such proposed tenant otherwise meets the requirements of this Covenant and the tenant selection criteria and accommodations outlined on **Exhibit "C"**. Supportive Services are required for PSH Tenants and would either need to come associated with their voucher or HSN will help facilitate the supportive services resources needed; provided for the avoidance of doubt that Developer will not be responsible to provide or pay for any such services.
- (iii) 45 Day Referral Period. If HSN does not refer a qualified PSH Tenant to Developer within the HSN Priority Period, then, for an additional period ending 45 days after the Vacancy Notice, Developer must rent the available PSH/Homeless Units to Homeless Tenants or to PSH Tenants referred through HSN, CSC or other City-approved agency, on a first-come, first-served basis, provided that (a) CSC or other approved City-approved agency confirms that the proposed tenant is in the Homeless Management Information System (HMIS), and (b) such proposed tenant otherwise meets the requirements of this Covenant and the tenant selection criteria and accommodations outlined on **Exhibit "C"**. If no qualified PSH Tenant or Homeless Tenant is referred to Developer within 45 days after the Vacancy Notice, then Developer may rent the PSH/Homeless Unit to other tenants who meet the 30% Income requirement for the PSH/Homeless Units but may not be Homeless or may not require Permanent Supportive Housing.
- (iv) Compliance with Regulations for the PSH/Homeless Units. The Developer must abide by all of the rules, requirements, and regulations required by FHFC, HSN's



FHFC required and approved Memorandum of Understanding (except as required by this Covenant), and HUD for the PSH/Homeless Units.

- (v) Space for PSH Services and Scattering of PSH/Homeless Units. Developer must provide space in the leasing office on the Property to accommodate two (2) full time equivalent employees to accommodate services for the PSH Tenants. The PSH/Homeless Units must be diversified throughout the Property, so that the PSH/Homeless Units are not segregated into one area.
- (vi) Vouchers. Developer agrees not to exclude an applicant for a PSH/Homeless Unit with a certificate or voucher under the Section 8 Tenant-Based Assistance: Housing Choice Voucher Program (24 CFR 992) or an applicant participating in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant -based assistance document.

**2.1.3 Rent Restrictions for the Project.** The Project shall have the mix of unit sizes and the units shall have the approximate average floor areas as described in the definition of the Project. The rents determined by FHFC for the Multifamily Rental Programs, from time to time, set forth the maximum rents the Developer can charge residents for the Assisted Units. A rent limit chart adjusted for bedroom size will be determined and distributed by FHFC annually. Effective April 1, 2025, the maximum gross initial monthly rent for each Assisted Unit is as follows:

**RENT – Seventy Percent Income (70%)- AMI**

**2 Bedroom at \$ 1,660.00**  
**1 Bedroom at \$ 1,383.00**  
**0 Bedroom at \$ 1,291.00**

**RENT – Sixty Percent Income (60%) AMI**

**2 Bedroom at \$ 1,423.00**  
**1 Bedroom at \$ 1,185.00**  
**0 Bedroom at \$ 1,107.00**

**RENT- Fifty Percent Income (50%) AMI**

**2 Bedroom at \$ 1,186.00**  
**1 Bedroom at \$ 988.00**  
**0 Bedroom at \$ 922.00**

### **RENT – Thirty Percent Income (30%)- AMI**

**2 Bedroom at \$ 711.00**

**1 Bedroom at \$ 592.00**

**0 Bedroom at \$ 553.00**

### **RENT – Twenty-two Percent Income (22%) AMI**

**1 Bedroom at \$434.00**

Developer agrees that these rents include (at no cost to tenant) tenant utilities which include water, sewer, and waste. The Developer acknowledges and agrees that the City shall review and all rents proposed by Developer to ensure compliance with the maximum Multifamily Rental Program rent limits regulations as may exist from time to time. Upon request or at City's convenience, the City will provide the Developer with information on updated FHFC Multifamily Rental Program rent limits, as they are made available by FHFC. However, if the rules, regulations, and requirements of HSN, HUD, or other funding source conflicts with the requirements set forth herein, the Developer shall comply with the stricter requirements as applicable to a given unit. (For example, if the HUD rule for PSH Units allows a higher rent than the FHFC Multifamily Rental Program rent, the Developer will charge the FHFC Multifamily Rental Program rent (i.e. the stricter of the two rent amounts)). Notwithstanding anything to the contrary in this Covenant, the rental rate for a tenant utilizing a voucher to pay all or a portion of the rent may exceed the above limits and will be the rental rate set in accordance with the applicable lease documentation between the Developer, housing authority and tenant, provided that the rent complies with all applicable LIHTC tax credit program requirements.

**2.1.4 Tenant Selection.** The Developer shall undertake the review of income eligibility of prospective tenants for the Assisted Units and other eligibility requirements. In determining income eligibility, the Developer shall examine the source documents evidencing the prospective tenant's Annual Gross Income. In conducting such review, the Developer shall determine if each household is income eligible by determining the household's Annual Gross Income in accordance with applicable SHIP regulations. The Developer shall also require each tenant to fill out a form of Tenant Income Certification in form and content as required by the City. The Developer shall also obtain from each tenant the information contained in the Tenant Qualification Package, in form and content as required by the City, and, upon request, submit such information for each tenant to the City. All forms of Developer's applicable documentation including, but not limited to a tenant's application, verifications, and proposed rent and lease terms shall be submitted to the HCD Director for final approval before Developer enters into its first (1<sup>st</sup>) lease with a prospective tenant in the Project. If Developer seeks to make any changes to the approved forms, it shall submit the proposed revisions to the City for review and the City shall; have a period of thirty (30) days to review and provide any comments or to reject the proposed revisions (provided that City may not reject any such changes that are required by law or Senior Lenders), provided that if the City does not approve or deny such revisions within such period, the City will be deemed to have approved the revisions. The Developer acknowledges and agrees that it shall keep documentation verifying the income eligibility of each tenant and other eligibility requirements. The Developer shall enter into a separate written lease with each tenant for each of

the Assisted Units for a period of not less than one (1) year. Notwithstanding anything to the contrary in this Covenant, whenever the City or CRA are deemed to have approved any matter or item due to the passage of time, such approval shall not be interpreted to amend this Covenant, to constitute a waiver of Developer's continuing and future compliance with this Covenant, or to include approval of matters or items that are in violation of applicable law or are in violation of this Covenant. For the avoidance of doubt, Developer will not be out of compliance or in violation of this Covenant to the extent Developer is abiding by any matter or item that has been deemed approved by the City or CRA that is not in violation of law or this Covenant (e.g. Developer's compliance with a budget deemed approved in accordance with the Development Agreement will not be a violation of this Covenant, but, as an additional example, Developer will modify the form of future qualification packages if requested by the City or CRA to conform to the City or CRA's determination that the previously approved form requires modification in order to conform to applicable law, this Covenant, or to provide verification compliance).

**2.1.5 Increases in Tenant Income.** After initial occupancy by an Eligible Person, the Annual Gross Income of the Eligible Person may increase but cannot exceed one hundred forty percent (140%) of the applicable income limit for that Assisted Unit. However, if while occupying the rental unit, a tenant of an Assisted Unit has an increase in tenant's household's Annual Gross Income, such tenant (an "Over Income Tenant") will not be required by this Covenant to relocate from the Assisted Unit then occupied, provided that if such Over Income Tenant's household Annual Gross Income exceeds 140% AMI, adjusted for family size, then the rent to be charged such Over Income Tenant and the renting of the Project in general shall be in compliance with applicable LIHTC tax credit program requirements.

**2.1.6 Affordability Requirements in the Event of Over Income Tenant.** In order to maintain the Affordability Requirements of this Covenant, in the event a lease for an Assisted Unit is signed with an Over Income Tenant, then the next available Assisted Unit must be rented to a tenant whose Annual Gross Income is equal to or less than the category of Annual Gross Income (such as Seventy Percent Income, Sixty Percent Income, etc.) of the Over Income Tenant at the time of such Over Income Tenant's immediately prior lease of the Assisted Unit.

**2.1.7 Re-Certification of Tenants' Income and Rents.** Each year during the Affordability Period, the Developer shall re-verify tenant eligibility and provide the City with information on income, rents, and occupancy of the Assisted Units in order to demonstrate compliance with applicable SHIP regulations and FHFC Multifamily Rental Program rents and this Covenant. At the request of the HCD Director, the Developer shall make available to the City all information and documentation regarding eligibility, including income and rent records similar to that provided at initial lease-up of all tenants that are or have been occupying the Assisted Units within the preceding twelve (12) months to verify that all tenants meet the income guidelines at rents set forth herein. The Developer shall make this information available to City within ninety (90) days of its fiscal year-end.

**2.1.8 Affordability Requirements a Condition of the City Loan and the CRA Loan.** The Affordability Requirements set forth in this Covenant apply without regard to the term of any loan of mortgage or the transfer of ownership. Developer shall dedicate and maintain the Assisted Units as Affordable for the entire Affordability Period. The Developer acknowledges that failure to meet the Affordability Requirements as stated herein for the Affordability Period is a

breach of this Covenant, which, subject to the provisions of this Covenant and the Subordination Agreements by and between the Senior Lenders and the City and CRA, requires the repayment of the City Loan and the CRA Loan. Notwithstanding anything to the contrary in this Covenant, the Developer shall be entitled to designate one dwelling unit of the Project as a Manager Unit.

### **Article III**

#### **AUDIT, MONITORING, INSPECTIONS, REPORTING**

Developer agrees to comply with the requirements set forth in this Article III.

**3.1.1 Audit.** The Developer will keep books and records relating to the performance of its obligations under this Covenant. Developer's financial records shall be kept in accordance with generally accepted accounting principles. The City, CRA and their designated agents shall have the right to review, inspect and audit such books and records of the Developer at all reasonable times during normal business hours. The Developer shall maintain such books and records for a period of five (5) years after the end of the Affordability Period and the City shall have the right to review, inspect and audit such books and records at any time until the end of such five (5) year period.

**3.1.2 On-going Property Standards and Inspections through the Affordability Period.** During the Affordability Period, all Assisted Units must be maintained in compliance with 24 CFR §92.251 and with all applicable State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established by HCD pursuant to requirements contained in 24 CFR §92.251. These standards ensure that Developer maintains the housing as decent, safe and sanitary and in good repair. Developer will allow HCD to conduct inspections of the Property to determine compliance with these ongoing property standards. Housing must meet all applicable State and local code requirements and ordinances. Housing must be free of all health and safety defects and life-threatening deficiencies identified by HCD that the Developer must correct immediately. Housing must meet the lead-based paint requirements in 24 CFR Part 35. HCD will perform ongoing inspections in accordance with 24 CFR §92.504(d). Deficiencies identified by HCD needing corrective and remedial actions must be addressed by Developer in the time frames required by HCD which will be a reasonable time frame based on the exigency of the deficiency. The Assisted Units will be inspected on a schedule based on procedures, checklists, and inspection forms established by HCD. All such inspections shall be upon at least twenty-four (24) hours' notice and shall not unreasonably interfere with the operation of the Project or rights of tenants.

**3.1.3 Ongoing Periodic Inspections.** During the Affordability Period, HCD will perform on-site inspections to determine compliance with the property standards of §92.251 and to verify the information submitted by Developer in accordance with the requirements of §92.252. These inspections will be in accordance with HCD's inspection procedures which will occur within 12 months after Project Completion and at least once every 3 years during the Affordability Period. If there are observed deficiencies for any of the inspectable items in the property standards established by HCD, a follow-up on-site inspection to verify that the deficiencies are corrected must occur within 12 months, unless HCD, in its sole discretion, determines that the deficiency must be corrected earlier. Health and safety deficiencies must be corrected immediately, in

accordance with §92.251. All such inspections shall be upon at least twenty-four (24) hours' notice and shall not unreasonably interfere with the operation of the Project or rights of tenants.

**3.2 Annual Reporting After Stabilization.** After Project Completion and the Assisted Units are rented and occupied, through the end of the Affordability Period, the Developer shall submit annual reports to the City and CRA as of the end of the federal fiscal year ending September 30. Such annual reports shall be submitted on or before October 20 for the prior fiscal year. In addition to income verification of each tenant, these reports shall include information on rental and occupancy of the Assisted Units, family size, income level, data for income certification and occupancy, monthly rent, utility information, maintenance, and overall financial stability of the Project. Developer must annually certify to HCD that all Assisted Units are suitable for occupancy, taking into account State, and local health, safety, and other applicable codes ordinances, and requirements, and the ongoing property standards requirements established by HCD. Developer shall provide HCD with a copy of the annual certification given by Developer to FHFC. Developer shall keep records to document compliance with these property standards. The Developer acknowledges that over the term of this Covenant, the City's and CRA's reporting requirements may change. If this occurs, the City or CRA will notify the Developer of the new reports needed and the Developer agrees to comply with the new reporting procedures. The City and CRA also reserve the right to request additional information as reasonably needed in connection with this Covenant.

**3.3 Monitoring.** Developer acknowledges and agrees that HCD will monitor Developer's performance during the term of this Covenant at a minimum annually and shall allow all access, inspection, and copying of records to do so upon at least twenty-four (24) hours' notice and provided that HCD shall not unreasonably interfere with the operation of the Project or rights of tenants. Also, pursuant to 24 CFR §92.504(d), Developer shall assist HCD in its obligation to conduct on-site inspections of the Project for compliance with this Covenant, construction progress and compliance with property standard requirements listed herein or required by HUD, and shall allow HCD to access and inspect the Project at any time during the term of this Covenant upon at least twenty-four (24) hours' notice and HCD shall not unreasonably interfere with the operation of the Project or rights of tenants.

**3.4 Financial Monitoring/Oversight.** During the Affordability Period, Developer acknowledges and agrees that HCD must examine at least annually the financial condition of Developer to determine the continued financial viability of Developer and this Project. Developer shall provide all information, including financial statements, as requested by HCD so that HCD can verify financial viability, tenant incomes, rents and other HOME requirements pursuant to 24 CFR §92.252 and §92.504(d) on an annual basis. Developer shall keep records to document compliance with each of these inspections and monitoring reviews and the resolutions of and findings of concern.

## **Article IV**

### **BREACH AND REMEDIES**

**4.1.1 Developer's Breach and Opportunity to Cure.** Subject to Force Majeure (as defined herein), the Developer's failure to comply at all times and within the time required, with its obligations contained herein, including, but not limited to, the Affordability Requirements,

shall be a material breach of this Covenant. Any breach or default under the Development Agreement or the City or CRA Loan Documents (as defined in the Development Agreement) shall also be deemed a material breach of this Covenant. The City shall provide written notice of such breach to the Developer (“Notice of Breach”), and subject to Force Majeure, the Developer’s failure to cure such breach within thirty (30) calendar days from the date of its receipt of the Notice of Breach (the “Curative Period”) shall constitute an “Event of Default”. Notwithstanding the foregoing, if the nature of the breach is such that it cannot reasonably be cured within such 30 day period, then the Curative Period will be extended for an additional ninety (90) days to cure such breach provided that Developer diligently and expeditiously undertakes and pursues such cure, and further provided that the Developer provides the City with documentation evidencing that it is diligently undertaking and pursuing such cure to the City’s reasonable satisfaction, but in any event, the maximum Curative Period shall not be more than one hundred twenty (120) days from Developer’s receipt of the Notice of Breach.

#### **4.1.2 Remedies for Breach for Failure to Complete Project or for Breach of Affordability Requirements.**

A. Senior Lenders and Subordination Agreements. Notwithstanding anything to the contrary set forth in this Covenant, the City and CRA acknowledge that the remedies for breach of this Covenant may be limited by the Subordination Agreement(s) between the City and CRA and a Senior Lender.

B. Appointment of Receiver to Manage Project. Developer agrees that a breach of the Affordability Requirements constituting an Event of Default is hereby conclusively deemed to be a waste of the Property because the purpose of the Property is to provide a public benefit of affordable housing to the community as required by this Covenant. Further, Developer acknowledges and agrees that the Developer’s failure to comply with the Affordability Requirements which constitutes an Event of Default cannot be remedied by monetary damages. In the event of such breach, past all applicable notice and cure periods, City may apply to any court of competent jurisdiction to have a receiver appointed to enter upon and take possession of the Property for the purpose of managing the Property in accordance with the requirements of this Covenant, and Developer will not oppose the City’s request for appointment of a receiver. The receiver shall collect the rents from the Property for the Developer’s account and apply the same as the court may direct, such receiver to have all of the rights and powers permitted under the common law and laws of the State of Florida. The right of the appointment of such receiver shall be a matter of strict right without regard to the value or the occupancy of the Property or the solvency or insolvency of Developer. The expenses, including receiver’s fees, attorneys’ fees, costs and any management fees or leasing agent’s commission incurred pursuant to the powers herein contained, together with interest thereon, shall be secured by the Property and shall be due and payable by Developer immediately without notice or demand.

C. Change in Management. The parties acknowledge and agree that the Developer’s failure to comply with the Affordability Requirements set forth in this Covenant cannot be remedied by monetary damages. Therefore, in the event the City or the CRA issues a Notice of Breach of the Affordability Requirements set forth in this Covenant, and such breach is not cured within the time as required by this Covenant, subject to the rights of the Investor Member as set forth in this Agreement and Senior Lenders as may be set forth in an executed subordination



agreement between a Senior Lender and the City and CRA, then the City may require Developer to change any leasing or management firms or persons to a national or regional leasing and management company reasonably acceptable to the City. Any substitute leasing and management company shall agree with City to lease the Property in accordance with the Affordability Requirements of this Covenant.

D. Injunctive Relief. The Parties acknowledge and agree that the Developer's failure to comply with the Affordability Requirements set forth in this Covenant cannot be remedied by monetary damages. Therefore, in the event of Developer's breach of the Affordability Requirements set forth in this Covenant, the City or the CRA shall be entitled to injunctive relief, without the requirement of any bond, to require performance and compliance with the Affordability and related requirements of this Covenant, including, without limitation all audit and review rights in favor of City and CRA.

**4.1.3 Termination and Survival.** In the event of a termination of this Covenant, provided repayment to the City and the CRA of all sums advanced to or for the Project pursuant to this Covenant has been completed, the Affordability Requirements of this Covenant shall be null and void and neither Party shall have any continuing obligations to the other thereafter except as may be provided in this Covenant. Following such termination, the City and CRA will provide the Developer with a signed termination document in order to release the Affordability Requirements of record. Notwithstanding the foregoing, all of the Developer's indemnification, hold harmless and defense obligations set forth in this Covenant and the Development Agreement, as well as any provision that expressly survives termination of this Covenant, will survive any termination of this Covenant.

**4.1.4 Rights Cumulative.** No right, power or remedy of the City as provided in this Covenant is intended to be exclusive of any other right, power, or remedy of the City, but each and every such right, power and remedy shall be cumulative and concurrent and in addition to any other right, power or remedy available to the City now or hereafter existing at law or in equity and may be pursued separately, successively or together against Developer, any responsible person, or the Property or any part thereof, or any one or more of them, at the sole discretion of the City. The failure of the City to exercise any such right, power or remedy shall in no event be construed as a waiver or release thereof.

**4.2 Senior Lenders' and Investor Member's Right to Cure.** The City and CRA shall provide the Senior Lenders and the Investor Member with a copy of the Notice of Breach and the opportunity, but no obligation, to cure the breach on behalf of the Developer under the same terms and conditions as provided herein to Developer. Any such cure made or tendered by the Senior Lenders or the Investor Member shall be accepted or rejected on the same basis as if made by Developer. In addition, as to the Senior Lenders, if the Event of Default cannot practically be cured by the Senior Lender without the Senior Lender taking possession of the Property, then the City and CRA shall grant the Senior Lender such additional time as is reasonably necessary in order for the Senior Lender to obtain possession of the Property and cure such breach, provided that the Senior Lender diligently undertakes and proceeds to obtain possession of the Property and cure such breach, and further provided that the Senior Lender provides the City and CRA with documentation evidencing that it is diligently undertaking and proceeding to obtain such possession and cure such breach to the City's and CRA's reasonable satisfaction, but in any event,

the Senior Lender shall not have more than one hundred eighty (180) days from its receipt of the Notice of Breach to cure such breach.

## **Article V**

### **MISCELLANEOUS**

**5.1 Binding Effect.** This Covenant and the terms and conditions hereof shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, and their respective tenants, agents, licensees, guests and invitees and shall run with the Residential Unit. With or without specific reference thereto, the conveyance of any interest in all or a portion of the Property shall be subject to the benefits, burdens and other terms and conditions of this Covenant, to the same extent as if all of the terms and conditions of this Covenant were set forth in full in such conveyance. Notwithstanding the foregoing, the Parties acknowledge and agree that this Covenant: (i) is intended to govern and relate to the construction, use and operation of the Project on the Property; and (ii) shall not be transferable to any other real property.

**5.2 Third-Party Beneficiary.** This Covenant is solely for the benefit of the Parties signed hereto and no right, nor any cause of action, shall accrue to or for the benefit of any third party.

**5.3 Controlling Laws.**

**5.3.1** This Covenant and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida, and all duly adopted ordinances, regulations, and policies of the City now in effect and those hereinafter adopted which are not inconsistent with the specific terms and agreements set forth herein.

**5.3.2** The location for settlement or litigation of any and all claims, controversies or disputes, arising out of or relating to any part of this Covenant, or any breach hereof, shall be Orange County, Florida.

**5.4 Entire Agreement.** This Covenant, including any and all exhibits or attachments (which are expressly incorporated herein by this reference), constitutes the entire agreement between the Parties with respect to the specific matters contained herein and supersedes all previous discussions, understandings, and agreements. Amendment to or waivers of the provisions herein must be made by all the Parties hereto, be in writing, and in recordable form.

**5.5 Savings Clause.** If any sentence, phrase, paragraph, provision or portion of this Covenant is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed an independent provision and such holding shall not affect the validity of the remaining portions hereto.

**5.6 Cost of Recording.** Developer shall pay for the cost of recording in the Public Records of Orange County, Florida this Covenant and the mortgages in favor of the City and the CRA evidencing or securing the City Loan or the CRA Loan. Further, Developer shall pay any



and all required documentary stamp tax and any intangible tax due upon any of the documents executed pursuant to the Development Agreement.

**5.7 Estoppel.** Upon the request of Developer, or Lender(s) for the Project, City and CRA hereby agree to furnish a letter stating that (i) this Covenant is in full force and effect if true, (ii) there are no defaults under their Agreement or if any identify them, and (iii) such other information as reasonably requested. Such letter shall be furnished within thirty (30) days after request therefor.

**5.8 Assignment.** This Covenant is personal to the Parties and Developer shall not be entitled to assign this Covenant, or rights pursuant to this Covenant, without prior written consent of the CRA and the City. No assignment shall cause a release of Developer's obligations pursuant to this Covenant. Subject to the restrictions on transfer set forth herein, this Covenant shall be binding upon and inure to the benefits of the successors and assigns of the Parties hereto. Notwithstanding the foregoing, the following events shall be expressly permitted hereunder and shall not require the consent of the City or CRA: (i) direct or indirect transfers of Investor Member interests in Developer, and (ii) the removal for cause and replacement of Developer's managing member pursuant to the Amended and Restated Operating Agreement of Developer dated on or about the date hereof.

**5.9 Force Majeure.** The Parties shall use reasonable diligence to ultimately accomplish the purposes of this Covenant, but shall not be in breach or liable to each other, or their successors or assigns, for damages, for breach of contract or otherwise, for failure, suspension, diminution, or other variations of services occasioned for a delay or occasioned by a cause or causes beyond the control of the Party whose performance is so delayed ("Force Majeure"). Such causes shall include, without limitation: moratoria; severe adverse weather conditions (such as tropical storms, tornados or hurricanes); war-like operations; terrorism; governmental or judicial action; legislation, or controls; acts of other government agencies (regulatory entities or courts) in their sovereign or contractual capacity; fires; floods; epidemics (excluding Covid-19); quarantines; restrictions; strikes or failure or breakdown of transmission or other facilities; material shortages; or acts of God. The Parties acknowledge and agree that either Party's incompetence, failure to deploy adequate resources, failure to commence its duties hereunder within a reasonable time frame in accordance with the time frames stated herein or the applicable construction contracts, failure to make payments, or failure to exercise commercially reasonable diligence in the performance of its obligations hereunder shall not be deemed to constitute a force majeure event. Notwithstanding the foregoing, no extension(s) of time referenced in this Covenant due to Force Majeure shall extend for more than one (1) year or a total of eighteen (18) months cumulatively.

**5.10 Disputes.** Prior to the institution of any judicial proceedings, the Parties agree to attempt to settle the dispute through mediation, and shall follow the procedure set forth below. Any time periods set forth in this Covenant for cure of default shall be extended to the end of the time periods set forth below to permit the Parties to attempt to resolve any disputes.

**5.10.1** The Party believing a dispute to exist will give the other party written notice thereof, setting forth in reasonable detail the facts alleged to give rise to such dispute, the relevant contractual provisions, the nature of any claimed default or breach and a statement of the manner in which such Party believes the dispute should be resolved.

**5.10.2** Within twenty (20) days after receipt of such notice, each Party against whom relief is sought in connection with such dispute will deliver a written response, setting forth in reasonable detail its view of the facts alleged to give rise to such dispute, the relevant contractual provisions, the nature of the claimed default or breach and a statement of the manner in which such Party believes the dispute should be resolved.

**5.10.3** If the Parties do not agree on the manner in which the dispute should be resolved, they will arrange to hold a meeting within twenty (20) days after delivery of the response. Each Party will have in attendance at such meeting a representative with authority to bind the represented Party to any agreement resolving the dispute. At the meeting (and any adjournments thereof), the Parties will negotiate in good faith in an attempt to agree as to whether a dispute exists, the exact nature of the dispute and the manner in which the dispute should be resolved. If deemed appropriate by any Party, a professional mediator may be engaged to assist in resolving the dispute with mediation costs borne equally by the Parties. Any resolution of the dispute will be evidenced by a written agreement setting forth in reasonable detail the actions to be taken by each Party. If no such written agreement is reached within 30 days after the first meeting, the Parties may pursue any legal remedies available to them with respect to such dispute.

**5.10.4** Notwithstanding the provisions of this Article, nothing herein shall prevent or hinder any Party from pursuing and obtaining injunctive relief in a court of law as to matters appropriate for such relief.

**5.10.5** Any and all remedies identified in this Covenant are cumulative and not exclusive and shall be in addition to any other remedy which the Parties may have.

**5.10.6** City and CRA are Florida municipal entities whose limits of liability are set forth in section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of City or CRA beyond that provided in section 768.28, Florida Statutes. Further, nothing herein is intended as a waiver of City's or CRA's sovereign immunity under section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to, anything which might allow claims otherwise barred by sovereign immunity or operation of law.

**5.10.7 THE CITY, CRA, THE DEVELOPER, AND EACH OF THEIR RESPECTIVE MEMBERS, OFFICIALS (WHETHER APPOINTED, ELECTED, OR OTHERWISE), AGENTS, EMPLOYEES AND INSURERS SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL LOSS OR DAMAGES OF ANY KIND OR NATURE WHATSOEVER CAUSED BY, ARISING OUT OF OR IN ANY WAY RELATED TO THIS COVENANT OR THE GRANTING OF THE CRA LOAN OR THE CITY LOAN, INCLUDING ANY CLAIMS FOR NEGLIGENCE OR THEIR OWN NEGLIGENCE.**

**5.11 Time.** In computing any period of time pursuant to this Covenant, the day of the act, event, or default from which the designated period of time begins to run shall not be included, but the time shall begin to run on the next succeeding day. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall

run until the end of the next day which is not a Saturday, Sunday or legal holiday. Time is of the essence.

**5.12 Headings.** Section and other headings contained in this Covenant are for reference purposes only and are not intended to describe, interpret, define, or limit the scope, extent, or intent of this Covenant or any provision hereof.

**5.13 No Liability or Monetary Remedy.** The Developer hereby acknowledges and agrees that it is sophisticated and prudent in business transactions and proceeds at its own risk under advice of its own counsel and advisors and without reliance on the City or CRA, and that the City and CRA bear no liability for direct, indirect or consequential damages. The only remedy available to the Developer for any breach by the City or CRA is to require the City's and/or CRA's specific performance under the terms and conditions of this Covenant.

**5.14 Effective Date and Term.** This Covenant shall become effective on the Effective Date first written above, and end, subject to the termination and severability provisions set forth herein, upon satisfaction in full of all of the obligations of the Parties.

**5.15 Relationship.** This Covenant does not evidence the creation of, nor shall it be construed as creating, a partnership or joint venture among the City, the CRA, and the Developer. The Developer cannot create any obligation or responsibility on behalf of the City or the CRA or bind the City or the CRA in any manner. Each party is acting for its own account, and it has made its own independent decisions to enter into this Covenant and as to whether the same is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. Each party acknowledges that none of the other parties hereto is acting as a fiduciary for or an adviser to it in respect of this Covenant or any responsibility or obligation contemplated herein. The Developer further represents and acknowledges that no one was paid a fee, commission, gift or other consideration by the Developer as an inducement to entering into this Covenant.

**5.16 Extensions.** The CRA and the City nominate (a) David Barilla, as Executive Director of the Community Redevelopment Agency of the City Of Orlando and (b) Oren Henry, as HCD Director, respectively, who may collectively in their absolute discretion, act on behalf of the CRA and the City, respectively, to extend each and every deadline or any timeframe set forth in this Covenant for performance by the Developer for a period of up to ninety (90) days.

**5.17 Amendment.** This Covenant may not be amended, unless evidenced in writing and executed by all parties hereto.

**5.18 Personal Liability.**

**5.18.1** This Agreement is made subject to the nonrecourse provisions set forth in the promissory notes evidencing each of the CRA Loan and the City Loan, which nonrecourse provisions are incorporate herein by reference. No provision of this Covenant is intended, nor shall any be construed, as a covenant of any official (either elected or appointed), member, manager, officer, director, employee, owner or agent of the City or the CRA in an individual capacity and neither shall any such individuals be subject to personal liability by reason of any liability, covenant or obligation of the City or the CRA. Except to the extent the Investor Member

controls or directs management of the Developer, (i.e. the Investor Member exercises its removal right under Developer's amended and restated operating agreement or the amended and restated operating agreement is otherwise amended to provide that the Investor Member becomes a Managing Member of Developer), the Investor Member shall not be subject to any damages imposed by the foregoing sentence.

**5.19 Notices.** Any notices required to be given hereunder shall be effective upon receipt and sent by either facsimile, hand-delivery, U.S. mail, first class, postage prepaid, or by certified or registered mail (return receipt requested) to the following addresses or to such other representative or at such other postal address, facsimile number or electronic mail address of a Party as such Party may furnish to the other Parties in writing:

City:

City of Orlando  
400 South Orange Avenue  
7<sup>th</sup> Floor  
Orlando, Florida 32802-3370  
Attn: Stephanie Neves,  
Housing Development Project Manager  
e-mail: stephanie.neves@orlando.gov

and

City of Orlando  
400 South Orange Avenue  
7<sup>th</sup> Floor  
Orlando, Florida 32802-3370  
Attn: Oren J. Henry,  
Housing and Community Development Director  
e-mail: oren.henry@orlando.gov

CRA:

Community Redevelopment Agency of  
the City of Orlando, Florida  
400 South Orange Avenue  
Orlando, Florida 32802-3370  
Attn: David Barilla, Executive Director  
email: David.Barilla@downtownorlando.com

and

Developer:

BDG MARIPOSA GROVE, LLC  
501 North Magnolia Avenue  
Orlando, Florida 32801  
Attn: Scott Zimmerman, Manager;  
Alexander B. Kiss  
e-mail: szimmerman@agpmanager.com;  
Alex@BanyanDevelopmentGroup.com

With a Required Copy to:

Nelson Mullins Riley & Scarborough LLP  
390 N. Orange Avenue, Suite 1400  
Orlando, Florida 32801  
Attention: David F. Leon, Esq.  
Email: david.leon@nelsonmullins.com

With a Required Copy to Investor Member:

TCC BDG Mariposa Grove LLC  
c/o Truist Community Capital, LLC  
303 Peachtree Street, NE, Suite 2200  
Atlanta, Georgia 30308  
Attn: Mariposa Grove Asset Management

With a Required Copy to:

Holland & Knight LLP  
10 St. James Avenue, 12<sup>th</sup> Floor  
Boston, MA 02116  
Attn : Jarrod Connors, Esq.

FHFC

Florida Housing Finance Corporation  
227 N. Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329  
Attention: Executive Director

**5.20 Captions.** The captions and headings of sections or paragraphs used in this Covenant are for convenient reference only and shall not limit, define or otherwise affect the substance or construction of provisions of this Covenant.

**5.21 Permits.** The Developer shall obtain all state and local permits or other governmental authorizations and approvals required by law in order to construct Project on the Property. Nothing in this Covenant shall be deemed to restrict the City's free exercise of its duties in its regulatory capacity.

**5.22 Compliance with Laws.** The Developer shall at all times be in compliance with all applicable federal, state and local laws, statutes, rules and regulations, including, but not limited to the Orlando City Code and City Code sections pertaining specifically to planning, zoning and permitting. This paragraph is not intended to preclude the City from granting the Developer certain waivers, exemptions or variances under the Orlando City Code as allowed therein.

**5.23 Sovereign Immunity.** City and CRA are entities whose limits of liability are set forth in section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of City or CRA beyond that provided in section 768.28, Florida Statutes. Further, nothing herein is intended as a waiver of City's or CRA's sovereign immunity under section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to, anything which might allow claims otherwise barred by sovereign immunity or operation of law.

**5.24 Waiver of Trial by Jury.** DEVELOPER, CITY AND CRA HEREBY AGREE AS FOLLOWS: (A) EACH OF THEM KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM, OR OTHER LITIGATION (AN "ACTION") BASED UPON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS COVENANT OR ANY RELATED DOCUMENTS, INSTRUMENTS, OR AGREEMENTS (WHETHER ORAL OR WRITTEN AND WHETHER EXPRESS OR IMPLIED AS A RESULT OF A COURSE OF DEALING, A COURSE OF CONDUCT, A STATEMENT, OR OTHER ACTION OF EITHER PARTY); (B) NONE OF THEM MAY SEEK A TRIAL BY JURY IN ANY SUCH ACTION; (C) NONE OF THEM WILL SEEK TO CONSOLIDATE ANY SUCH ACTION (IN WHICH A JURY TRIAL HAS BEEN WAIVED) WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED; AND (D) NONE OF THEM HAS IN ANY WAY AGREED WITH OR REPRESENTED TO THE OTHER OF THEM THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.

IN WITNESS WHEREOF, the City, CRA and Developer have executed this Covenant as of the Effective Date.

**SIGNATURES BEGIN ON NEXT PAGE**

*DEVELOPER Execution Page to  
DECLARATION OF AFFORDABLE HOUSING RESTRICTIVE COVENANT FOR MARIPOSA  
GROVE APARTMENTS*

**IN WITNESS WHEREOF**, the Parties have caused these presents to be executed on the day and year indicated above.

**Witness**

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

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

**Witness**

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

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

**“DEVELOPER”**

BDG MARIPOSA GROVE, LLC  
a Florida limited liability company

By: BDG MARIPOSA GROVE GP, LLC,  
a Florida limited liability company, its Manager

By: \_\_\_\_\_  
Scott Zimmerman, Manager

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Scott Zimmerman, as Manager of BDG MARIPOSA GROVE GP, LLC, a Florida limited liability company, as Manager of BDG MARIPOSA GROVE, LLC, a Florida limited liability company, on behalf of the company who [ ] is personally known to me or [ ] has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
My Commission Expires: \_\_\_\_\_  
Commission No. \_\_\_\_\_

(affix seal)

## EXHIBIT A-1

### PROPERTY LEGAL DESCRIPTION

#### DESCRIPTION

PER FIDELITY NATIONAL TITLE INSURANCE COMPANY'S COMMITMENT NO. 4828687,  
EFFECTIVE: OCTOBER 30, 2014

##### PARCEL 1

LOT 1, JEWEL OF JACKSON, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 36, PAGE 103, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

##### PARCEL 2

THE SOUTH 120 FEET OF LOT 12, J.H. SMITH'S SUBDIVISION OF BLOCK 9 SUMMERLIN'S ADDITION TO ORLANDO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "D", PAGE 16, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

##### PARCEL 3

THE WEST 33 FEET OF THE EAST 50 FEET OF LOT 10, J.H. SMITH'S SUBDIVISION OF BLOCK 9 SUMMERLIN'S ADDITION TO ORLANDO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "D", PAGE 16, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, TOGETHER WITH THAT PORTION OF THE SOUTH ONE HALF (1/2) OF VACATED MARIPOSA STREET LYING NORTH OF SAID PARCEL, AS VACATED, CLOSED AND ABANDONED BY ORDINANCE RECORDED JULY 30, 2004, IN OFFICIAL RECORDS BOOK 7556, PAGE 3313, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

#### DESCRIPTION

PER FIRST AMERICAN TITLE INSURANCE COMPANY'S FILE NO: NCS-94331-ORL,  
EFFECTIVE: FEBRUARY 8, 2019

##### PARCEL I

THE NORTH 90.00 FEET OF LOT 11 AND THE NORTH 90.00 FEET OF THE WEST 10.00 FEET OF LOT 10, J.H. SMITH'S SUBDIVISION OF BLOCK 9, SUMMERLIN'S ADDITION TO ORLANDO, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK D, PAGE 16, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

##### PARCEL II

THE NORTH 70.00 FEET OF LOT 12, LESS THE WEST 11.00 FEET THEREOF, J.H. SMITH'S SUBDIVISION OF BLOCK 9, SUMMERLIN'S ADDITION TO ORLANDO, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK D, PAGE 16, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.



## EXHIBIT A-2

### RESIDENTIAL UNIT LEGAL DESCRIPTION

Unit 1 of Mariposa Grove Condominium, according to that certain Declaration of Condominium thereof, dated \_\_\_\_\_, and recorded \_\_\_\_\_ in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_, Public Records of Orange County, Florida, and all exhibits and amendments thereto.

EXHIBIT B  
DEVELOPMENT PLAN

**Mariposa Grove – Affordable Apartment Community**

Mariposa Grove is a proposed 12-story, mixed-use, apartment building containing 138 senior (age 55+), multifamily rental housing community and ground floor commercial/retail. Closing on all funding sources totaling roughly \$80M is scheduled for 2025.

The property is located at 417 E Jackson Street between Mariposa Street and Jackson Street 3 blocks south of Lake Eola in Orlando. The location will allow pedestrian access to all of downtown Orlando's various amenities as well as public transportation options, including SunRail, LYNX, LYMMO, and SWAN. 3 specimen oak trees will be preserved along the sidewalk along the southern frontage and building access on Jackson Street.

The high-rise apartment community will consist of 138 total residential units on floors 1, 2, and 6-12, with entry on Mariposa St. 100% of units will be set aside at 70% AMI or below, with an average income of 60% AMI or below, for 50 years.

Floors 3-5 will be an integrated parking garage with 120 spaces total. A residential clubhouse and courtyard, plus meeting rooms and a fitness center will be located above the parking garage on the 6<sup>th</sup> floor. Additional resident amenities include card and computer rooms will be on the 1<sup>st</sup> floor. Residential services such as trash and mail will be on the 2<sup>nd</sup> floor along with property management and maintenance offices.

Water (including hot water), sewer, and trash service will be paid by landlord. Electric, cable, internet and phone services are to be paid by tenant. Resident programs will be provided at no cost to residents, including literacy training, computer training, and 24-hour support to assist residents in handling urgent issues. Additionally, the tenants will be referred to service providers who provide assistance with light housekeeping, grocery shopping and/or laundry services. Resident activities will be coordinated on a regular basis.

The building will consist of two "condo units", one for the residential apartment and one for the commercial/retail space. The commercial/retail space was necessary in order to allow for the height and density needed for the residential apartments. It will occupy the entire southern frontage along Jackson Street. The inside will be open to the second floor ceiling inside and be built out by future tenants.

The cost to construct the commercial/retail space and associated 20 parking spaces will be born separately and entirely by that condo owner via its cash escrowed at closing. 100% of the City funds will be used for the residential apartment.

Residential unit finishes will be akin to market rate units including granite counters, subway tile backsplash, and tile floors.

Green Construction Features for the Apartment Community to include:

- Programmable thermostat in each unit
- Water Sense certified dual flush toilets in all bathrooms
- Energy efficient, noise attenuating windows in each unit
- Florida Yards and Neighborhoods certification on all landscaping
- Daylight sensors, timers or motion detectors on all outdoor lighting attached to buildings
- Motion sensors for alternate emergency stair and interior lighting 24-7
- Low or No-VOC paint for all interior walls (Low-VOC means 50 grams per liter or less for flat; 150 grams per liter or less for non-flat paint);
- Low-flow water fixtures in bathrooms:
  - o Toilets: 0.8 gallons/flush or less
  - o Faucets: 1.5 gallons/minute or less
  - o Showerheads: 1.5 gallons/minute or less
- Energy Star certified refrigerator
- Energy Star certified dishwasher
- Energy Star certified ventilation fan in all bathrooms
- Energy Star certified gas tankless/instantaneous hot water heater
- Energy Star certified ceiling fans with lighting fixtures in bedrooms
- In-unit air conditioning: minimum 16 SEER
- Caulk, weather-strip, or otherwise seal all holes, gaps, cracks, penetrations, and electrical receptacles in building envelope; and
- Seal and insulate heating and cooling system ducts with mastic or metal backed tape.

Figure 1: The Northwest Corner



Figure 2: The South Elevation from the Street





Figure 3: Southwest Corner



Figure 4: The Residential Plaza Amenity over the Parking Garage



Figure 5: Northeast Corner Main Apartment Entry Looking Up from the Street



Figure 6: The Northeast Corner and Main Entry to the Apartments



## EXHIBIT C

### TENANT SELECTION CRITERIA REQUIREMENTS FOR PSH/HOMELESS UNITS

The following criteria will provide standards and procedures for the property manager of the Project in evaluating all prospective residents for the PSH/Homeless Units.

Included in each evaluation will be a review of the income, credit, criminal and rental histories of the prospective resident to determine their ability to lease rental housing, while at the same time taking into consideration the viability of the property and the safety of the entire resident community.

#### PSH/Homeless Unit Resident Approval Criteria and Move-In Accommodations:

1. All Applications for PSH/Homeless Units will be reviewed on a case-by-case basis in addition to any third-party information checks;
2. The Application Fee will be waived to help reduce an initial barrier to move-in costs;
3. Security or other deposit required can be paid monthly in installments over 120 days with at least 25% paid at move in;
4. One eviction in the past 24 months will be reviewed and will not be a reason for a decline if the eviction was based solely on financial obligations and did not include other lease violations or behavior that could be considered a threat to the health, safety and welfare of the community;
5. Income qualification will be based on the PSH/Homeless Unit rent;
6. Negative credit and payment history will not be a reason for a decline. However, all previous rental and housing history will be reviewed and maybe a reason for a decline; and
7. Criminal history and background decline will exclude two minor and non-violent criminal convictions in the last 24 months.

All applicants 18 or older will be processed in the standard resident selection approval criteria, including background and rental housing history, with the above exceptions provided.

**DEVELOPMENT AND LOAN AGREEMENT**  
**FOR MARIPOSA GROVE APARTMENTS**

BY AND AMONG

**CITY OF ORLANDO, FLORIDA**

and

**COMMUNITY REDEVELOPMENT AGENCY  
OF THE CITY OF ORLANDO, FLORIDA**

and

**BDG MARIPOSA GROVE, LLC**

Dated as of \_\_\_\_\_, 2025



**DEVELOPMENT AND LOAN AGREEMENT**  
**FOR MARIPOSA GROVE APARTMENTS**

**THIS DEVELOPMENT AND LOAN AGREEMENT FOR MARIPOSA GROVE APARTMENTS** (this “Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2025, (the “Effective Date”) by and among the City of Orlando, Florida, a municipal corporation organized and existing under the laws of the state of Florida with an address of 400 South Orange Avenue, Orlando, Florida 32801 (“City”), Community Redevelopment Agency of the City of Orlando, Florida, an entity created pursuant to Part III of Chapter 163, Florida Statutes with an address of 400 South Orange Avenue, Orlando, Florida 32801 (“CRA”), and BDG Mariposa Grove, LLC, a Florida limited liability company with an address of 501 North Magnolia Avenue, Orlando, Florida 32801 (“Developer”). City, CRA and Developer may together be referred to herein as the “Parties”, or individually as a “Party”.

**W I T N E S S E T H:**

**WHEREAS**, the Developer seeks to construct a mixed-use 12 story high-rise apartment building containing 138 Senior mixed-income, affordable, multifamily rental housing community with ground floor commercial retail at 417 E. Jackson Street, Orlando, Florida to be known as Mariposa Grove Apartments; and

**WHEREAS**, all 138 residential units in the Project, as defined herein, will be restricted in accordance with this Agreement; and

**WHEREAS**, the Developer has a contract (the “Purchase Contract”) to purchase the property described on attached **Exhibit “A-1”** (the “Property”); and

**WHEREAS**, the Developer, as the declarant, will record a Declaration of Condominium (the “Declaration”) for the Mariposa Grove Condominium (the “Condominium”) and create the Condominium association (the “Association”), and will develop and construct the Condominium; and

**WHEREAS**, the Condominium will consist of residential apartments, including parking components and other elements and amenities that may serve the residential apartments (collectively, the “Residential Unit”) and retail use components, including parking components and other elements that may serve the retail use components (“Retail Unit”), and this Agreement shall be recorded against and encumber the Residential Unit, as more particularly described on **Exhibit “A-2”**; and

**WHEREAS**, the Project, as defined herein, will be constructed on the Property and generally in accordance with the development plan shown on attached **Exhibit “B”** and shall include the Features and Amenities as described on Exhibit 2 of the FHFC Credit Underwriting Report for Mariposa Grove prepared by Seltzer Management Group, Inc. dated March 17, 2025, as it may be amended and approved by FHFC (collectively, the “Development Plan”); and

**WHEREAS**, the Project will fulfill a general goal of the Downtown Orlando Community Redevelopment Area Plan (“Plan”) to improve the variety of housing options within the Downtown Orlando Community Redevelopment Area (“Area”); and

**WHEREAS**, the Area is in need of additional affordable housing for all ages, including for retirement or Senior housing; and

**WHEREAS**, the Property is within the Area; and

**WHEREAS**, the City has recognized the need for additional affordable housing for all ages, including for retirement or senior housing within the City and established an Affordable Housing Trust Fund pursuant to Section 67.700 of the City’s Code of Ordinances; and

**WHEREAS**, the Project will be age and income restricted, shall contain the mix of Unit types described herein, and will be otherwise restricted as set forth in this Agreement; and

**WHEREAS**, the Project will help to achieve the CRA’s and City’s goals of providing affordable housing within the Area and the City; and

**WHEREAS**, the City and the CRA have identified the Project as a matter of importance to the community, and

**WHEREAS**, the total cost to develop the Project is approximately \$80,017,758 (the “Total Project Cost”); and

**WHEREAS**, the Developer has applied for financing in a total of approximately [\$70,578,000] (the “Total Financing”), and

**WHEREAS**, the difference between the Total Financing and the Total Project Cost (the “Funding Gap”) will be obtained through the sale of commercial condominium units on the ground floor of the Project and deferred developer fees; and

**WHEREAS**, the Developer has applied for a first mortgage loan in the amount of [\$37,000,000.00]; and

**WHEREAS**, the Developer has applied for a loan through the FHFC State Apartment Incentive Loan (“SAIL”) program in the amount of \$11,000,000.00; and

**WHEREAS**, the Developer has applied for a loan through the FHFC Extremely Low Income (“ELI”) program in the amount of \$750,000.00; and

**WHEREAS**, the Developer has applied for a loan through the Home Investment Partnerships American Rescue Plan Program (“HOME ARP”) in the amount of \$1,675,000.00; and

**WHEREAS**, the Developer has applied for a loan from Orange County in the amount of \$3,000,000.00; and

**WHEREAS**, pursuant to the Purchase Contract the Developer has obtained a loan from the seller of the Property in the amount of \$2,000,000.00; and

**WHEREAS**, the Developer has applied for financial assistance from the City and from the CRA for the Project; and

**WHEREAS**, the CRA Loan and the City Loan, as defined herein, are intended to be only a portion of the Total Project Cost, this Agreement will not be effective or binding upon the City or the CRA until the closing of all loans or other financing representing the Total Financing (excluding the CRA Loan and the City Loan), sufficient, in the aggregate, to pay the Total Project Cost, including acquisition and all construction costs; and

**WHEREAS**, because the purpose of the CRA Loan and the City Loan are to provide affordable housing, the CRA Loan and the City Loan are conditioned upon the continuous use of the Project for affordable housing with the limitations and requirements set forth in this Agreement; and

**WHEREAS**, the Affordability Requirements set forth herein are intended to and shall run with the land and shall be binding on all parties and all persons claiming an interest in the Property for the Affordability Period; and

**WHEREAS**, in the event the Project fails to meet the affordable housing requirements of this Agreement at any time during the Affordability Period, defined below, then the City and the CRA will have the remedies set forth in this Agreement, including without limitation, the right to substituted management of the Project to cause compliance with this Agreement and to require the CRA Loan and the City Loan to be returned to the City, on demand; and

**WHEREAS**, the CRA is willing to provide an affordable housing incentive in the form of a loan in the amount of \$5,000,000 to Developer, on the terms and conditions set forth in this Agreement and secured by a mortgage on the Property, to assist Developer with development of the Project; and

**WHEREAS**, the City is willing to provide a loan in the amount of \$3,500,000 from the Affordable Housing Trust Fund, on the terms and conditions set forth in this Agreement and secured by a mortgage on the Property, to assist Developer with development of the Project; and

**WHEREAS**, Section 163.400, Florida Statutes, encourages cooperation by public bodies in carrying out redevelopment within community redevelopment areas and Sections 163.370(c) and 163.387(6)(c)(7), Florida Statutes, specifically authorize the expenditure of CRA funds for the development of affordable housing.

NOW, THEREFORE, in consideration of the covenants set forth herein below and the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

## **Article I** **BACKGROUND**

**1.1 Incorporation of Recitals.** The recitals set forth above are true and correct and are incorporated herein as if fully set out below.

**1.2 Benefits to City and CRA.** City and CRA hereby acknowledge that the Project is located in an area of the City which is underserved by developments such as the Project, and that the Project will enhance and benefit the downtown core. The City and CRA have determined that the Project is consistent with the Downtown Orlando Community Redevelopment Area Plan (“Plan”), the City’s Growth Management Plan and all other applicable planning goals and requirements of the City. Based on the foregoing findings and the specific terms and conditions set forth in this Agreement, City and CRA are willing to enter into this Agreement for the purpose of and to allow Developer to construct, develop, maintain, and operate the Project in accordance with the terms and conditions of this Agreement and all applicable ordinances, approvals and permits. The development of the Project will assist the CRA in implementing the Plan by providing affordable housing, all to enhance the quality of life in the Area in accordance with the Plan and the Community Redevelopment Act, Part III, Chapter 163, Florida Statutes.

**1.3 Certain Definitions.** For purposes of this Agreement, the following terms shall have the following meanings:

“Adjusted for Family Size” means adjusted in a manner that results in an income eligibility level that is lower for households having fewer than four people, or higher for households having more than four people, than the base income eligibility determined as provided in Florida Statutes for Seventy Percent Income, Sixty Percent Income, Fifty Percent Income, Thirty Percent Income or Twenty-two Percent Income, as applicable, based upon a formula established by HUD.

“Affordable” or “Affordability Requirements” means that the 138 Assisted Units must be rented to individuals who meet the income, rent, and other requirements as set forth in Article IV of this Agreement, with the exception of the Manager Unit, if applicable; additionally, Affordable includes the requirement that monthly rents do not exceed thirty percent (30%) of that amount which represents the percentage of the median Annual Gross Income for the households qualifying under the definition of Seventy Percent Income, Sixty Percent Income, Fifty Percent Income, Thirty Percent Income, or Twenty-two Percent Income, as applicable, and the Affordability Requirements include all Developer’s reporting obligations set forth in this Agreement.

“Affordability Period” means that the Assisted Units shall remain Affordable for thirty (30) years commencing on the date of Project Completion.

“Annual Gross Income” means the annual income as defined under the Section 8 housing assistance payments programs in 24 CFR part 5. The annual gross income shall be calculated by

annualizing verified sources of income for the household as the amount of income to be received in a household during the twelve (12) months following the effective date of the determination.

“Assisted Units” means all the dwelling units in the Project, consisting of approximately one hundred thirty-eight (138) Affordable housing Senior rental apartments.

“Budget” means a detailed, line-item estimate of the cost to construct the Project, subject to adjustment during the course of the design and construction of the Project.

“Closing” means the time when all of the following events have occurred: (i) the Developer obtains fee simple title to the Property, and (ii) all documents for all loans and other sources of funding representing the Total Financing in the aggregate amount of not less than [\$70,578,000] have been fully executed and delivered by all the parties thereto and all such funding is available for immediate disbursement in accordance with the terms of the respective loan or funding agreements, including this Agreement, and (iii) agreements evidencing availability of funds needed for the Funding Gap have been fully executed and delivered by the parties thereto, and (iv) receipt by the City and the CRA of documents evidencing that the Total Project Cost has not increased or that the Total Financing has increased by the same amount as any increase in Total Project Cost so that the Developer has sufficient funds to acquire the Property and construct the Project.

“Commencement” of the Project as used in this Agreement means having received an approved foundation inspection for the Project by the City in its regulatory authority for work completed.

“Contractor” means the licensed and insured general contractor hired by the Developer to construct the Project in accordance with all applicable laws, codes, rules, statutes and ordinances, including, but not limited to, the applicable versions of the Florida Building Code, Americans with Disabilities Act and all applicable building codes or regulations.

“Construction Schedule” means a timeline for the construction of the Project, including anticipated dates for start and completion of each element of the work to be performed, and showing the anticipated completion date(s) for the Project.

“Covenant” means the Declaration of Affordable Housing Restrictive Covenant for Mariposa Grove Apartments in the form of **Exhibit “C”** executed contemporaneously herewith pursuant to this Agreement.

“Disability” means a person’s disability that meets all of the following four criteria: 1. is expected to be of long, continuing, or indefinite duration; 2. substantially impedes the individual’s ability to live independently; 3. could be improved by the provision of more suitable housing conditions; and 4. is one or more of the following: (a) physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post-traumatic stress disorder, or brain injury; and/or (b) developmental disability; and/or (c) the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

“Eligible Person or Eligible Household” means a Senior who is Seventy Percent Income, as defined herein, for seventy-nine (79) of the Assisted Units; Sixty Percent Income, as defined herein, for seventeen (17) of the Assisted Units; Fifty Percent Income, as defined herein, for sixteen (16) of the Assisted Units, Thirty Percent Income, as defined herein, for twenty-one (21) of the Assisted Units, and Twenty-two Percent Income, as defined herein, for five (5) of the Assisted Units. Notwithstanding the foregoing, an Eligible Person or Eligible Household for the PSH/Homeless Units shall mean the requirements set forth in Section 4.1.2.

“FHFC” means the Florida Housing Finance Corporation, a public corporation and a public body corporate and politic, with headquarters located at 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301.

“General Contract” means the construction contract with the Contractor for construction of the Project.

“Homeless” means an individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

1. Has a primary nighttime residence that is a public or private place not meant for human habitation; **or**
2. Is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state and local government programs); **or**
3. Is exiting an institution where (s)he has resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution; **or**
4. Is otherwise approved by HSN, CSC or HCD.

“HCD Director” means the Director of the Housing and Community Development Department of the City of Orlando, Florida, or his or her designee.

“HUD” means the United States Department of Housing and Urban Development, its successors or assigns.

“Investor Member” means, collectively, TCC BDG Mariposa Grove LLC, a Georgia limited liability company, as investor member of Developer, and CDC Special Limited Partner, L.L.C., a Georgia limited liability company, as special member of Developer.

“Lender” means the bank or banks, or other financial institution or institutions, or any person or firm providing any source of equity, or other persons or entities responsible for providing financing or funding to the Developer, excluding the City and the CRA, for the acquisition of the Property and construction of the Project.

“Loan Documents” means this Agreement, along with the promissory notes, mortgages and all other agreements, exhibits, or attachments to each of the foregoing, referenced therein, or

executed or delivered pursuant hereto or in connection with or arising under the City Loan or the CRA Loan.

“Manager Unit” means a dwelling unit in the Project that is designated for on-site staff that may be employed by the Developer or its affiliate and is not subject to the Affordability Requirements or restrictions otherwise set forth herein with respect to the Assisted Units.

“Multifamily Rental Program” means, when used with respect to a given unit, the program or programs of the FHFC to which such unit is subject based on such unit being financed or funded under such program, including but not limited to, the Multifamily Mortgage Revenue Bond (MMRB) and LIHTC programs of the FHFC.

“Orlando MSA” means the Orlando Metropolitan Statistical Area including the cities of Orlando, Sanford and Kissimmee located in Central Florida.

“Permanent Supportive Housing” means affordable rental housing leased for continued occupancy with an indefinite length of stay (subject to applicable lease terms) to Homeless persons with a Disability and with supportive services provided for such tenants.

“Project” means the construction of a mixed-use 12 story high-rise apartment building containing 138 Senior, mixed-income, affordable, multifamily rental apartments with ground floor commercial retail finished shell (with interior tenant retail space to be completed in accordance with applicable permit approvals separately from initial construction of the Project), located at 417 E. Jackson Street, Orlando, Florida in accordance with the Development Plan. All 138 residential units in the Project are Assisted Units and shall be rented and occupied by Eligible Persons at Affordable rents for the duration of the Affordability Period, except for the Manager Unit, if applicable. The Project shall contain the following mix of unit sizes and each unit shall have the floor areas and be restricted to Eligible Persons with the applicable percentage of Area Median Income as set forth below for the duration of the Affordability Period:

Unit Mix:

9 efficiency units

38 studio units

77 1 bedroom/1 bath units

14 2 bedroom/1 bath units

Type	# of Units	Avg. Sq. Ft.	AMI
0br/1b (efficiency)	4	451	70%
0br/1b (efficiency)	2	451	60%
0br/1b (efficiency)	1	451	50%
0br/1b (efficiency)	2	451	30%
0br/1b (Studio)	24	626	70%
0br/1b (Studio)	4	626	60%
0br/1b (Studio)	5	626	50%
0br/1b (Studio)	5	626	30%
1br/1b	43	683	70%

1br/1b	8	683	60%
1br/1b	9	683	50%
1br/1b	12	683	30%
1br/1b	5	683	22%
2br/1b	8	971	70%
2br/1b	3	971	60%
2br/1b	1	971	50%
2br/1b	2	971	30%
TOTAL	138		

\* 11 units will be reserved for Permanent Supportive Housing for Eligible Persons with 30% Income or below. The requirements for rental of these PSH/Homeless Units are set forth in Section 4.1.2.

Rental rates shall not exceed the maximum rental rates determined annually by FHFC for the Multifamily Rental Program. Developer will provide updated rental rates to HCD to verify compliance with the FHFC Multifamily Rental Program all in the manner as described herein and all according to the income limits published annually by FHFC based on the Annual Gross Income of the household.

“Project Architect” means the means the licensed and insured architect, who must be certified by the American Institute of Architecture, hired by the Developer to design the Project in accordance with all applicable laws codes, rules, statutes and ordinances, including, but not limited to, the applicable versions of the Florida Building Code and Americans With Disabilities Act.

“Project Completion” means that all necessary title transfer requirements and construction work has been completed and a Certificate of Occupancy or Certificate of Completion or similar evidence of completion has been issued for the Project, including each of the 138 units in the Project; the Project meets all regulations and the requirements of this Agreement; the Project passes the required property standards under this Agreement; and the final drawdown of funds has been disbursed for the Project.

“Senior” means a natural person that, when taken collectively with all other tenants of the Project, meets the Senior Requirement.

“Senior Lender” means Truist Bank, its successors and assigns (“Truist”), in connection with a construction loan to Developer in the original principal amount of \$[\_\_\_\_\_]; (b) The Bank of New York Mellon Trust Company, as fiscal agent, and its successors and assigns (“Permanent Lender”), in connection with a permanent loan to Developer in the original principal amount of up to \$[\_\_\_\_\_]; and (c) FHFC in connection with the following loans to Developer: (i) a SAIL loan in the amount of \$11,000,000.00, (ii) an ELI loan in the amount of \$750,000.00, and (iii) a HOME ARP loan in the amount of \$1,675,000.00; in each case as the same may be assigned, amended, restated and/or supplemented from time to time.

“Senior Requirement” has the meaning set forth in Section 4.1.1 hereof.



“Seventy Percent Income”, “Sixty Percent Income”, “Fifty Percent Income”, “Thirty Percent Income” and “Twenty-two Percent Income” mean one or more natural persons or a family who has a total Annual Gross Income that does not exceed seventy percent (70%), sixty percent (60%), fifty percent (50%), thirty percent (30%) or twenty-two percent (22%), respectively, of the median income within the Orlando MSA, as determined by FHFC, Adjusted for Family Size.

“Stabilization” means the date after Project Completion when the Project has achieved and maintained 95% physical occupancy of Assisted Units continuously over any ninety (90) day time period.

“SHIP” means the FHFC’s State Housing Initiatives Partnership Program.

**Unless defined herein, additional capitalized terms used in this Agreement shall have the meanings ascribed to them herein or in accordance with Section 420.9071, Florida Statutes.**

## **Article II**

### **CRA AND CITY LOANS, CERTAIN PRE-CLOSING OBLIGATIONS**

**2.1** Permits. At its sole cost and expense, Developer shall comply with all applicable laws, regulations, ordinances, permitting, planning, platting, building, engineering, stormwater and land development regulations or the like concerning the development of the Property and shall be responsible for securing or causing to secure all local, state, and federal permits required for all construction activities for the Project at its expense. The Project shall also be subject to all applicable review and approval procedures of the City/CRA’s Appearance Review Board and Municipal Planning Board, City Council and any other governmental authority having jurisdiction or authority over the Property. Developer shall apply for the Property to be zoned and platted in accordance with all City requirements. Design and construction details, including sustainable construction practices and materials will be incorporated into any permits or approval for development of the Project. The City and CRA have approved “Mariposa Grove Apartments” as the name of the Project and shall further have the right to approve any change to the name of the Project. In addition, the Developer will prepare and present to the City and CRA for review plans for community involvement and marketing of the Project.

**2.2** Information to be provided to the City and the CRA. As a condition to the City and CRA’s obligations under this Agreement, Developer shall provide the following information in the form and with the content as set forth below for review and approval by the City’s HCD Director and by the CRA’s Executive Director, respectively as soon as it becomes available and in any event prior to Closing unless otherwise noted:

**2.2.1** Construction Contract. A copy of the signed General Contract with all amendments, in form and content satisfactory to the City and evidencing a guaranteed maximum price;

**2.2.2** Plans and Specifications. An updated copy of all plans and specifications for the Project, including elevation sketches and other documents depicting the proposed exterior and interior appearance of the Project which must be acceptable to the City and CRA, which approval shall not be unreasonably withheld, and be in accord with the plans, specifications and

appearance as previously submitted to the City prior to the Effective Date; provided that the City and CRA will respond to any proposed changes to the plans and specifications within twenty (20) days of submission in writing by the Developer, and if a change is not approved or denied within such period, the City or CRA, as applicable, will be deemed to have approved the plans and specifications as submitted. If the City or CRA objects to the submitted plans and specifications, the City or CRA will provide a summary as to which specific items are objectionable and the reasons for such objections;

**2.2.3 Phase I.** An environmental site assessment certified to City, evidencing the Property does not contain hazardous materials;

**2.2.4 Title Commitments.** Title commitments for loan policies of title insurance to the City and the CRA in the amounts of the City Loan and the CRA Loan in form acceptable to the City and the CRA issued by a title insurance company acceptable to the City and the CRA evidencing that the Property is free of any and all liens or claims except those matters acceptable to the City and the CRA. At Closing, the title insurance company shall provide the City and the CRA with evidence satisfactory to the City and the CRA that it is in a position to insure the CRA and City Mortgages in such form as may be acceptable to the City and the CRA. Loan policies of title insurance shall be issued to the City and the CRA in accordance with such title commitments after Closing, all at Developer's expense;

**2.2.5 Survey.** A current ALTA/ACMAS boundary and location survey of the Property certified to the City. The survey shall identify whether any portion of the Property is located within an area that has been identified as a "special flood hazard area;"

**2.2.6 Certificates of Insurance.** Evidence of builder's risk and other liability and property insurance as may be reasonably required by the City or CRA. All policies of insurance will name the City and the CRA as a loss payee or additional insured as may be required by the City or CRA. Required insurance must be maintained in full force and effect during the Affordability Period;

**2.2.7 Payment and Performance Bonds.** Copies of Payment and Performance bonds in form and substance acceptable to the City, which approval shall not be unreasonably withheld, and evidencing that the City and CRA are obligees;

**2.2.8 Management and Leasing Contracts.** A copy of the management agreement and all leasing agreements for the Project demonstrating that the management and leasing firms or persons are directed to comply with the Affordability Requirements of this Agreement (and that such management or leasing agreement is for the benefit of the City as well as the Developer with regard to compliance with the Affordability Requirements of this Agreement) and have no authority to and will not be compensated to lease any Assisted Unit in the Project in contravention of the Affordability Requirements of this Agreement. In the event any management or leasing contract for the Project is not in existence prior to the Closing, and if any management or leasing contract is entered into or amended after Closing, then copies of all such agreements shall be furnished to the City and the CRA and shall contain the provisions required by this Agreement;

**2.2.9 Property Acquisition.** The Closing of the Developer's purchase of the Property, in accordance with the Purchase Contract and without any amendment thereto not previously approved by the City, in which Developer acquires fee simple title to the Property, provided that Developer may extend the closing date under such Purchase Contract so long as Developer provides a copy to the City;

**2.2.10 Loan and Equity Financing Closing.** The Closing of all sources of funding for the Project, including all acquisition and construction loans for the Project and any sources of equity or other funding and copies delivered to the City of all documents reflecting or demonstrating the Closing of all such financing and evidence of the availability of immediate funding for the Project under such financing;

**2.2.11 Permits.** The issuance of all engineering, building and other permits necessary for the construction of the Project; and

**2.2.12 Operating Pro Forma.** A copy of an updated pro forma or operating budget evidencing that sufficient funds are available to meet any projected shortfall in revenue during construction and Stabilization and that revenue from the completed Project will be sufficient to pay all obligations of the Project after construction and Stabilization; and

**2.2.13 Budget.** Developer has previously submitted to the City and CRA a preliminary Budget for the Project, and on or before the Effective Date, the Developer shall submit a final Budget to the City and CRA. During the construction of the Project, the Developer shall provide the City and CRA with any updated Budgets that show any changes to the initial Budget. The Developer shall expend the City Loan and the CRA Loan only for those items as set forth in the Budget and as approved by the City and CRA. If the City or CRA require a more detailed budget breakdown, or changes to the Budget provided by the Developer, the Developer shall provide such detailed budget information or changes to the Budget, as applicable, as reasonably requested by the City or CRA in a timely fashion and in the form and content as may be prescribed by the City or CRA. Any supplementary budget information or budget changes must be approved in writing by the HCD Director for the City and the Executive Director of the CRA for the CRA, provided that no consent shall be required for reallocation of line item costs or use of contingency funds, or for changes to the extent such changes do not exceed \$100,000 for any single change to the budget or \$500,000 in the aggregate. The HCD Director for the City and the Executive Director of the CRA for the CRA will respond to any proposed budget changes within twenty (20) days of written submission by the Developer, provided that if a change is not approved or denied within such period, the City or CRA, as applicable, will be deemed to have approved the Budget as submitted so long as (i) such change is in accordance with the requirements of the Senior Lenders (defined below) and (ii) the budget demonstrates sufficient funds to complete the Project. If the City or CRA objects to the submitted budget, the City or CRA will provide a summary as to which specific line items are objectionable and the reasons for such objections.

**2.2.14 Declaration of Condominium.** Developer shall submit a proposed Declaration to the City and CRA for review and approval as soon as practical and no less than 30 days before Closing. The City and CRA's approval of the proposed Declaration shall be within their respective absolute discretion. With the City and CRA's prior approval, the legal description set forth on Exhibit A-2 may be amended to reflect the recording information of the Declaration

and any other appropriate reference to the Residential Unit, common elements and related amenities as may be required or expedient, whether before or after Closing, provided such amendment is made prior to occupancy of the Residential Unit. The City's HCD Director and by the CRA's Executive Director, are hereby appointed respectively by the City and the CRA to execute any amendments to this Agreement, and any consent to a modification of the Declaration, as may be necessary or desirable, in their absolute discretion, to reflect any modification of the legal description set forth on Exhibit A-2.

**2.2.15 Additional Documentation.** Such other documents, instruments and certificates including, without limitation, proofs, opinions and other assurances, as the City may reasonably require.

**2.3 CRA Loan.** As a loan to assist with the development of the Project and because of the CRA's determination of the importance of affordable housing development in the Area generally, and specifically the Project, the CRA will provide a loan to Developer for construction of the Project in the amount of Five Million Dollars (\$5,000,000) (the "CRA Loan"). The CRA Loan may be used for payment of any part of the Total Project Cost as identified by the Developer in materials supplied to the CRA prior to the Effective Date (collectively, "CRA Eligible Costs"). The CRA Loan shall be evidenced by Loan Documents, including promissory notes, mortgages and other documents in form and substance acceptable to the CRA in its absolute discretion. The CRA Loan shall not bear interest, but shall be repaid in full at the end of the Affordability Period. The CRA Loan shall be secured by a mortgage on the Residential Unit subordinate only to the Senior Lenders, provided that the CRA has executed a separate subordination agreement with each such Senior Lender. Developer and CRA each acknowledges and agrees that the CRA and Developer will not become obligated pursuant to this Agreement until the CRA is satisfied, in the absolute discretion of the CRA, as exercised by the Executive Director of the CRA, that Developer is ready, willing and able to acquire the Property and fully construct the Project with readily available funding sources in amounts not less than the Total Financing in the aggregate (the satisfaction of such requirement shall be evidenced by the occurrence of Closing). In the event the CRA is not satisfied that Developer is so ready, willing and able (i.e. Closing does not occur by the deadline set forth herein), then the CRA may elect to provide affordable housing loans or other assistance to other proposed projects within the Area.

**2.3.1 Lump Sum Disbursement of CRA Loan.** Subject to the provisions of this Agreement, no funds from the CRA Loan shall be advanced by the CRA until thirty (30) days after Project Completion and within a reasonable period after application of Developer to the CRA with evidence of Project Completion. Developer's application for disbursement of the CRA Loan must demonstrate that the request consists of reimbursement for CRA Costs only, and the satisfaction of any other requirements of this Agreement. To be eligible for disbursement of the CRA Loan, each of the following requirements must be satisfied:

1. The CRA has not issued a Notice of Breach under this Agreement, or under the Loan Documents, which has not been cured.
2. Commencement of the Project no later September 1, 2026.

3. An updated title commitment showing that no construction liens, or other matters, constitute encumbrances against the Property, other than those insured or bonded over in a manner acceptable to the CRA.

4. A copy of final lien waivers as to lien rights from the Contractor and all others having potential construction lien rights against the Property.

5. A final affidavit from the Contractor certifying payment of any potential lienors for the Property.

6. No later than June 30, 2028, the Developer shall provide the CRA with a copy of the Certificate of Occupancy for the Residential Unit and a sealed certificate from the Project Architect demonstrating and certifying Project Completion, and stating that the Project has been completed substantially in accordance with the Plans and Specifications submitted and approved by the City for the Project.

**2.4 City Loan.** As a loan to assist with the development of the Project and because of the City's determination of the importance of the Project, the City will provide a loan to Developer for construction of the Project in the amount of Three Million Five Hundred Thousand Dollars (\$3,500,000) (the "City Loan"). The City Loan may be used for reimbursement of labor and materials for hard construction costs only, along with design, permitting and other expenses as may be approved in advance by the City in its absolute discretion (collectively, "City Eligible Costs"). The City Loan shall be evidenced by Loan Documents, including promissory notes, mortgages and other documents in form and substance acceptable to the City in its absolute discretion. The City Loan will be disbursed as provided in Section 2.5. The City Loan shall not bear interest, but shall be repaid in full at the end of the Affordability Period. The City Loan shall be secured by a mortgage on the Residential Unit subordinate only to the Senior Lenders provided that the City has executed a separate subordination agreement with each such Senior Lender. Developer, and City each acknowledges and agrees that the Developer and City will not become obligated pursuant to this Agreement until the City is satisfied, in the absolute discretion of the City, as exercised by the HCD Director of the City, that Developer is ready, willing and able to acquire the Property and fully construct the Project with readily available funding sources in amounts not less than the Total Financing in the aggregate (the satisfaction of such requirement shall be evidenced by the occurrence of Closing). In the event the City is not satisfied that Developer is so ready, willing and able (i.e. Closing does not occur by the deadline set forth herein), then the City may elect to provide affordable housing loans or other assistance to other proposed projects within the City.

**2.5 Periodic Disbursement of City Loan.** Subject to the provisions of this Agreement, disbursement of the City Loan shall be made periodically to the Developer for reimbursement of City Eligible Costs paid by Developer.

A. **Draw Requests.** Subject to the requirements of this Agreement, the City shall reimburse the Developer for City Eligible Costs. Reimbursement shall be made by the City to the Developer for repayment based on monthly, or less frequent, draw requests submitted by the Developer to the City using AIA G702 documents plus any other information requested by the City (a "Draw Request"). The City may require any and all information regarding Draw

Requests and any Supporting Documentation, as defined herein, to be submitted electronically. Each Draw Request must demonstrate that the request consists of reimbursement for City Eligible Costs only, and the satisfaction of any other requirements of this Agreement. The City shall honor each Draw Request for reimbursement of City Eligible Costs that is submitted by the Developer provided that such Draw Request is accompanied by the following:

1. An invoice(s) from the Contractor totaling the amount of the request along with evidence that the Contractor has been paid and the work representing the invoice has been completed,
2. A sealed certificate from the Project Architect demonstrating the cumulative percentage of completion of the Project represented by the particular Draw Request,
3. A copy of all waivers as to lien rights from the Contractor, and any applicable subcontractors or other potential lienors, for payment of invoices associated with the Draw Request,
4. Evidence of the issuance of all engineering, building and other permits needed for the Project, or portion thereof, for which reimbursement is requested,
5. An updated title commitment showing that no construction liens, or other matters, constitute encumbrances against the Property, other than those insured or bonded over in a manner acceptable to the City; and
6. A certificate from the Contractor and the Developer that the undisbursed portions of the funding sources for the Project are sufficient to complete the Project in accordance with the approved plans and specifications,

(collectively referred to as the “Supporting Documentation”).

Each Draw Request and Supporting Documentation must be submitted to the City in the format requested by the City. The required format may include delivery of information in a digital, electronic or paper copy format as may be requested. Provided the Draw Request and the Supporting Documentation are acceptable to the City, the City shall initiate a wire transfer to, or issue a check made payable in the name of the Developer within twenty (20) calendar days from the date of its receipt of the Draw Request and Supporting Documentation. If the City determines that the Supporting Documentation is incomplete or does not otherwise meet the requirements of this Agreement, then the City will notify the Developer within fifteen (15) days after receipt of the Supporting Documentation specifying any asserted inadequacy and any disbursement will be delayed until the requirements of this Agreement are satisfied. The Developer, within ten (10) calendar days of the receipt of funds from the City, shall send notification to the City that such funds were received.

B. Retainage. The cumulative amount of all Draw Requests shall not exceed \$3,500,000.00. The City shall retain ten percent (10%) of the amount of each Draw Request submitted in accordance with Subsection A above until Developer has achieved fifty

percent (50%) construction completion and thereafter the City shall retain five percent (5%) of the amount of each Draw Request, until such time as the Developer provides the City with a certificate from the Project Architect demonstrating and certifying that Developer has achieved Project Completion, and completion of any punch list items, after which such retainage shall be distributed to the Developer within fifteen (15) days of the City's receipt of the Project Architect's certification of Project Completion.

C. Conditions for Disbursement. To be eligible for disbursement of any portion of the City Loan each of the following requirements must be satisfied:

1. City has not has not issued a Notice of Breach under this Agreement, or under the Loan Documents, which has not been cured.
2. Commencement of the Project no later September 1, 2026.
3. Evidence of payment of all construction costs for which any disbursement is requested including evidence that the disbursement will constitute reimbursement for City Eligible Costs only.
4. An updated title commitment showing that no construction liens, or other matters, constitute encumbrances against the Property, other than those insured or bonded over in a manner acceptable to the City.
5. For disbursement of the final Draw Request, a copy of final lien waivers as to lien rights from the Contractor and all others having potential construction lien rights against the Property.
6. For disbursement of the final Draw Request, a final affidavit from the Contractor certifying payment of any potential lienors for the Property.
7. For disbursement of the final Draw Request, no later than June 30, 2028, the Developer shall provide the City with a copy of the Certificate of Occupancy for the Project and a sealed certificate from the Project Architect demonstrating and certifying Project Completion, and stating that the Project has been completed substantially in accordance with the Plans and Specifications submitted and approved by the City for the Project.

### **Article III**

#### **CONSTRUCTION TIMELINE AND POST-CLOSING OBLIGATIONS**

Developer agrees to comply with the requirements set forth in this Article III. Failure to do shall be a breach of this Agreement and all of the Loan Documents.

**3.1 Closing, Construction Commencement and Completion Dates.** Unless extended by the City and the CRA in their reasonable discretion, the Closing shall be no later than December 31, 2025. Unless extended by the City and the CRA in their reasonable discretion, the Developer shall achieve Commencement of construction of the Project no later than September 1, 2026, shall achieve 50% completion no later than June 1, 2027, and shall achieve Project



Completion no later than June 30, 2028. For purposes of this section, prior to Closing the Developer shall provide the City and CRA with a proposed Construction Schedule showing Commencement and completion dates for the Project, which the City and CRA acknowledge may be subject to change, within the time allowed for completion.

**3.2 Public Art.** The Developer shall include the public art component that has been approved for the Project in accordance with the conditions of approval set forth in the Major Certificate of Appearance Approval issued in Case No. ARB2024-10014.

**3.3 Timely Payment of Taxes.** Developer shall pay the annual Orange County Real Property Tax Bill for ad valorem real property taxes levied in Orange County, Florida for the Property before such taxes become delinquent.

**3.4 Intentionally Omitted.**

**3.5 Living Wage.** The Developer shall pay to all of its employees, contractors and first tier subcontractors providing services related to the construction of the Project, a Living Wage, defined below, for the time spent providing such services (this provision does not include general administrative personnel). Necessary payroll documentation shall be provided by Developer to City at Developer's expense to confirm compliance with this provision and Developer shall allow the City to audit (at Developer's place of business) its payroll records to determine if compliance has been achieved. "Living Wage" has the meaning as set forth in City Policy and Procedure Section 161.3, and may fluctuate.

**3.6 Audit, Monitoring, Inspections, Reporting.**

**3.6.1 Audit.** The Developer will keep books and records relating to all Draw Requests, the Project and the performance of its obligations under this Agreement, including, but not limited to, construction of the Project and compliance with the Affordability Requirements. Developer's financial records shall be kept in accordance with generally accepted accounting principles. The City, CRA and their designated agents shall have the right to review, inspect and audit such books and records of the Developer at all reasonable times during normal business hours. The Developer shall maintain such books and records for a period of five (5) years after the end of the Affordability Period and the City shall have the right to review, inspect and audit such books and records at any time until the end of such five (5) year period.

**3.6.2 On-Site Construction Inspections.** The City and CRA will conduct on-site progress inspections and final completion inspections to ensure and determine if the work was done in accordance with the applicable codes, the construction contract, the construction documents, and property standards. HCD must inspect the Project at Project Completion and during the Affordability Period to determine that the project meets the property standards in 24 CFR §92.251. The Assisted Units will be inspected based on procedures, checklists, and inspection forms established by HCD. Before completing the Project in the IDIS system, HCD must perform an on-site inspection of each Assisted Unit to ensure the contracted work has been completed and that each Assisted Unit meets §92.251 property standards. All such inspections shall be upon at least twenty-four (24) hours' notice and shall not unreasonably interfere with the operation of the Project.



**3.6.3 On-going Property Standards and Inspections through the Affordability Period.** During the Affordability Period, all Assisted Units must be maintained in compliance with 24 CFR §92.251 and with all applicable State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established by HCD pursuant to requirements contained in 24 CFR §92.251. These standards ensure that Developer maintains the housing as decent, safe and sanitary and in good repair. Developer will allow HCD to conduct inspections of the Property to determine compliance with these ongoing property standards. Housing must meet all applicable State and local code requirements and ordinances. Housing must be free of all health and safety defects and life-threatening deficiencies identified by HCD that the Developer must correct immediately. Housing must meet the lead-based paint requirements in 24 CFR Part 35. HCD will perform ongoing inspections in accordance with 24 CFR §92.504(d). Deficiencies identified by HCD needing corrective and remedial actions must be addressed by Developer in the time frames required by HCD which will be a reasonable time frame based on the exigency of the deficiency. The Assisted Units will be inspected on a schedule based on procedures, checklists, and inspection forms established by HCD. All such inspections shall be upon at least twenty-four (24) hours' notice and shall not unreasonably interfere with the operation of the Project or rights of tenants.

**3.6.4 Ongoing Periodic Inspections.** During the Affordability Period, HCD will perform on-site inspections to determine compliance with the property standards of §92.251 and to verify the information submitted by Developer in accordance with the requirements of §92.252. These inspections will be in accordance with HCD's inspection procedures which will occur within 12 months after Project Completion and at least once every 3 years during the Affordability Period. If there are observed deficiencies for any of the inspectable items in the property standards established by HCD, a follow-up on-site inspection to verify that the deficiencies are corrected must occur within 12 months, unless HCD, in its sole discretion, determines that the deficiency must be corrected earlier. Health and safety deficiencies must be corrected immediately, in accordance with §92.251. All such inspections shall be upon at least twenty-four (24) hours' notice and shall not unreasonably interfere with the operation of the Project or rights of tenants.

**3.6.5 Monthly Reports During Construction/Stabilization.** Until the Developer completes the Project, and the Assisted Units are rented and occupied by Eligible Persons as described herein, the Developer shall submit to the HCD Director monthly reports of activities undertaken pursuant to this Agreement in the form and with the content reasonably required by the City or CRA. Each monthly report shall be submitted by the 10<sup>th</sup> day of the immediately following month. By way of example, the monthly report for June 2027 shall be submitted by July 10, 2027. Such reports also shall include a narrative summary of progress, including but not limited to, selection of contractors, units under construction, units completed, demographic and income data on the beneficiaries, relocation issues, affirmative marketing and fair housing efforts, and problems encountered and proposed solutions. Failure to submit reports as and when due shall be a material breach under this Agreement, subject to applicable notice and cure periods.

**3.7 Annual Reporting After Stabilization.** After Project Completion and the Assisted Units are rented and occupied, through the end of the Affordability Period, the Developer shall submit annual reports to the City and CRA as of the end of the federal fiscal year ending September 30. Such annual reports shall be submitted on or before October 20 for the prior fiscal year. In addition to income verification of each tenant, these reports shall include information on rental and

occupancy of the Assisted Units, family size, income level, data for income certification and occupancy, monthly rent, utility information, maintenance, and overall financial stability of the Project. Developer must annually certify to HCD that all Assisted Units are suitable for occupancy, taking into account State, and local health, safety, and other applicable codes ordinances, and requirements, and the ongoing property standards requirements established by HCD. Developer shall provide HCD with a copy of the annual certification given by Developer to FHFC. Developer shall keep records to document compliance with these property standards. The Developer acknowledges that over the term of this Agreement, the City's and CRA's reporting requirements may change. If this occurs, the City or CRA will notify the Developer of the new reports needed and the Developer agrees to comply with the new reporting procedures. The City and CRA also reserve the right to request additional information as reasonably needed in connection with this Agreement.

**3.8 Monitoring.** Developer acknowledges and agrees that HCD will monitor Developer's performance during the term of this Agreement at a minimum annually and shall allow all access, inspection, and copying of records to do so upon at least twenty-four (24) hours' notice and provided that HCD shall not unreasonably interfere with the operation of the Project or rights of tenants. Also, pursuant to 24 CFR §92.504(d), Developer shall assist HCD in its obligation to conduct on-site inspections of the Project for compliance with this Agreement, construction progress and compliance with property standard requirements listed herein or required by HUD, and shall allow HCD to access and inspect the Project at any time during the term of this Agreement upon at least twenty-four (24) hours' notice and HCD shall not unreasonably interfere with the operation of the Project or rights of tenants.

**3.9 Financial Monitoring/Oversight.** During the Affordability Period, Developer acknowledges and agrees that HCD must examine at least annually the financial condition of Developer to determine the continued financial viability of Developer and this Project. Developer shall provide all information, including financial statements, as requested by HCD so that HCD can verify financial viability, tenant incomes, rents and other HOME requirements pursuant to 24 CFR §92.252 and §92.504(d) on an annual basis. Developer shall keep records to document compliance with each of these inspections and monitoring reviews and the resolutions of and findings of concern.

#### **Article IV**

#### **RESTRICTIVE COVENANTS AND BINDING NATURE OF RESTRICTIONS**

Developer shall execute the Covenant in the form attached hereto as **Exhibit "C"** at or before Closing and cause the recordation of the Covenant in the Public Records of Orange County, Florida. Pursuant to this Agreement, Developer hereby declares, covenants and agrees, for the benefit of the City and the CRA, that no portion of the Property may be used for any purpose except for the Project as described in this Agreement. Further, Developer hereby declares, covenants and agrees, for the benefit of the City and the CRA, that this Agreement and the Affordability Requirements set forth herein are intended to and shall run with the ownership of the Residential Unit and shall be binding on the Residential Unit and on all parties and all persons claiming an interest in the Residential Unit for the entire Affordability Period. Developer hereby agrees with and for the benefit of the City and the CRA that neither it nor any successor or assign shall have authority to enter into any lease in violation of the Affordability Requirements of this

Agreement and the Developer, for itself and its successors and assigns, hereby relinquishes any right or authority to enter into any such lease and any such lease is void ad initio. Except as may be provided in any subordination agreement with a Senior Lender, this Agreement shall be recorded prior to any mortgage on the applicable Property and the Affordability Requirements of this Agreement shall not be subordinate to any mortgage.

**4.1.1 Senior Housing.** Developer shall operate the Project so as to qualify for the Fair Housing Act's exemption for Housing for Older Persons as determined by HUD and set forth in 24 CFR, Part 100, Subpart E, § 100.304, § 100.305, and § 100.306 (the "Senior Requirement").

**4.1.2 Affordable Housing and Permanent Supportive Housing/Homeless Set-Asides for the Project.** Each of the 138 residential units in the Project shall be set-aside for Affordable housing as set forth and described in this Agreement, with the exception of the Manager Unit, if applicable. The City requires that some of the Assisted Units be set-aside for occupancy by the Homeless and those requiring Permanent Supportive Housing. Developer has agreed and must set-aside and rent eleven (11) Assisted Units (the "PSH/Homeless Units") to Eligible Persons who meet the qualifications and requirements set forth below.

- (i) Income Requirements for Tenants of PSH/Homeless Units. Tenants of the PSH/Homeless Units must have incomes equal to or less than the definition of Thirty Percent Income; and
- (ii) Homelessness Requirements for Tenants of PSH/Homeless Units. Developer will follow the procedures outlined below to rent the PSH/Homeless Units to Tenants that are Homeless immediately prior to occupancy of the PSH/Homeless Unit.

Referral of Tenants for PSH/Homeless Units. In order to accomplish the City's goals of providing Affordable housing to the Homeless and those requiring Permanent Supportive Housing, Developer has agreed and shall comply with the procedures below for rental of the PSH/Homeless Units.

- (i) Notice to Vacancy to Agencies. In order to maximize the accomplishment of the rental of the PSH/Homeless Units to Homeless individuals who require Permanent Supportive Housing ("PSH Tenants") or to Homeless individuals in the broader community who do not require supportive services (a "Homeless Tenant"), when a PSH/Homeless Unit becomes available for lease, the Developer will notify the COC/Homeless Services Network of Central Florida (the "HSN"), Christian Service Center ("CSC") and any other City-approved agency as the City may direct (a "Vacancy Notice"). If HSN does not promptly provide a qualified PSH Tenant, this notification will give CSC or other agency some lead time to find a Homeless Tenant.
- (ii) HSN Referrals of PSH Tenants. Upon receiving a Vacancy Notice, HSN will have 30 calendar days (or such shorter period as may be approved by FHFC) (the "HSN Priority Period") to refer a proposed PSH Tenant to Developer. The Developer understands and acknowledges that HSN provides a Coordinated Entry System, called the Homeless Management Information System (HMIS) for Homeless individuals, and Developer must coordinate with HSN and rent the PSH/Homeless

Units to PSH Tenants referred through HSN during this HSN Priority Period, provided such proposed tenant otherwise meets the requirements of this Agreement and the tenant selection criteria and accommodations outlined on **Exhibit “D”**. Supportive Services are required for PSH Tenants and would either need to come associated with their voucher or HSN will help facilitate the supportive services resources needed; provided for the avoidance of doubt that Developer will not be responsible to provide or pay for any such services.

- (iii) 45 Day Referral Period. If HSN does not refer a qualified PSH Tenant to Developer within the HSN Priority Period, then, for an additional period ending 45 days after the Vacancy Notice, Developer must rent the available PSH/Homeless Units to Homeless Tenants or to PSH Tenants referred through HSN, CSC or other City-approved agency, on a first-come, first-served basis, provided that (a) CSC or other approved City-approved agency confirms that the proposed tenant is in the Homeless Management Information System (HMIS), and (b) such proposed tenant otherwise meets the requirements of this Agreement and the tenant selection criteria and accommodations outlined on **Exhibit “C”**. If no qualified PSH Tenant or Homeless Tenant is referred to Developer within 45 days after the Vacancy Notice, then Developer may rent the PSH/Homeless Unit to other tenants who meet the 30% Income requirement for the PSH/Homeless Units but may not be Homeless or may not require Permanent Supportive Housing.
- (iv) Compliance with Regulations for the PSH/Homeless Units. The Developer must abide by all of the rules, requirements, and regulations required by FHFC, HSN’s FHFC required and approved Memorandum of Understanding (except as required by this Agreement), and HUD for the PSH/Homeless Units.
- (v) Space for PSH Services and Scattering of PSH/Homeless Units. Developer must provide space in the leasing office on the Property to accommodate two (2) full time equivalent employees to accommodate services for the PSH Tenants. The PSH/Homeless Units must be diversified throughout the Property, so that the PSH/Homeless Units are not segregated into one area.
- (vi) Vouchers. Developer agrees not to exclude an applicant for a PSH/Homeless Unit with a certificate or voucher under the Section 8 Tenant-Based Assistance: Housing Choice Voucher Program (24 CFR 992) or an applicant participating in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant -based assistance document.

**4.1.3 Rent Restrictions for the Project.** The Project shall have the mix of unit sizes and the units shall have the approximate average floor areas as described in the definition of the Project. The rents determined by FHFC for the Multifamily Rental Programs, from time to time, set forth the maximum rents the Developer can charge residents for the Assisted Units. A rent limit chart adjusted for bedroom size will be determined and distributed by FHFC annually. Effective April 1, 2025, the maximum gross initial monthly rent for each Assisted Unit is as follows:

**RENT – Seventy Percent Income (70%)- AMI**

**2 Bedroom at \$ 1,660.00**  
**1 Bedroom at \$ 1,383.00**  
**0 Bedroom at \$ 1,291.00**

**RENT – Sixty Percent Income (60%) AMI**

**2 Bedroom at \$ 1,423.00**  
**1 Bedroom at \$ 1,185.00**  
**0 Bedroom at \$ 1,107.00**

**RENT- Fifty Percent Income (50%) AMI**

**2 Bedroom at \$ 1,186.00**  
**1 Bedroom at \$ 988.00**  
**0 Bedroom at \$ 922.00**

**RENT – Thirty Percent Income (30%)- AMI**

**2 Bedroom at \$ 711.00**  
**1 Bedroom at \$ 592.00**  
**0 Bedroom at \$ 553.00**

**RENT – Twenty-two Percent Income (22%) AMI**

**1 Bedroom at \$434.00**

Developer agrees that these rents include (at no cost to tenant) tenant utilities which include water, sewer, and waste. The Developer acknowledges and agrees that the City shall review and all rents proposed by Developer to ensure compliance with the maximum Multifamily Rental Program rent limits regulations as may exist from time to time. Upon request or at City's convenience, the City will provide the Developer with information on updated FHFC Multifamily Rental Program rent limits, as they are made available by FHFC. However, if the rules, regulations, and requirements of HSN, HUD, or other funding source conflicts with the requirements set forth herein, the Developer shall comply with the stricter requirements as applicable to a given unit. (For example, if the HUD rule for PSH Units allows a higher rent than the FHFC Multifamily Rental Program rent, the Developer will charge the FHFC Multifamily Rental Program rent (i.e. the stricter of the two rent amounts)). Notwithstanding anything to the contrary in this Agreement, the rental rate for a tenant utilizing a voucher to pay all or a portion of the rent may exceed the above limits and will be the rental rate set in accordance with the applicable lease documentation between the Developer, housing authority and tenant, provided that the rent complies with all applicable LIHTC tax credit program requirements.

**4.1.4 Tenant Selection.** The Developer shall undertake the review of income eligibility of prospective tenants for the Assisted Units and other eligibility requirements. In

determining income eligibility, the Developer shall examine the source documents evidencing the prospective tenant's Annual Gross Income. In conducting such review, the Developer shall determine if each household is income eligible by determining the household's Annual Gross Income in accordance with applicable SHIP regulations. The Developer shall also require each tenant to fill out a form of Tenant Income Certification in form and content as required by the City. The Developer shall also obtain from each tenant the information contained in the Tenant Qualification Package, in form and content as required by the City, and, upon request, submit such information for each tenant to the City. All forms of Developer's applicable documentation including, but not limited to a tenant's application, verifications, and proposed rent and lease terms shall be submitted to the HCD Director for final approval before Developer enters into its first (1<sup>st</sup>) lease with a prospective tenant in the Project. If Developer seeks to make any changes to the approved forms, it shall submit the proposed revisions to the City for review and the City shall; have a period of thirty (30) days to review and provide any comments or to reject the proposed revisions (provided that City may not reject any such changes that are required by law or Senior Lenders), provided that if the City does not approve or deny such revisions within such period, the City will be deemed to have approved the revisions. The Developer acknowledges and agrees that it shall keep documentation verifying the income eligibility of each tenant and other eligibility requirements. The Developer shall enter into a separate written lease with each tenant for each of the Assisted Units for a period of not less than one (1) year. Notwithstanding anything to the contrary in this Agreement, whenever the City or CRA are deemed to have approved any matter or item due to the passage of time, such approval shall not be interpreted to amend this Agreement, to constitute a waiver of Developer's continuing and future compliance with this Agreement, or to include approval of matters or items that are in violation of applicable law or are in violation of this Agreement. For the avoidance of doubt, Developer will not be out of compliance or in violation of this Agreement to the extent Developer is abiding by any matter or item that has been deemed approved by the City or CRA that is not in violation of law or this Agreement (e.g. Developer's compliance with a budget deemed approved in accordance with Section 2.2.13 will not be a violation of this Agreement, but, as an additional example, Developer will modify the form of future qualification packages if requested by the City or CRA to conform to the City or CRA's determination that the previously approved form requires modification in order to conform to applicable law, this Agreement, or to provide verification compliance).

**4.1.5 Increases in Tenant Income.** After initial occupancy by an Eligible Person, the Annual Gross Income of the Eligible Person may increase but cannot exceed one hundred forty percent (140%) of the applicable income limit for that Assisted Unit. However, if while occupying the rental unit, a tenant of an Assisted Unit has an increase in tenant's household's Annual Gross Income, such tenant (an "Over Income Tenant") will not be required by this Agreement to relocate from the Assisted Unit then occupied, provided that if such Over Income Tenant's household Annual Gross Income exceeds 140% AMI, adjusted for family size, then the rent to be charged such Over Income Tenant and the renting of the Project in general shall be in compliance with applicable LIHTC tax credit program requirements.

**4.1.6 Affordability Requirements in the Event of Over Income Tenant.** In order to maintain the Affordability Requirements of this Agreement, in the event a lease for an Assisted Unit is signed with an Over Income Tenant, then the next available Assisted Unit must be rented to a tenant whose Annual Gross Income is equal to or less than the category of Annual Gross



Income (such as Seventy Percent Income, Sixty Percent Income, etc.) of the Over Income Tenant at the time of such Over Income Tenant's immediately prior lease of the Assisted Unit.

**4.1.7 Re-Certification of Tenants' Income and Rents.** Each year during the Affordability Period, the Developer shall re-verify tenant eligibility and provide the City with information on income, rents, and occupancy of the Assisted Units in order to demonstrate compliance with applicable SHIP regulations and FHFC Multifamily Rental Program rents and this Agreement. At the request of the HCD Director, the Developer shall make available to the City all information and documentation regarding eligibility, including income and rent records similar to that provided at initial lease-up of all tenants that are or have been occupying the Assisted Units within the preceding twelve (12) months to verify that all tenants meet the income guidelines at rents set forth herein. The Developer shall make this information available to City within ninety (90) days of its fiscal year-end.

**4.1.8 Affordability Requirements a Condition of the City Loan and the CRA Loan.** The Affordability Requirements set forth in this Agreement apply without regard to the term of any loan or mortgage or the transfer of ownership. Developer shall dedicate and maintain the Assisted Units as Affordable for the entire Affordability Period. The Developer acknowledges that failure to meet the Affordability Requirements as stated herein for the Affordability Period is a breach of this Agreement, which, subject to Article VI, requires the repayment of the City Loan and the CRA Loan. Notwithstanding anything to the contrary in this Agreement, the Developer shall be entitled to designate one dwelling unit of the Project as a Manager Unit.

## **Article V**

### **COVENANTS AND REPRESENTATIONS OF DEVELOPER**

The Developer hereby covenants, represents, and acknowledges the following covenants and representations that the City and CRA have relied upon in agreeing to provide the City Loan and the CRA Loan, respectively, as described herein, all of which shall survive Closing and any termination of this Agreement:

**5.1 Ownership.** The Developer is the contract purchaser of the Property and will acquire fee simple title to the Property on or before the scheduled closing date.

**5.2 Approvals.** The Developer has received all permits and government approvals of all aspects necessary to develop the Project on the Property.

**5.3 Changes and Delays.** The Developer shall promptly notify the City and the CRA in writing upon becoming aware of any actual or reasonably anticipated changes or delays in the schedule described in Section 3.1 hereof for the construction of the Project. Any actual or reasonably anticipated changes or delays in the schedule described in Section 3.1 hereof will require the City and CRA approval if the changes or delays in the schedule are not otherwise in accordance with the requirements of the Senior Lenders.

**5.4 Licensed Contractor.** The Developer has obtained or shall obtain the services of a licensed and qualified contractor(s) to construct the Project in a safe and professional manner and in compliance with the terms of this Agreement and in conformance with all applicable federal,

state and local laws and regulations, including, but not limited to, the Florida Building Code and the Americans with Disabilities Act.

**5.5 Construction Schedule.** The Developer shall provide the City and CRA with an updated Construction Schedule that shows any changes to the Construction Schedule during the course of construction expected to affect the schedule described in Section 3.1 hereof.

**5.6 Orlando Utilities Commission.** The Developer agrees to use the Orlando Utilities Commission ("OUC") to provide electric utilities and water service for the Project pursuant to separate agreement(s) with OUC.

**5.7 Performance and Payment Bonds.** Developer shall require the contractor hired to construct the Project to provide a Performance Bond and a Labor and Material Payment Bond each in an amount not less than the aggregate construction costs of the Project (base buildings, core and shell), less amounts covered by subcontractors bonds, provided that 100% of the construction cost of the Project is bonded in aggregate. To be acceptable as Surety for Performance Bonds and Labor and Material Payment Bonds, a Surety Company shall comply with the following provisions:

A. The Surety Company shall have a currently valid Certificate of Authority, issued by the State of Florida, Department of Insurance, authorizing it to write surety bonds in the State of Florida.

B. The Surety Company shall be named in the most current listing of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 by the U.S. Department of the Treasury.

C. The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.

D. The Surety Company shall have at least an "A-" financial strength rating in accordance with the most current A.M. Best Company ratings.

E. If the surety on any Bond furnished by the contractor is declared bankrupt or becomes insolvent or if its assets are acquired by regulatory agencies or if liquidation proceedings begin or its license to do business in the state is terminated or it ceases to meet the requirements of this Section, Developer shall require the contractor to substitute an acceptable surety and provide Performance and Labor and Material Payment Bonds to the City within ten (10) business days of obtaining actual knowledge of the occurrence of any such event.

**5.8 Insurance.** The Developer shall provide, or require the Contractor to provide, the following types and amounts of insurance with an insurer rated A- or better by A.M. Best:

A. CGL. Commercial General Liability Insurance coverage in the minimum amount of Two Million Dollars (\$2,000,000) for bodily injury (or death) of, and One Million Dollars (\$1,000,000) property damage.



B. Workers Compensation. Full and complete Workers' Compensation Insurance Coverage as required by Florida law.

C. Automobile. Automobile Liability Insurance coverage in the minimum amount of One Million Dollars (\$1,000,000) per occurrence for BI/PD, including hired/non-owned vehicles regardless of number of passengers transported.

D. Builders Risk. All-risk or open peril builder's risk insurance upon the entire scope of any construction at the Property to the full insurable value thereof. This insurance will insure against the perils of fire and extended coverage and will include all-risk builder's risk insurance for physical loss or damage including, without duplication of coverage, theft vandalism and malicious mischief.

E. Property Insurance. All-risk or open peril property insurance covering the Project reflecting coverage in such amounts as the City or CRA may reasonably require but in no event less than the replacement cost of the improvements on the Property. This insurance will insure against physical loss or damage from any and all perils, including without limitation, the perils of fire windstorm or hurricane, sinkhole, theft, vandalism and malicious mischief. In addition, insurance in such amounts and against such other casualties and contingencies as may from time to time be reasonably required by City or CRA, including, without limitation, flood hazard insurance if the Property is determined to be within a flood hazard area.

All such policies, except workers compensation, shall include an additional insured endorsement naming the City and CRA as an additionally insured and loss payee.

The Developer shall provide the City with a certificate of insurance evidencing the required coverages prior to Closing, and shall furnish the City evidence of renewals of each such policy no less than thirty (30) days prior to the expiration of the applicable policy.

**5.9 Indemnification.** The Developer agrees to indemnify, defend and hold harmless the City and CRA, their respective elected and appointed officials, from and against any and all liability, losses, claims, demands, damages, fines, fees, expenses, penalties, suits, proceedings, actions and cost of actions, including reasonable attorney's fees for trial and on appeal, of any kind and nature arising or growing out of or in any way connected with the design, construction, ownership or operation of the Project by the Developer or its Contractor, Project Architect and consultants. All of Developer's indemnification obligations in this Agreement shall survive termination of this Agreement. This indemnification does not apply to the extent any indemnified matters are caused solely by the fraud, gross negligence, or willful misconduct of the City or CRA.

**5.10 Concrete Construction Materials.** All buildings on the Property containing residential units will be constructed from precast concrete or concrete construction materials.

**5.11 Environmental Reports and Environmental Compliance.** For the entire term of this Agreement, Developer shall furnish to City and CRA copies of any and all environmental studies, reports or assessments made with respect to the Property as soon as practical after receipt of any such studies, reports or assessments.

No portion of the Property may be used for the storage of any Hazardous Substances, defined below, and at all times after the Effective Date, Developer will prevent the release or deposit of any Hazardous Substance on, in or about the Property. If Developer discovers any hydrocarbon substances, polychlorinated biphenyls, or any other hazardous or toxic substances, wastes or materials (as determined under federal, state or local law then in effect), asbestos or asbestos-bearing materials or other environmental condition subject to legal requirements for corrective action or affecting the Property (collectively, a “Hazardous Substance”), Developer shall immediately notify City and CRA, and Developer shall cause the condition to be corrected in accordance with applicable law. The foregoing shall not be construed to prohibit the use and storage of reasonable quantities of Hazardous Substances used in the ordinary course of renting, maintaining and operating the Project. To the fullest extent permitted by law, Developer hereby indemnifies, exonerates, releases, will defend and hold harmless City and CRA, and their affiliates, successors and assigns, and their officers, elected and unelected officials, directors, attorneys, insurers, employees or agents (collectively, “Indemnitees”), from and against any and all losses, liabilities, damages, claims, demands, actions, judgments, suits, fines, penalties, costs or expenses, including, without limitation, investigatory expenses and clean-up costs (including but not limited to reasonable consultants and attorneys’ fees, or injuries to any persons or property) (collectively, “Claims”) relating to the use or presence of Hazardous Substances at the Property and arising out of or resulting from (a) acts or omissions of Developer or any person on the Property after the Effective Date arising in any way from or relating to the Property; (b) the use, occupancy and presence of any Hazardous Substance on, under or in the air of the Property, or (c) Developer, its tenants, invitees, contractors or their guests on the Property. Developer’s obligations under this indemnification provision shall survive any expiration or termination of this Agreement. This obligation to indemnify, exonerate, release, defend and hold harmless includes, without limitation, third-party Claims for contribution, reasonable attorneys’ fees, Claims for injury or alleged injury of any kind to any persons (including, but not limited to, death) and for any violation or alleged violation of any federal, state or local environmental, health or safety laws or any “release” or “threatened release” of any Hazardous Substance arising from or in any way connected to the Property. This indemnification does not apply to the extent any indemnified matters are caused solely by the fraud, gross negligence, or willful misconduct of the City or CRA.

## **Article VI**

### **BREACH AND REMEDIES**

**6.1 Developer’s Breach and Opportunity to Cure.** Subject to Force Majeure (as defined herein), the Developer’s failure to comply at all times and within the time required, with its obligations contained herein, including, but not limited to, the Affordability Requirements, shall be a material breach of this Agreement. The City shall provide written notice of such breach to the Developer (“Notice of Breach”), and subject to Force Majeure, the Developer’s failure to cure such breach within thirty (30) calendar days from the date of its receipt of the Notice of Breach (the “Curative Period”) shall constitute an “Event of Default”. Notwithstanding the foregoing, if the nature of the breach is such that it cannot reasonably be cured within such 30 day period, then the Curative Period will be extended for an additional ninety (90) days to cure such breach provided that Developer diligently and expeditiously undertakes and pursues such cure, and further provided that the Developer provides the City with documentation evidencing that it is diligently undertaking and pursuing such cure to the City’s reasonable satisfaction, but in any event, the

maximum Curative Period shall not be more than one hundred twenty (120) days from Developer's receipt of the Notice of Breach.

**6.2 Remedies for Breach during Construction.** If the City or CRA issues a Notice of Breach prior to Project Completion, the City or CRA may suspend the payment of any funding provided for herein until such breach is cured to the reasonable satisfaction of the City and CRA. The failure to cure such breach within the Curative Period constitutes an Event of Default and following any right to notice and cure of the Investor Member set forth in this Agreement or the Senior Lenders as may be set forth in any subordination agreement between the City the CRA and such Senior Lender, shall result in the immediate termination of the City's and the CRA's obligation to pay any Draw Requests or disburse any amount of either the CRA Loan or the City Loan. In the event of such termination, all funding payments contemplated hereunder shall immediately cease and the obligation to provide such payments by the City and CRA shall be forever discharged, and the Developer shall reimburse the City the full amount of any payments provided to the Developer as of the date of such termination. Additionally, the City and CRA shall have the right to require the Developer's specific performance under the terms and conditions of this Agreement at any time prior to the termination of this Agreement and the repayment of the City Loan and the CRA Loan.

**6.3 Remedies for Breach for Failure to Complete Project or for Breach of Affordability Requirements.**

A. Repayment of Loans Upon Failure to Perform. The Developer acknowledges and agrees that if the Project is terminated before Project Completion, whether voluntary or involuntary, construction is not completed within the required time, any of the Affordability Requirements are not met, Assisted Units are not rented to Eligible Persons within the time frames described herein, or if the Developer fails to rent the Assisted Units to Eligible Persons for the duration of the Affordability Period for any reason, either voluntarily or otherwise, in each case subject to applicable notice and cure, then the City and CRA will no longer have an obligation to advance any City Loan or CRA Loan funds and the Developer must repay to the City and CRA all City Loan or CRA Loan funds advanced to or for Developer by the City or CRA and this Agreement shall terminate except as provided herein. Such repayment to the City shall be made to the City by Developer within sixty (60) days of the HCD Director's written demand.

B. Appointment of Receiver to Manage Project. Developer agrees that a breach of the Affordability Requirements constituting an Event of Default is hereby conclusively deemed to be a waste of the Property because the purpose of the Property is to provide a public benefit of affordable housing to the community as required by this Agreement. Further, Developer acknowledges and agrees that the Developer's failure to comply with the Affordability Requirements which constitutes an Event of Default cannot be remedied by monetary damages. In the event of such breach, past all applicable notice and cure periods, City may apply to any court of competent jurisdiction to have a receiver appointed to enter upon and take possession of the Property for the purpose of managing the Property in accordance with the requirements of this Agreement, and Developer will not oppose the City's request for appointment of a receiver. The receiver shall collect the rents from the Property for the Developer's account and apply the same as the court may direct, such receiver to have all of the rights and powers permitted under the common law and laws of the State of Florida. The right of the appointment of such receiver shall

be a matter of strict right without regard to the value or the occupancy of the Property or the solvency or insolvency of Developer. The expenses, including receiver's fees, attorneys' fees, costs and any management fees or leasing agent's commission incurred pursuant to the powers herein contained, together with interest thereon, shall be secured by the Property and shall be due and payable by Developer immediately without notice or demand.

C. Change in Management. The parties acknowledge and agree that the Developer's failure to comply with the Affordability Requirements set forth in this Agreement cannot be remedied by monetary damages. Therefore, in the event the City or the CRA issues a Notice of Breach of the Affordability Requirements set forth in this Agreement, and such breach is not cured within the time as required by this Agreement, subject to the rights of the Investor Member as set forth in this Agreement and Senior Lenders as may be set forth in an executed subordination agreement between a Senior Lender and the City and CRA, then the City may require Developer to change any leasing or management firms or persons to a national or regional leasing and management company reasonably acceptable to the City. Any substitute leasing and management company shall agree with City to lease the Property in accordance with the Affordability Requirements of this Agreement.

D. Injunctive Relief. The Parties acknowledge and agree that the Developer's failure to comply with the Affordability Requirements set forth in this Agreement cannot be remedied by monetary damages. Therefore, in the event of Developer's breach of the Affordability Requirements set forth in this Agreement, the City or the CRA shall be entitled to injunctive relief, without the requirement of any bond, to require performance and compliance with the Affordability and related requirements of this Agreement, including, without limitation all audit and review rights in favor of City and CRA.

**6.4** Termination and Survival. In the event of a termination of this Agreement pursuant to this Article VI, provided repayment to the City and the CRA of all sums advanced to or for the Project pursuant to this Agreement has been completed, the Affordability Requirements of this Agreement shall be null and void and neither Party shall have any continuing obligations to the other thereafter except as may be provided in this Agreement. Following such termination, the City and CRA will provide the Developer with a signed termination document in order to release the Affordability Requirements of record. Notwithstanding the foregoing, all of the Developer's indemnification, hold harmless and defense obligations set forth in this Agreement, as well as any provision that expressly survives termination of this Agreement, will survive any termination of this Agreement.

**6.5** Rights Cumulative. No right, power or remedy of the City as provided in this Agreement is intended to be exclusive of any other right, power, or remedy of the City, but each and every such right, power and remedy shall be cumulative and concurrent and in addition to any other right, power or remedy available to the City now or hereafter existing at law or in equity and may be pursued separately, successively or together against Developer, any responsible person, or the Property or any part thereof, or any one or more of them, at the sole discretion of the City. The failure of the City to exercise any such right, power or remedy shall in no event be construed as a waiver or release thereof.

**6.6 City/CRA Breach.** Subject to Force Majeure (as defined in this Agreement), in the event that the City or CRA materially breaches any of their respective obligations contained herein, including, but not limited to the obligation to provide the City Loan and CRA Loan as described in this Agreement, and fails to cure such breach within thirty (30) calendar days from the date of its receipt of written notice of such breach from the Developer, then the Developer, as its sole and exclusive remedy, shall have the right to require the City's or CRA's specific performance under the terms and conditions of this Agreement. Developer waives any and all other remedies.

**6.7 Senior Lender's and Investor Member's Right to Cure.** The City and CRA shall provide the Senior Lenders and the Investor Member with a copy of the Notice of Breach and the opportunity, but no obligation, to cure the breach on behalf of the Developer under the same terms and conditions as provided herein to Developer. Any such cure made or tendered by the Senior Lenders or the Investor Member shall be accepted or rejected on the same basis as if made by Developer. In addition, as to the Senior Lenders, if the Event of Default cannot practically be cured by the Senior Lender without the Senior Lender taking possession of the Property, then the City and CRA shall grant the Senior Lender such additional time as is reasonably necessary in order for the Senior Lender to obtain possession of the Property and cure such breach, provided that the Senior Lender diligently undertakes and proceeds to obtain possession of the Property and cure such breach, and further provided that the Senior Lender provides the City and CRA with documentation evidencing that it is diligently undertaking and proceeding to obtain such possession and cure such breach to the City's and CRA's reasonable satisfaction, but in any event, the Senior Lender shall not have more than one hundred eighty (180) days from its receipt of the Notice of Breach to cure such breach.

## **Article VII** **MISCELLANEOUS**

**7.1 Binding Effect.** This Agreement and the terms and conditions hereof shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, and their respective tenants, agents, licensees, guests and invitees and shall run with the Residential Unit. With or without specific reference thereto, the conveyance of any interest in all or a portion of the Property shall be subject to the benefits, burdens and other terms and conditions of this Agreement, to the same extent as if all of the terms and conditions of this Agreement were set forth in full in such conveyance. Notwithstanding the foregoing, the Parties acknowledge and agree that this Agreement: (i) is intended to govern and relate to the construction, use and operation of the Project on the Property; and (ii) shall not be transferable to any other real property.

**7.2 Third-Party Beneficiary.** This Agreement is solely for the benefit of the Parties signed hereto and no right, nor any cause of action, shall accrue to or for the benefit of any third party.

**7.3 Controlling Laws.**

**7.3.1** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida, and all duly adopted

ordinances, regulations, and policies of the City now in effect and those hereinafter adopted which are not inconsistent with the specific terms and agreements set forth herein.

**7.3.2** The location for settlement or litigation of any and all claims, controversies or disputes, arising out of or relating to any part of this Agreement, or any breach hereof, shall be Orange County, Florida.

**7.4 Entire Agreement.** This Agreement, and any written addenda, and all Exhibits, (which are expressly incorporated herein by this reference), constitutes the entire agreement between the Parties with respect to the specific matters contained herein and supersedes all previous discussions, understandings, and agreements. Amendment to or waivers of the provisions herein must be made by all the Parties hereto, be in writing, and in recordable form.

**7.5 Savings Clause.** If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed an independent provision and such holding shall not affect the validity of the remaining portions hereto.

**7.6 Cost of Recording.** Developer shall pay for the cost of recording in the Public Records of Orange County, Florida this Agreement and the mortgages in favor of the City and the CRA evidencing or securing the City Loan or the CRA Loan. Further, Developer shall pay any and all required documentary stamp tax and any intangible tax due upon any of the Loan Documents.

**7.7 Estoppel.** Upon the request of Developer, or Lender(s) for the Project, City and CRA hereby agree to furnish a letter stating that (i) this Agreement is in full force and effect if true, (ii) there are no defaults under their Agreement or if any identify them, and (iii) such other information as reasonably requested. Such letter shall be furnished within thirty (30) days after request therefor.

**7.8 Assignment.** This Agreement is personal to the Parties and Developer shall not be entitled to assign this Agreement, or rights pursuant to this Agreement, without prior written consent of the CRA and the City. No assignment shall cause a release of Developer's obligations pursuant to this Agreement. Subject to the restrictions on transfer set forth herein, this Agreement shall be binding upon and inure to the benefits of the successors and assigns of the Parties hereto. Notwithstanding the foregoing, the following events shall be expressly permitted hereunder and shall not require the consent of the City or CRA: (i) direct or indirect transfers of Investor Member interests in Developer, and (ii) the removal for cause and replacement of Developer's managing member pursuant to the Amended and Restated Operating Agreement of Developer dated on or about the date hereof.

**7.9 Force Majeure.** The Parties shall use reasonable diligence to ultimately accomplish the purposes of this Agreement, but shall not be in breach or liable to each other, or their successors or assigns, for damages, for breach of contract or otherwise, for failure, suspension, diminution, or other variations of services occasioned for a delay or occasioned by a cause or causes beyond the control of the Party whose performance is so delayed ("Force Majeure"). Such causes shall include, without limitation: moratoria; severe adverse weather

conditions (such as tropical storms, tornados or hurricanes); war-like operations; terrorism; governmental or judicial action; legislation, or controls; acts of other government agencies (regulatory entities or courts) in their sovereign or contractual capacity; fires; floods; epidemics (excluding Covid-19); quarantines; restrictions; strikes or failure or breakdown of transmission or other facilities; material shortages; or acts of God. The Parties acknowledge and agree that either Party's incompetence, failure to deploy adequate resources, failure to commence its duties hereunder within a reasonable time frame in accordance with the time frames stated herein or the applicable construction contracts, failure to make payments, or failure to exercise commercially reasonable diligence in the performance of its obligations hereunder shall not be deemed to constitute a force majeure event. Notwithstanding the foregoing, no extension(s) of time referenced in this Agreement due to Force Majeure shall extend for more than one (1) year or a total of eighteen (18) months cumulatively.

**7.10 Disputes.** Prior to the institution of any judicial proceedings, the Parties agree to attempt to settle the dispute through mediation, and shall follow the procedure set forth below. Any time periods set forth in this Agreement for cure of default shall be extended to the end of the time periods set forth below to permit the Parties to attempt to resolve any disputes.

**7.10.1** The Party believing a dispute to exist will give the other party written notice thereof, setting forth in reasonable detail the facts alleged to give rise to such dispute, the relevant contractual provisions, the nature of any claimed default or breach and a statement of the manner in which such Party believes the dispute should be resolved.

**7.10.2** Within twenty (20) days after receipt of such notice, each Party against whom relief is sought in connection with such dispute will deliver a written response, setting forth in reasonable detail its view of the facts alleged to give rise to such dispute, the relevant contractual provisions, the nature of the claimed default or breach and a statement of the manner in which such Party believes the dispute should be resolved.

**7.10.3** If the Parties do not agree on the manner in which the dispute should be resolved, they will arrange to hold a meeting within twenty (20) days after delivery of the response. Each Party will have in attendance at such meeting a representative with authority to bind the represented Party to any agreement resolving the dispute. At the meeting (and any adjournments thereof), the Parties will negotiate in good faith in an attempt to agree as to whether a dispute exists, the exact nature of the dispute and the manner in which the dispute should be resolved. If deemed appropriate by any Party, a professional mediator may be engaged to assist in resolving the dispute with mediation costs borne equally by the Parties. Any resolution of the dispute will be evidenced by a written agreement setting forth in reasonable detail the actions to be taken by each Party. If no such written agreement is reached within 30 days after the first meeting, the Parties may pursue any legal remedies available to them with respect to such dispute.

**7.10.4** Notwithstanding the provisions of this Article, nothing herein shall prevent or hinder any Party from pursuing and obtaining injunctive relief in a court of law as to matters appropriate for such relief.

**7.10.5** Any and all remedies identified in this Agreement are cumulative and not exclusive and shall be in addition to any other remedy which the Parties may have.



**7.10.6** City and CRA are Florida municipal entities whose limits of liability are set forth in section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of City or CRA beyond that provided in section 768.28, Florida Statutes. Further, nothing herein is intended as a waiver of City's or CRA's sovereign immunity under section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to, anything which might allow claims otherwise barred by sovereign immunity or operation of law.

**7.10.7 THE CITY, CRA, THE DEVELOPER, AND EACH OF THEIR RESPECTIVE MEMBERS, OFFICIALS (WHETHER APPOINTED, ELECTED, OR OTHERWISE), AGENTS, EMPLOYEES AND INSURERS SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL LOSS OR DAMAGES OF ANY KIND OR NATURE WHATSOEVER CAUSED BY, ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE GRANTING OF THE CRA LOAN OR THE CITY LOAN, INCLUDING ANY CLAIMS FOR NEGLIGENCE OR THEIR OWN NEGLIGENCE.**

**7.11 Time.** In computing any period of time pursuant to this Agreement, the day of the act, event, or default from which the designated period of time begins to run shall not be included, but the time shall begin to run on the next succeeding day. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday. Time is of the essence.

**7.12 Headings.** Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof.

**7.13 No Liability or Monetary Remedy.** The Developer hereby acknowledges and agrees that it is sophisticated and prudent in business transactions and proceeds at its own risk under advice of its own counsel and advisors and without reliance on the City or CRA, and that the City and CRA bear no liability for direct, indirect or consequential damages. The only remedy available to the Developer for any breach by the City or CRA is to require the City's and/or CRA's specific performance under the terms and conditions of this Agreement.

**7.14 Effective Date and Term.** This Agreement shall become effective on the Effective Date first written above, and end, subject to the termination and severability provisions set forth herein, upon satisfaction in full of all of the obligations of the Parties.

**7.15 Relationship.** This Agreement does not evidence the creation of, nor shall it be construed as creating, a partnership or joint venture among the City, the CRA, and the Developer. The Developer cannot create any obligation or responsibility on behalf of the City or the CRA or bind the City or the CRA in any manner. Each party is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether the same is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. Each party acknowledges that none of the other parties hereto is acting as a fiduciary for or an adviser to it in respect of this Agreement or any responsibility or obligation



contemplated herein. The Developer further represents and acknowledges that no one was paid a fee, commission, gift or other consideration by the Developer as an inducement to entering into this Agreement.

**7.16 Extensions.** The CRA and the City nominate (a) David Barilla, as Executive Director of the Community Redevelopment Agency of the City Of Orlando and (b) Oren Henry, as HCD Director, respectively, who may collectively in their absolute discretion, act on behalf of the CRA and the City, respectively, to extend each and every deadline or any timeframe set forth in this Agreement for performance by the Developer for a period of up to ninety (90) days.

**7.17 Amendment.** This Agreement may not be amended, unless evidenced in writing and executed by all parties hereto.

**7.18 Personal Liability.**

**7.18.1** No provision of this Agreement is intended, nor shall any be construed, as a covenant of any official (either elected or appointed), member, manager, officer, director, employee, owner or agent of the City or the CRA in an individual capacity and neither shall any such individuals be subject to personal liability by reason of any liability, covenant or obligation of the City or the CRA.

**7.18.2** This Agreement is subject to the nonrecourse provisions set forth in the promissory notes evidencing each of the CRA Loan and the City Loan, which nonrecourse provisions are incorporated herein by reference. No personal guaranty will be required of the Developer's members or managers in connection with the CRA Loan or the City Loan, and absent fraud or other intentional and material misconduct, the members and managers of Developer will not be personally liable for any monetary damages under the City Loan or the CRA Loan. Except to the extent the Investor Member controls or directs management of the Developer, (i.e. the Investor Member exercises its removal right under Developer's amended and restated operating agreement or the amended and restated operating agreement is otherwise amended to provide that the Investor Member becomes a Managing Member of Developer), the Investor Member shall not be subject to any damages imposed by the foregoing sentence.

**7.19 Notices.** Any notices required to be given hereunder shall be effective upon receipt and sent by either facsimile, hand-delivery, U.S. mail, first class, postage prepaid, or by certified or registered mail (return receipt requested) to the following addresses or to such other representative or at such other postal address, facsimile number or electronic mail address of a Party as such Party may furnish to the other Parties in writing:

City:

City of Orlando  
400 South Orange Avenue  
7<sup>th</sup> Floor  
Orlando, Florida 32802-3370  
Attn: Stephanie Neves,  
Housing Development Project Manager

Developer:

BDG MARIPOSA GROVE, LLC  
501 North Magnolia Avenue  
Orlando, Florida 32801  
Attn: Scott Zimmerman, Manager;  
Alexander B. Kiss

e-mail: stephanie.neves@orlando.gov

and

City of Orlando  
400 South Orange Avenue  
7<sup>th</sup> Floor  
Orlando, Florida 32802-3370  
Attn: Oren J. Henry,  
Housing and Community Development Director  
e-mail: oren.henry@orlando.gov

CRA:

Community Redevelopment Agency of  
the City of Orlando, Florida  
400 South Orange Avenue  
Orlando, Florida 32802-3370  
Attn: David Barilla, Executive Director  
email: David.Barilla@downtownorlando.com

and

FHFC

Florida Housing Finance Corporation  
227 N. Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329  
Attention: Executive Director

e-mail: szimmerman@agpmanager.com;  
Alex@BanyanDevelopmentGroup.com

With a Required Copy to:

Nelson Mullins Riley & Scarborough LLP  
390 N. Orange Avenue, Suite 1400  
Orlando, Florida 32801  
Attention: David F. Leon, Esq.  
Email: david.leon@nelsonmullins.com

With a Required Copy to Investor Member:

TCC BDG Mariposa Grove LLC  
c/o Truist Community Capital, LLC  
303 Peachtree Street, NE, Suite 2200  
Atlanta, Georgia 30308  
Attn: Mariposa Grove Asset Management

With a Required Copy to:

Holland & Knight LLP  
10 St. James Avenue, 12<sup>th</sup> Floor  
Boston, MA 02116  
Attn : Jarrod Connors, Esq.

**7.20 Captions.** The captions and headings of sections or paragraphs used in this Agreement are for convenient reference only and shall not limit, define or otherwise affect the substance or construction of provisions of this Agreement.

**7.21 No City/CRA Security.** This Agreement shall be construed in such manner that in no event shall the City or CRA be required to provide security for repayment of any portion of any loans to the Developer with respect to the Property nor shall the City or CRA be obligated under any mortgage or promissory note with respect to the Property except to the extent the City or the CRA have any responsibilities under the Loan Documents.

**7.22 Permits.** The Developer shall obtain all state and local permits or other governmental authorizations and approvals required by law in order to construct Project on the Property. Nothing in this Agreement shall be deemed to restrict the City's free exercise of its duties in its regulatory capacity.

**7.23 Compliance with Laws.** The Developer shall at all times be in compliance with all applicable federal, state and local laws, statutes, rules and regulations, including, but not limited to the Orlando City Code and City Code sections pertaining specifically to planning, zoning and permitting. This paragraph is not intended to preclude the City from granting the Developer certain waivers, exemptions or variances under the Orlando City Code as allowed therein.

**7.24 Sovereign Immunity.** City and CRA are entities whose limits of liability are set forth in section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of City or CRA beyond that provided in section 768.28, Florida Statutes. Further, nothing herein is intended as a waiver of City's or CRA's sovereign immunity under section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to, anything which might allow claims otherwise barred by sovereign immunity or operation of law.

**7.25 Waiver of Trial by Jury.** DEVELOPER, CITY AND CRA HEREBY AGREE AS FOLLOWS: (A) EACH OF THEM KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM, OR OTHER LITIGATION (AN "ACTION") BASED UPON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT OR ANY RELATED DOCUMENTS, INSTRUMENTS, OR AGREEMENTS (WHETHER ORAL OR WRITTEN AND WHETHER EXPRESS OR IMPLIED AS A RESULT OF A COURSE OF DEALING, A COURSE OF CONDUCT, A STATEMENT, OR OTHER ACTION OF EITHER PARTY); (B) NONE OF THEM MAY SEEK A TRIAL BY JURY IN ANY SUCH ACTION; (C) NONE OF THEM WILL SEEK TO CONSOLIDATE ANY SUCH ACTION (IN WHICH A JURY TRIAL HAS BEEN WAIVED) WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED; AND (D) NONE OF THEM HAS IN ANY WAY AGREED WITH OR REPRESENTED TO THE OTHER OF THEM THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.

IN WITNESS WHEREOF, the City, CRA and Developer have executed this Agreement as of the Effective Date.

**SIGNATURES BEGIN ON NEXT PAGE**

**DEVELOPMENT AND LOAN AGREEMENT FOR MARIPOSA GROVE APARTMENTS**

**IN WITNESS WHEREOF**, the Parties have caused these presents to be executed on the day and year indicated above.

**ATTEST**

**“City”**

By: \_\_\_\_\_  
City Clerk

**CITY OF ORLANDO, FLORIDA**, a municipal corporation of the State of Florida

Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Buddy Dyer,  
as Mayor of the City of Orlando

\_\_\_\_\_  
Approved as to form and legality for the use and reliance of the City of Orlando, Florida, only.

By: \_\_\_\_\_  
Assistant City Attorney

Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Buddy Dyer, as Mayor of the City of Orlando, Florida, a municipal corporation of the State of Florida, who [ ] is personally known to me or [ ] has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
My Commission Expires: \_\_\_\_\_  
Commission No. \_\_\_\_\_

(affix seal)

*CRA Execution Page to  
DEVELOPMENT AND LOAN AGREEMENT FOR MARIPOSA GROVE APARTMENTS*

**IN WITNESS WHEREOF**, the Parties have caused these presents to be executed on the day and year indicated above.

**ATTEST**

**“CRA”**

By: \_\_\_\_\_  
David Barilla, as Executive Director

**COMMUNITY REDEVELOPMENT AGENCY  
OF THE CITY OF ORLANDO, FLORIDA,**  
an agency created pursuant to Chapter 163, Part III,  
Florida Statutes

By: \_\_\_\_\_  
Buddy Dyer,  
as Chairman

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this \_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Buddy Dyer, as Chairman, and Davis Barilla, as Executive Director, of the Community Redevelopment Agency of the City of Orlando, Florida, an agency created pursuant to Chapter 163, Part III, Florida Statutes, who [ ] are personally known to me or [ ] have produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
My Commission Expires: \_\_\_\_\_  
Commission No. \_\_\_\_\_

(affix seal)

*DEVELOPER Execution Page to*

*DEVELOPMENT AND LOAN AGREEMENT FOR MARIPOSA GROVE APARTMENTS*

**IN WITNESS WHEREOF**, the Parties have caused these presents to be executed on the day and year indicated above.

**Witness**

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

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

**Witness**

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

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

**“DEVELOPER”**

BDG MARIPOSA GROVE, LLC  
a Florida limited liability company

By: BDG MARIPOSA GROVE GP, LLC,  
a Florida limited liability company, its Manager

By: \_\_\_\_\_  
Scott Zimmerman, Manager

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Scott Zimmerman, as Manager of BDG MARIPOSA GROVE GP, LLC, a Florida limited liability company, as Manager of BDG MARIPOSA GROVE, LLC, a Florida limited liability company, on behalf of the company who [ ] is personally known to me or [ ] has produced \_\_\_\_\_ as identification.

(affix seal)

\_\_\_\_\_  
Notary Public, State of Florida at Large  
My Commission Expires: \_\_\_\_\_  
Commission No. \_\_\_\_\_

## EXHIBIT A-1

### PROPERTY LEGAL DESCRIPTION

#### DESCRIPTION

PER FIDELITY NATIONAL TITLE INSURANCE COMPANY'S COMMITMENT NO. 4828687,  
EFFECTIVE: OCTOBER 30, 2014

##### PARCEL 1

LOT 1, JEWEL OF JACKSON, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 36, PAGE 103, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

##### PARCEL 2

THE SOUTH 120 FEET OF LOT 12, J.H. SMITH'S SUBDIVISION OF BLOCK 9 SUMMERLIN'S ADDITION TO ORLANDO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "D", PAGE 16, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

##### PARCEL 3

THE WEST 33 FEET OF THE EAST 50 FEET OF LOT 10, J.H. SMITH'S SUBDIVISION OF BLOCK 9 SUMMERLIN'S ADDITION TO ORLANDO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "D", PAGE 16, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, TOGETHER WITH THAT PORTION OF THE SOUTH ONE HALF (1/2) OF VACATED MARIPOSA STREET LYING NORTH OF SAID PARCEL, AS VACATED, CLOSED AND ABANDONED BY ORDINANCE RECORDED JULY 30, 2004, IN OFFICIAL RECORDS BOOK 7556, PAGE 3313, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

#### DESCRIPTION

PER FIRST AMERICAN TITLE INSURANCE COMPANY'S FILE NO: NCS-94331-ORL,  
EFFECTIVE: FEBRUARY 8, 2019

##### PARCEL I

THE NORTH 90.00 FEET OF LOT 11 AND THE NORTH 90.00 FEET OF THE WEST 10.00 FEET OF LOT 10, J.H. SMITH'S SUBDIVISION OF BLOCK 9, SUMMERLIN'S ADDITION TO ORLANDO, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK D, PAGE 16, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

##### PARCEL II

THE NORTH 70.00 FEET OF LOT 12, LESS THE WEST 11.00 FEET THEREOF, J.H. SMITH'S SUBDIVISION OF BLOCK 9, SUMMERLIN'S ADDITION TO ORLANDO, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK D, PAGE 16, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

## EXHIBIT A-2

### RESIDENTIAL UNIT LEGAL DESCRIPTION

Unit 1 of Mariposa Grove Condominium, according to that certain Declaration of Condominium thereof, dated \_\_\_\_\_, and recorded \_\_\_\_\_ in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_, Public Records of Orange County, Florida, and all exhibits and amendments thereto.



EXHIBIT B  
DEVELOPMENT PLAN

**Mariposa Grove – Affordable Apartment Community**

Mariposa Grove is a proposed 12-story, mixed-use, apartment building containing 138 senior (age 55+), multifamily rental housing community and ground floor commercial/retail. Closing on all funding sources totaling roughly \$80M is scheduled for 2025.

The property is located at 417 E Jackson Street between Mariposa Street and Jackson Street 3 blocks south of Lake Eola in Orlando. The location will allow pedestrian access to all of downtown Orlando's various amenities as well as public transportation options, including SunRail, LYNX, LYMMO, and SWAN. 3 specimen oak trees will be preserved along the sidewalk along the southern frontage and building access on Jackson Street.

The high-rise apartment community will consist of 138 total residential units on floors 1, 2, and 6-12, with entry on Mariposa St. 100% of units will be set aside at 70% AMI or below, with an average income of 60% AMI or below, for 50 years.

Floors 3-5 will be an integrated parking garage with 120 spaces total. A residential clubhouse and courtyard, plus meeting rooms and a fitness center will be located above the parking garage on the 6<sup>th</sup> floor. Additional resident amenities include card and computer rooms will be on the 1<sup>st</sup> floor. Residential services such as trash and mail will be on the 2<sup>nd</sup> floor along with property management and maintenance offices.

Water (including hot water), sewer, and trash service will be paid by landlord. Electric, cable, internet and phone services are to be paid by tenant. Resident programs will be provided at no cost to residents, including literacy training, computer training, and 24-hour support to assist residents in handling urgent issues. Additionally, the tenants will be referred to service providers who provide assistance with light housekeeping, grocery shopping and/or laundry services. Resident activities will be coordinated on a regular basis.

The building will consist of two "condo units", one for the residential apartment and one for the commercial/retail space. The commercial/retail space was necessary in order to allow for the height and density needed for the residential apartments. It will occupy the entire southern frontage along Jackson Street. The inside will be open to the second floor ceiling inside and be built out by future tenants.

The cost to construct the commercial/retail space and associated 20 parking spaces will be born separately and entirely by that condo owner via its cash escrowed at closing. 100% of the City funds will be used for the residential apartment.

Residential unit finishes will be akin to market rate units including granite counters, subway tile backsplash, and tile floors.

Green Construction Features for the Apartment Community to include:

- Programmable thermostat in each unit
- Water Sense certified dual flush toilets in all bathrooms
- Energy efficient, noise attenuating windows in each unit
- Florida Yards and Neighborhoods certification on all landscaping
- Daylight sensors, timers or motion detectors on all outdoor lighting attached to buildings
- Motion sensors for alternate emergency stair and interior lighting 24-7
- Low or No-VOC paint for all interior walls (Low-VOC means 50 grams per liter or less for flat; 150 grams per liter or less for non-flat paint);
- Low-flow water fixtures in bathrooms:
  - o Toilets: 0.8 gallons/flush or less
  - o Faucets: 1.5 gallons/minute or less
  - o Showerheads: 1.5 gallons/minute or less
- Energy Star certified refrigerator
- Energy Star certified dishwasher
- Energy Star certified ventilation fan in all bathrooms
- Energy Star certified gas tankless/instantaneous hot water heater
- Energy Star certified ceiling fans with lighting fixtures in bedrooms
- In-unit air conditioning: minimum 16 SEER
- Caulk, weather-strip, or otherwise seal all holes, gaps, cracks, penetrations, and electrical receptacles in building envelope; and
- Seal and insulate heating and cooling system ducts with mastic or metal backed tape.

Figure 1: The Northwest Corner



Figure 2: The South Elevation from the Street





Figure 3: Southwest Corner



Figure 4: The Residential Plaza Amenity over the Parking Garage



Figure 5: Northeast Corner Main Apartment Entry Looking Up from the Street



Figure 6: The Northeast Corner and Main Entry to the Apartments



EXHIBIT C

FORM OF DECLARATION OF AFFORDABLE HOUSING RESTRICTIVE COVENANT  
FOR MARIPOSA GROVE APARTMENTS

See Following Pages

THIS INSTRUMENT PREPARED BY:  
and after recording return to:

Daniel L. DeCubellis  
Carlton Fields, P.A.  
200 South Orange Avenue, Suite 1000  
Orlando, Florida 32801

**Subordination.** Notwithstanding anything to the contrary set forth in this Covenant, the City and CRA acknowledge that the rights of the City and CRA pursuant to this Covenant are affected by and may be limited by the following Subordination Agreements between each Senior Lender (defined below) and the City and CRA: (i) a Subordination Agreement dated as of \_\_\_\_\_, 2025 among Truist Bank and the holder of this Covenant on the date of such Subordination Agreement, and (ii) a Subordination Agreement as of the date of execution by and among Permanent Lender and the holder this Covenant on the date of such Subordination Agreement, and (iii) a Subordination Agreement dated \_\_\_\_\_, 2025 by and among FHFC and the holder of this Covenant on the date of such Subordination Agreement (collectively, the “Subordination Agreements”). Among other things, the Subordination Agreement(s) may provide for the elimination of the City’s and CRA’s rights to recover funds from the Developer in the event of foreclosure, and, in the event of foreclosure, limit the City’s and CRA’s remedies for breach of this Covenant to specific performance. Truist, Permanent Lender and FHFC may be referred to collectively as the “Senior Lenders” or individually as a “Senior Lender.”

**DECLARATION OF AFFORDABLE HOUSING RESTRICTIVE  
COVENANT FOR MARIPOSA GROVE APARTMENTS**

BY AND AMONG

**CITY OF ORLANDO, FLORIDA**

and

**COMMUNITY REDEVELOPMENT AGENCY  
OF THE CITY OF ORLANDO, FLORIDA**

and

**BDG MARIPOSA GROVE, LLC**

Dated as of \_\_\_\_\_, 2025

**DECLARATION OF AFFORDABLE HOUSING RESTRICTIVE COVENANT FOR  
MARIPOSA GROVE APARTMENTS**

**THIS DECLARATION OF AFFORDABLE HOUSING RESTRICTIVE COVENANT FOR MARIPOSA GROVE APARTMENTS** (this “Covenant”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2025, (the “Effective Date”) by BDG Mariposa Grove, LLC, a Florida limited liability company with an address of 501 North Magnolia Avenue, Orlando, Florida 32801 (“Developer”) to and for the benefit of the City of Orlando, Florida, a municipal corporation organized and existing under the laws of the state of Florida with an address of 400 South Orange Avenue, Orlando, Florida 32801 (“City”), and the Community Redevelopment Agency of the City of Orlando, Florida, an entity created pursuant to Part III of Chapter 163, Florida Statutes with an address of 400 South Orange Avenue, Orlando, Florida 32801 (“CRA”). City, CRA and Developer may together be referred to herein as the “Parties”, or individually as a “Party”.

**W I T N E S S E T H:**

**WHEREAS**, the Developer seeks to construct a mixed-use 12 story high-rise apartment building containing 138 Senior mixed-income, affordable, multifamily rental housing community with ground floor commercial retail at 417 E. Jackson Street, Orlando, Florida to be known as Mariposa Grove Apartments; and

**WHEREAS**, all 138 residential units in the Project, as defined herein, will be restricted in accordance with this Covenant; and

**WHEREAS**, the Developer has a contract (the “Purchase Contract”) to purchase the property described on attached **Exhibit “A-1”** (the “Property”); and

**WHEREAS**, the Developer, as the declarant, will record a Declaration of Condominium (the “Declaration”) for the Mariposa Grove Condominium (the “Condominium”) and create the Condominium association (the “Association”), and will develop and construct the Condominium; and

**WHEREAS**, the Condominium will consist of residential apartments, including parking components and other elements and amenities that may serve the residential apartments (collectively, the “Residential Unit”) and retail use components, including parking components and other elements that may serve the retail use components (“Retail Unit”), and this Covenant shall be recorded against and encumber the Residential Unit, as more particularly described on **Exhibit “A-2”**; and

**WHEREAS**, the Project, as defined herein, will be constructed on the Property and generally in accordance with the development plan shown on attached **Exhibit “B”** and shall include the Features and Amenities as described on Exhibit 2 of the FHFC Credit Underwriting Report for Mariposa Grove prepared by Seltzer Management Group, Inc. dated March 17, 2025, as it may be amended and approved by FHFC (collectively, the “Development Plan”); and



**WHEREAS**, the Project will fulfill a general goal of the Downtown Orlando Community Redevelopment Area Plan (“Plan”) to improve the variety of housing options within the Downtown Orlando Community Redevelopment Area (“Area”); and

**WHEREAS**, the Area is in need of additional affordable housing for all ages, including for retirement or Senior housing; and

**WHEREAS**, the Property is within the Area; and

**WHEREAS**, the City has recognized the need for additional affordable housing for all ages, including for retirement or senior housing within the City and established an Affordable Housing Trust Fund pursuant to Section 67.700 of the City’s Code of Ordinances; and

**WHEREAS**, the Project will be age and income restricted, shall contain the mix of Unit types described herein, and will be otherwise restricted as set forth in this Covenant; and

**WHEREAS**, the Project will help to achieve the CRA’s and City’s goals of providing affordable housing within the Area and the City; and

**WHEREAS**, the City and the CRA have identified the Project as a matter of importance to the community, and

**WHEREAS**, the Developer has applied for financial assistance from the City and from the CRA for the Project, and

**WHEREAS**, the Developer, City and the CRA have entered into a Development and Loan Agreement (“Development Agreement”) contemporaneously herewith providing for loans from the City and the CRA for the Project; and

**WHEREAS**, because the purpose of the CRA Loan and the City Loan (as defined in the Development Agreement) are to provide affordable housing, the CRA Loan and the City Loan are conditioned upon the continuous use of the Project for affordable housing with the limitations and requirements set forth in this Covenant; and

**WHEREAS**, this Covenant and the Affordability Requirements set forth herein are intended to and shall run with the land and shall be binding on all parties and all persons claiming an interest in the Property for the Affordability Period; and

**WHEREAS**, in the event the Project fails to meet the affordable housing requirements of this Covenant at any time during the Affordability Period, defined below, then the City and the CRA will have the remedies set forth in this Covenant; and

**WHEREAS**, Section 163.400, Florida Statutes, encourages cooperation by public bodies in carrying out redevelopment within community redevelopment areas and Sections 163.370(c) and 163.387(6)(c)(7), Florida Statutes, specifically authorize the expenditure of CRA funds for the development of affordable housing.

**NOW, THEREFORE**, in consideration of the CRA Loan and the City Loan, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer agrees with and for the benefit of the City and the CRA as follows:

## **Article VIII** **BACKGROUND**

**8.1 Incorporation of Recitals.** The recitals set forth above are true and correct and are incorporated herein as if fully set out below.

**8.2 Benefits to City and CRA.** City and CRA hereby acknowledge that the Project is located in an area of the City which is underserved by developments such as the Project, and that the Project will enhance and benefit the downtown core. The City and CRA have determined that the Project is consistent with the Downtown Orlando Community Redevelopment Area Plan (“Plan”), the City’s Growth Management Plan and all other applicable planning goals and requirements of the City. Based on the foregoing findings and the specific terms and conditions set forth in this Covenant, City and CRA are willing to enter into this Covenant for the purpose of and to allow Developer to construct, develop, maintain, and operate the Project in accordance with the terms and conditions of this Covenant and all applicable ordinances, approvals and permits. The development of the Project will assist the CRA in implementing the Plan by providing affordable housing, all to enhance the quality of life in the Area in accordance with the Plan and the Community Redevelopment Act, Part III, Chapter 163, Florida Statutes.

**8.3 Certain Definitions.** For purposes of this Covenant, the following terms shall have the following meanings:

“Adjusted for Family Size” means adjusted in a manner that results in an income eligibility level that is lower for households having fewer than four people, or higher for households having more than four people, than the base income eligibility determined as provided in Florida Statutes for Seventy Percent Income, Sixty Percent Income, Fifty Percent Income, Thirty Percent Income or Twenty-two Percent Income, as applicable, based upon a formula established by HUD.

“Affordable” or “Affordability Requirements” means that the 138 Assisted Units must be rented to individuals who meet the income, rent, and other requirements as set forth in this Covenant, with the exception of the Manager Unit, if applicable; additionally, Affordable includes the requirement that monthly rents do not exceed thirty percent (30%) of that amount which represents the percentage of the median Annual Gross Income for the households qualifying under the definition of Seventy Percent Income, Sixty Percent Income, Fifty Percent Income, Thirty Percent Income, or Twenty-two Percent Income, as applicable, and the Affordability Requirements include all Developer’s reporting obligations set forth in this Covenant.

“Affordability Period” means that the Assisted Units shall remain Affordable for thirty (30) years commencing on the date of Project Completion.

“Annual Gross Income” means the annual income as defined under the Section 8 housing assistance payments programs in 24 CFR part 5. The annual gross income shall be calculated by

annualizing verified sources of income for the household as the amount of income to be received in a household during the twelve (12) months following the effective date of the determination.

“Assisted Units” means all the dwelling units in the Project, consisting of approximately one hundred thirty-eight (138) Affordable housing Senior rental apartments.

“Disability” means a person’s disability that meets all of the following four criteria: 1. is expected to be of long, continuing, or indefinite duration; 2. substantially impedes the individual’s ability to live independently; 3. could be improved by the provision of more suitable housing conditions; and 4. is one or more of the following: (a) physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post-traumatic stress disorder, or brain injury; and/or (b) developmental disability; and/or (c) the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

“Eligible Person or Eligible Household” means a Senior who is Seventy Percent Income, as defined herein, for seventy-nine (79) of the Assisted Units; Sixty Percent Income, as defined herein, for seventeen (17) of the Assisted Units; Fifty Percent Income, as defined herein, for sixteen (16) of the Assisted Units, Thirty Percent Income, as defined herein, for twenty-one (21) of the Assisted Units, and Twenty-two Percent Income, as defined herein, for five (5) of the Assisted Units. Notwithstanding the foregoing, an Eligible Person or Eligible Household for the PSH/Homeless Units shall mean the requirements set forth in Section 2.1.2.

“FHFC” means the Florida Housing Finance Corporation, a public corporation and a public body corporate and politic, with headquarters located at 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301.

“Homeless” means an individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

5. Has a primary nighttime residence that is a public or private place not meant for human habitation; **or**
6. Is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state and local government programs); **or**
7. Is exiting an institution where (s)he has resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution; **or**
8. Is otherwise approved by HSN, CSC or HCD.

“HCD Director” means the Director of the Housing and Community Development Department of the City of Orlando, Florida, or his or her designee.

“HUD” means the United States Department of Housing and Urban Development, its successors or assigns.

“Investor Member” means, collectively, TCC BDG Mariposa Grove LLC, a Georgia limited liability company, as investor member of Developer, and CDC Special Limited Partner, L.L.C., a Georgia limited liability company, as special member of Developer.

“Manager Unit” means a dwelling unit in the Project that is designated for on-site staff that may be employed by the Developer or its affiliate and is not subject to the Affordability Requirements or restrictions otherwise set forth herein with respect to the Assisted Units.

“Multifamily Rental Program” means, when used with respect to a given unit, the program or programs of the FHFC to which such unit is subject based on such unit being financed or funded under such program, including but not limited to, the Multifamily Mortgage Revenue Bond (MMRB) and LIHTC programs of the FHFC.

“Orlando MSA” means the Orlando Metropolitan Statistical Area including the cities of Orlando, Sanford and Kissimmee located in Central Florida.

“Permanent Supportive Housing” means affordable rental housing leased for continued occupancy with an indefinite length of stay (subject to applicable lease terms) to Homeless persons with a Disability and with supportive services provided for such tenants.

“Project” means the construction of a mixed-use 12 story high-rise apartment building containing 138 Senior, mixed-income, affordable, multifamily rental apartments with ground floor commercial retail finished shell (with interior tenant retail space to be completed in accordance with applicable permit approvals separately from initial construction of the Project), located at 417 E. Jackson Street, Orlando, Florida in accordance with the Development Plan. All 138 residential units in the Project are Assisted Units and shall be rented and occupied by Eligible Persons at Affordable rents for the duration of the Affordability Period, except for the Manager Unit, if applicable. The Project shall contain the following mix of unit sizes and each unit shall have the floor areas and be restricted to Eligible Persons with the applicable percentage of Area Median Income as set forth below for the duration of the Affordability Period:

Unit Mix:

9 efficiency units

38 studio units

77 1 bedroom/1 bath units

14 2 bedroom/1 bath units

Type	# of Units	Avg. Sq. Ft.	AMI
0br/1b (efficiency)	4	451	70%
0br/1b (efficiency)	2	451	60%
0br/1b (efficiency)	1	451	50%
0br/1b (efficiency)	2	451	30%
0br/1b (Studio)	24	626	70%
0br/1b (Studio)	4	626	60%
0br/1b (Studio)	5	626	50%

0br/1b (Studio)	5	626	30%
1br/1b	43	683	70%
1br/1b	8	683	60%
1br/1b	9	683	50%
1br/1b	12	683	30%
1br/1b	5	683	22%
2br/1b	8	971	70%
2br/1b	3	971	60%
2br/1b	1	971	50%
2br/1b	2	971	30%
TOTAL	138		

\* 11 units will be reserved for Permanent Supportive Housing for Eligible Persons with 30% Income or below. The requirements for rental of these PSH/Homeless Units are set forth in Section 2.1.2.

Rental rates shall not exceed the maximum rental rates determined annually by FHFC for the Multifamily Rental Program. Developer will provide updated rental rates to HCD to verify compliance with the FHFC Multifamily Rental Program all in the manner as described herein and all according to the income limits published annually by FHFC based on the Annual Gross Income of the household.

“Project Completion” means that all necessary title transfer requirements and construction work has been completed and a Certificate of Occupancy or Certificate of Completion or similar evidence of completion has been issued for the Project, including each of the 138 units in the Project; the Project meets all regulations and the requirements of this Covenant; the Project passes the required property standards of the Development Agreement and this Covenant; and the final drawdown of funds has been disbursed for the Project.

“Senior” means a natural person that, when taken collectively with all other tenants of the Project, meets the Senior Requirement.

“Senior Lender” means Truist Bank, its successors and assigns (“Truist”), in connection with a construction loan to Developer in the original principal amount of \$[\_\_\_\_\_]; (b) The Bank of New York Mellon Trust Company, as fiscal agent, and its successors and assigns (“Permanent Lender”), in connection with a permanent loan to Developer in the original principal amount of up to \$[\_\_\_\_\_]; and (c) FHFC in connection with the following loans to Developer: (i) a SAIL loan in the amount of \$11,000,000.00, (ii) an ELI loan in the amount of \$750,000.00, and (iii) a HOME ARP loan in the amount of \$1,675,000.00; in each case as the same may be assigned, amended, restated and/or supplemented from time to time.

“Senior Requirement” has the meaning set forth in Section 2.1.1 hereof.

“Seventy Percent Income”, “Sixty Percent Income”, “Fifty Percent Income”, “Thirty Percent Income” and “Twenty-two Percent Income” mean one or more natural persons or a family who has a total Annual Gross Income that does not exceed seventy percent (70%), sixty percent

(60%), fifty percent (50%), thirty percent (30%) or twenty-two percent (22%), respectively, of the median income within the Orlando MSA, as determined by FHFC, Adjusted for Family Size.

“Stabilization” means the date after Project Completion when the Project has achieved and maintained 95% physical occupancy of Assisted Units continuously over any ninety (90) day time period.

“SHIP” means the FHFC’s State Housing Initiatives Partnership Program.

**Unless defined herein, additional capitalized terms used in this Covenant shall have the meanings ascribed to them herein or in accordance with Section 420.9071, Florida Statutes.**

## **Article IX**

### **RESTRICTIVE COVENANTS AND BINDING NATURE OF RESTRICTIONS**

Developer hereby declares, covenants and agrees, for the benefit of the City and the CRA, that no portion of the Property may be used for any purpose except for the Project as described in this Covenant. Further, Developer hereby declares, covenants and agrees, for the benefit of the City and the CRA, that this Covenant and the Affordability Requirements set forth herein are intended to and shall run with the ownership of the Residential Unit and shall be binding on the Residential Unit and on all parties and all persons claiming an interest in the Residential Unit for the entire Affordability Period. Developer hereby agrees with and for the benefit of the City and the CRA that neither it nor any successor or assign shall have authority to enter into any lease in violation of the Affordability Requirements of this Covenant and the Developer, for itself and its successors and assigns, hereby relinquishes any right or authority to enter into any such lease and any such lease is void ad initio. Except as may be provided in any subordination agreement with a Senior Lender, this Covenant shall be recorded prior to any mortgage on the applicable Property and the Affordability Requirements of this Covenant shall not be subordinate to any mortgage.

**9.1.1 Senior Housing.** Developer shall operate the Project so as to qualify for the Fair Housing Act’s exemption for Housing for Older Persons as determined by HUD and set forth in 24 CFR, Part 100, Subpart E, § 100.304, § 100.305, and § 100.306 (the “Senior Requirement”).

**9.1.2 Affordable Housing and Permanent Supportive Housing/Homeless Set-Asides for the Project.** Each of the 138 residential units in the Project shall be set-aside for Affordable housing as set forth and described in this Covenant, with the exception of the Manager Unit, if applicable. The City requires that some of the Assisted Units be set-aside for occupancy by the Homeless and those requiring Permanent Supportive Housing. Developer has agreed and must set-aside and rent eleven (11) Assisted Units (the “PSH/Homeless Units”) to Eligible Persons who meet the qualifications and requirements set forth below.

- (iii) Income Requirements for Tenants of PSH/Homeless Units. Tenants of the PSH/Homeless Units must have incomes equal to or less than the definition of Thirty Percent Income; and
- (iv) Homelessness Requirements for Tenants of PSH/Homeless Units. Developer will follow the procedures outlined below to rent the PSH/Homeless Units to Tenants that are Homeless immediately prior to occupancy of the PSH/Homeless Unit.

Referral of Tenants for PSH/Homeless Units. In order to accomplish the City's goals of providing Affordable housing to the Homeless and those requiring Permanent Supportive Housing, Developer has agreed and shall comply with the procedures below for rental of the PSH/Homeless Units.

- (vii) Notice to Vacancy to Agencies. In order to maximize the accomplishment of the rental of the PSH/Homeless Units to Homeless individuals who require Permanent Supportive Housing ("PSH Tenants") or to Homeless individuals in the broader community who do not require supportive services (a "Homeless Tenant"), when a PSH/Homeless Unit becomes available for lease, the Developer will notify the COC/Homeless Services Network of Central Florida (the "HSN"), Christian Service Center ("CSC") and any other City-approved agency as the City may direct (a "Vacancy Notice"). If HSN does not promptly provide a qualified PSH Tenant, this notification will give CSC or other agency some lead time to find a Homeless Tenant.
- (viii) HSN Referrals of PSH Tenants. Upon receiving a Vacancy Notice, HSN will have 30 calendar days (or such shorter period as may be approved by FHFC) (the "HSN Priority Period") to refer a proposed PSH Tenant to Developer. The Developer understands and acknowledges that HSN provides a Coordinated Entry System, called the Homeless Management Information System (HMIS) for Homeless individuals, and Developer must coordinate with HSN and rent the PSH/Homeless Units to PSH Tenants referred through HSN during this HSN Priority Period, provided such proposed tenant otherwise meets the requirements of this Covenant and the tenant selection criteria and accommodations outlined on **Exhibit "C"**. Supportive Services are required for PSH Tenants and would either need to come associated with their voucher or HSN will help facilitate the supportive services resources needed; provided for the avoidance of doubt that Developer will not be responsible to provide or pay for any such services.
- (ix) 45 Day Referral Period. If HSN does not refer a qualified PSH Tenant to Developer within the HSN Priority Period, then, for an additional period ending 45 days after the Vacancy Notice, Developer must rent the available PSH/Homeless Units to Homeless Tenants or to PSH Tenants referred through HSN, CSC or other City-approved agency, on a first-come, first-served basis, provided that (a) CSC or other approved City-approved agency confirms that the proposed tenant is in the Homeless Management Information System (HMIS), and (b) such proposed tenant otherwise meets the requirements of this Covenant and the tenant selection criteria and accommodations outlined on **Exhibit "C"**. If no qualified PSH Tenant or Homeless Tenant is referred to Developer within 45 days after the Vacancy Notice, then Developer may rent the PSH/Homeless Unit to other tenants who meet the 30% Income requirement for the PSH/Homeless Units but may not be Homeless or may not require Permanent Supportive Housing.
- (x) Compliance with Regulations for the PSH/Homeless Units. The Developer must abide by all of the rules, requirements, and regulations required by FHFC, HSN's

FHFC required and approved Memorandum of Understanding (except as required by this Covenant), and HUD for the PSH/Homeless Units.

- (xi) Space for PSH Services and Scattering of PSH/Homeless Units. Developer must provide space in the leasing office on the Property to accommodate two (2) full time equivalent employees to accommodate services for the PSH Tenants. The PSH/Homeless Units must be diversified throughout the Property, so that the PSH/Homeless Units are not segregated into one area.
- (xii) Vouchers. Developer agrees not to exclude an applicant for a PSH/Homeless Unit with a certificate or voucher under the Section 8 Tenant-Based Assistance: Housing Choice Voucher Program (24 CFR 992) or an applicant participating in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant -based assistance document.

**9.1.3 Rent Restrictions for the Project.** The Project shall have the mix of unit sizes and the units shall have the approximate average floor areas as described in the definition of the Project. The rents determined by FHFC for the Multifamily Rental Programs, from time to time, set forth the maximum rents the Developer can charge residents for the Assisted Units. A rent limit chart adjusted for bedroom size will be determined and distributed by FHFC annually. Effective April 1, 2025, the maximum gross initial monthly rent for each Assisted Unit is as follows:

**RENT – Seventy Percent Income (70%)- AMI**

**2 Bedroom at \$ 1,660.00**  
**1 Bedroom at \$ 1,383.00**  
**0 Bedroom at \$ 1,291.00**

**RENT – Sixty Percent Income (60%) AMI**

**2 Bedroom at \$ 1,423.00**  
**1 Bedroom at \$ 1,185.00**  
**0 Bedroom at \$ 1,107.00**

**RENT- Fifty Percent Income (50%) AMI**

**2 Bedroom at \$ 1,186.00**  
**1 Bedroom at \$ 988.00**  
**0 Bedroom at \$ 922.00**



### **RENT – Thirty Percent Income (30%)- AMI**

**2 Bedroom at \$ 711.00**

**1 Bedroom at \$ 592.00**

**0 Bedroom at \$ 553.00**

### **RENT – Twenty-two Percent Income (22%) AMI**

**1 Bedroom at \$434.00**

Developer agrees that these rents include (at no cost to tenant) tenant utilities which include water, sewer, and waste. The Developer acknowledges and agrees that the City shall review and all rents proposed by Developer to ensure compliance with the maximum Multifamily Rental Program rent limits regulations as may exist from time to time. Upon request or at City's convenience, the City will provide the Developer with information on updated FHFC Multifamily Rental Program rent limits, as they are made available by FHFC. However, if the rules, regulations, and requirements of HSN, HUD, or other funding source conflicts with the requirements set forth herein, the Developer shall comply with the stricter requirements as applicable to a given unit. (For example, if the HUD rule for PSH Units allows a higher rent than the FHFC Multifamily Rental Program rent, the Developer will charge the FHFC Multifamily Rental Program rent (i.e. the stricter of the two rent amounts)). Notwithstanding anything to the contrary in this Covenant, the rental rate for a tenant utilizing a voucher to pay all or a portion of the rent may exceed the above limits and will be the rental rate set in accordance with the applicable lease documentation between the Developer, housing authority and tenant, provided that the rent complies with all applicable LIHTC tax credit program requirements.

**9.1.4 Tenant Selection.** The Developer shall undertake the review of income eligibility of prospective tenants for the Assisted Units and other eligibility requirements. In determining income eligibility, the Developer shall examine the source documents evidencing the prospective tenant's Annual Gross Income. In conducting such review, the Developer shall determine if each household is income eligible by determining the household's Annual Gross Income in accordance with applicable SHIP regulations. The Developer shall also require each tenant to fill out a form of Tenant Income Certification in form and content as required by the City. The Developer shall also obtain from each tenant the information contained in the Tenant Qualification Package, in form and content as required by the City, and, upon request, submit such information for each tenant to the City. All forms of Developer's applicable documentation including, but not limited to a tenant's application, verifications, and proposed rent and lease terms shall be submitted to the HCD Director for final approval before Developer enters into its first (1<sup>st</sup>) lease with a prospective tenant in the Project. If Developer seeks to make any changes to the approved forms, it shall submit the proposed revisions to the City for review and the City shall; have a period of thirty (30) days to review and provide any comments or to reject the proposed revisions (provided that City may not reject any such changes that are required by law or Senior Lenders), provided that if the City does not approve or deny such revisions within such period, the City will be deemed to have approved the revisions. The Developer acknowledges and agrees that it shall keep documentation verifying the income eligibility of each tenant and other eligibility requirements. The Developer shall enter into a separate written lease with each tenant for each of

the Assisted Units for a period of not less than one (1) year. Notwithstanding anything to the contrary in this Covenant, whenever the City or CRA are deemed to have approved any matter or item due to the passage of time, such approval shall not be interpreted to amend this Covenant, to constitute a waiver of Developer's continuing and future compliance with this Covenant, or to include approval of matters or items that are in violation of applicable law or are in violation of this Covenant. For the avoidance of doubt, Developer will not be out of compliance or in violation of this Covenant to the extent Developer is abiding by any matter or item that has been deemed approved by the City or CRA that is not in violation of law or this Covenant (e.g. Developer's compliance with a budget deemed approved in accordance with the Development Agreement will not be a violation of this Covenant, but, as an additional example, Developer will modify the form of future qualification packages if requested by the City or CRA to conform to the City or CRA's determination that the previously approved form requires modification in order to conform to applicable law, this Covenant, or to provide verification compliance).

**9.1.5 Increases in Tenant Income.** After initial occupancy by an Eligible Person, the Annual Gross Income of the Eligible Person may increase but cannot exceed one hundred forty percent (140%) of the applicable income limit for that Assisted Unit. However, if while occupying the rental unit, a tenant of an Assisted Unit has an increase in tenant's household's Annual Gross Income, such tenant (an "Over Income Tenant") will not be required by this Covenant to relocate from the Assisted Unit then occupied, provided that if such Over Income Tenant's household Annual Gross Income exceeds 140% AMI, adjusted for family size, then the rent to be charged such Over Income Tenant and the renting of the Project in general shall be in compliance with applicable LIHTC tax credit program requirements.

**9.1.6 Affordability Requirements in the Event of Over Income Tenant.** In order to maintain the Affordability Requirements of this Covenant, in the event a lease for an Assisted Unit is signed with an Over Income Tenant, then the next available Assisted Unit must be rented to a tenant whose Annual Gross Income is equal to or less than the category of Annual Gross Income (such as Seventy Percent Income, Sixty Percent Income, etc.) of the Over Income Tenant at the time of such Over Income Tenant's immediately prior lease of the Assisted Unit.

**9.1.7 Re-Certification of Tenants' Income and Rents.** Each year during the Affordability Period, the Developer shall re-verify tenant eligibility and provide the City with information on income, rents, and occupancy of the Assisted Units in order to demonstrate compliance with applicable SHIP regulations and FHFC Multifamily Rental Program rents and this Covenant. At the request of the HCD Director, the Developer shall make available to the City all information and documentation regarding eligibility, including income and rent records similar to that provided at initial lease-up of all tenants that are or have been occupying the Assisted Units within the preceding twelve (12) months to verify that all tenants meet the income guidelines at rents set forth herein. The Developer shall make this information available to City within ninety (90) days of its fiscal year-end.

**9.1.8 Affordability Requirements a Condition of the City Loan and the CRA Loan.** The Affordability Requirements set forth in this Covenant apply without regard to the term of any loan of mortgage or the transfer of ownership. Developer shall dedicate and maintain the Assisted Units as Affordable for the entire Affordability Period. The Developer acknowledges that failure to meet the Affordability Requirements as stated herein for the Affordability Period is a

breach of this Covenant, which, subject to the provisions of this Covenant and the Subordination Agreements by and between the Senior Lenders and the City and CRA, requires the repayment of the City Loan and the CRA Loan. Notwithstanding anything to the contrary in this Covenant, the Developer shall be entitled to designate one dwelling unit of the Project as a Manager Unit.

## **Article X**

### **AUDIT, MONITORING, INSPECTIONS, REPORTING**

Developer agrees to comply with the requirements set forth in this Article III.

**10.1.1 Audit.** The Developer will keep books and records relating to the performance of its obligations under this Covenant. Developer's financial records shall be kept in accordance with generally accepted accounting principles. The City, CRA and their designated agents shall have the right to review, inspect and audit such books and records of the Developer at all reasonable times during normal business hours. The Developer shall maintain such books and records for a period of five (5) years after the end of the Affordability Period and the City shall have the right to review, inspect and audit such books and records at any time until the end of such five (5) year period.

**10.1.2 On-going Property Standards and Inspections through the Affordability Period.** During the Affordability Period, all Assisted Units must be maintained in compliance with 24 CFR §92.251 and with all applicable State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established by HCD pursuant to requirements contained in 24 CFR §92.251. These standards ensure that Developer maintains the housing as decent, safe and sanitary and in good repair. Developer will allow HCD to conduct inspections of the Property to determine compliance with these ongoing property standards. Housing must meet all applicable State and local code requirements and ordinances. Housing must be free of all health and safety defects and life-threatening deficiencies identified by HCD that the Developer must correct immediately. Housing must meet the lead-based paint requirements in 24 CFR Part 35. HCD will perform ongoing inspections in accordance with 24 CFR §92.504(d). Deficiencies identified by HCD needing corrective and remedial actions must be addressed by Developer in the time frames required by HCD which will be a reasonable time frame based on the exigency of the deficiency. The Assisted Units will be inspected on a schedule based on procedures, checklists, and inspection forms established by HCD. All such inspections shall be upon at least twenty-four (24) hours' notice and shall not unreasonably interfere with the operation of the Project or rights of tenants.

**10.1.3 Ongoing Periodic Inspections.** During the Affordability Period, HCD will perform on-site inspections to determine compliance with the property standards of §92.251 and to verify the information submitted by Developer in accordance with the requirements of §92.252. These inspections will be in accordance with HCD's inspection procedures which will occur within 12 months after Project Completion and at least once every 3 years during the Affordability Period. If there are observed deficiencies for any of the inspectable items in the property standards established by HCD, a follow-up on-site inspection to verify that the deficiencies are corrected must occur within 12 months, unless HCD, in its sole discretion, determines that the deficiency must be corrected earlier. Health and safety deficiencies must be corrected immediately, in

accordance with §92.251. All such inspections shall be upon at least twenty-four (24) hours' notice and shall not unreasonably interfere with the operation of the Project or rights of tenants.

**10.2 Annual Reporting After Stabilization.** After Project Completion and the Assisted Units are rented and occupied, through the end of the Affordability Period, the Developer shall submit annual reports to the City and CRA as of the end of the federal fiscal year ending September 30. Such annual reports shall be submitted on or before October 20 for the prior fiscal year. In addition to income verification of each tenant, these reports shall include information on rental and occupancy of the Assisted Units, family size, income level, data for income certification and occupancy, monthly rent, utility information, maintenance, and overall financial stability of the Project. Developer must annually certify to HCD that all Assisted Units are suitable for occupancy, taking into account State, and local health, safety, and other applicable codes ordinances, and requirements, and the ongoing property standards requirements established by HCD. Developer shall provide HCD with a copy of the annual certification given by Developer to FHFC. Developer shall keep records to document compliance with these property standards. The Developer acknowledges that over the term of this Covenant, the City's and CRA's reporting requirements may change. If this occurs, the City or CRA will notify the Developer of the new reports needed and the Developer agrees to comply with the new reporting procedures. The City and CRA also reserve the right to request additional information as reasonably needed in connection with this Covenant.

**10.3 Monitoring.** Developer acknowledges and agrees that HCD will monitor Developer's performance during the term of this Covenant at a minimum annually and shall allow all access, inspection, and copying of records to do so upon at least twenty-four (24) hours' notice and provided that HCD shall not unreasonably interfere with the operation of the Project or rights of tenants. Also, pursuant to 24 CFR §92.504(d), Developer shall assist HCD in its obligation to conduct on-site inspections of the Project for compliance with this Covenant, construction progress and compliance with property standard requirements listed herein or required by HUD, and shall allow HCD to access and inspect the Project at any time during the term of this Covenant upon at least twenty-four (24) hours' notice and HCD shall not unreasonably interfere with the operation of the Project or rights of tenants.

**10.4 Financial Monitoring/Oversight.** During the Affordability Period, Developer acknowledges and agrees that HCD must examine at least annually the financial condition of Developer to determine the continued financial viability of Developer and this Project. Developer shall provide all information, including financial statements, as requested by HCD so that HCD can verify financial viability, tenant incomes, rents and other HOME requirements pursuant to 24 CFR §92.252 and §92.504(d) on an annual basis. Developer shall keep records to document compliance with each of these inspections and monitoring reviews and the resolutions of and findings of concern.

## **Article XI**

### **BREACH AND REMEDIES**

**11.1.1 Developer's Breach and Opportunity to Cure.** Subject to Force Majeure (as defined herein), the Developer's failure to comply at all times and within the time required, with its obligations contained herein, including, but not limited to, the Affordability Requirements,

shall be a material breach of this Covenant. Any breach or default under the Development Agreement or the City or CRA Loan Documents (as defined in the Development Agreement) shall also be deemed a material breach of this Covenant. The City shall provide written notice of such breach to the Developer (“Notice of Breach”), and subject to Force Majeure, the Developer’s failure to cure such breach within thirty (30) calendar days from the date of its receipt of the Notice of Breach (the “Curative Period”) shall constitute an “Event of Default”. Notwithstanding the foregoing, if the nature of the breach is such that it cannot reasonably be cured within such 30 day period, then the Curative Period will be extended for an additional ninety (90) days to cure such breach provided that Developer diligently and expeditiously undertakes and pursues such cure, and further provided that the Developer provides the City with documentation evidencing that it is diligently undertaking and pursuing such cure to the City’s reasonable satisfaction, but in any event, the maximum Curative Period shall not be more than one hundred twenty (120) days from Developer’s receipt of the Notice of Breach.

#### **11.1.2 Remedies for Breach for Failure to Complete Project or for Breach of Affordability Requirements.**

A. Senior Lenders and Subordination Agreements. Notwithstanding anything to the contrary set forth in this Covenant, the City and CRA acknowledge that the remedies for breach of this Covenant may be limited by the Subordination Agreement(s) between the City and CRA and a Senior Lender.

B. Appointment of Receiver to Manage Project. Developer agrees that a breach of the Affordability Requirements constituting an Event of Default is hereby conclusively deemed to be a waste of the Property because the purpose of the Property is to provide a public benefit of affordable housing to the community as required by this Covenant. Further, Developer acknowledges and agrees that the Developer’s failure to comply with the Affordability Requirements which constitutes an Event of Default cannot be remedied by monetary damages. In the event of such breach, past all applicable notice and cure periods, City may apply to any court of competent jurisdiction to have a receiver appointed to enter upon and take possession of the Property for the purpose of managing the Property in accordance with the requirements of this Covenant, and Developer will not oppose the City’s request for appointment of a receiver. The receiver shall collect the rents from the Property for the Developer’s account and apply the same as the court may direct, such receiver to have all of the rights and powers permitted under the common law and laws of the State of Florida. The right of the appointment of such receiver shall be a matter of strict right without regard to the value or the occupancy of the Property or the solvency or insolvency of Developer. The expenses, including receiver’s fees, attorneys’ fees, costs and any management fees or leasing agent’s commission incurred pursuant to the powers herein contained, together with interest thereon, shall be secured by the Property and shall be due and payable by Developer immediately without notice or demand.

C. Change in Management. The parties acknowledge and agree that the Developer’s failure to comply with the Affordability Requirements set forth in this Covenant cannot be remedied by monetary damages. Therefore, in the event the City or the CRA issues a Notice of Breach of the Affordability Requirements set forth in this Covenant, and such breach is not cured within the time as required by this Covenant, subject to the rights of the Investor Member as set forth in this Agreement and Senior Lenders as may be set forth in an executed subordination



agreement between a Senior Lender and the City and CRA, then the City may require Developer to change any leasing or management firms or persons to a national or regional leasing and management company reasonably acceptable to the City. Any substitute leasing and management company shall agree with City to lease the Property in accordance with the Affordability Requirements of this Covenant.

D. Injunctive Relief. The Parties acknowledge and agree that the Developer's failure to comply with the Affordability Requirements set forth in this Covenant cannot be remedied by monetary damages. Therefore, in the event of Developer's breach of the Affordability Requirements set forth in this Covenant, the City or the CRA shall be entitled to injunctive relief, without the requirement of any bond, to require performance and compliance with the Affordability and related requirements of this Covenant, including, without limitation all audit and review rights in favor of City and CRA.

**11.1.3 Termination and Survival.** In the event of a termination of this Covenant, provided repayment to the City and the CRA of all sums advanced to or for the Project pursuant to this Covenant has been completed, the Affordability Requirements of this Covenant shall be null and void and neither Party shall have any continuing obligations to the other thereafter except as may be provided in this Covenant. Following such termination, the City and CRA will provide the Developer with a signed termination document in order to release the Affordability Requirements of record. Notwithstanding the foregoing, all of the Developer's indemnification, hold harmless and defense obligations set forth in this Covenant and the Development Agreement, as well as any provision that expressly survives termination of this Covenant, will survive any termination of this Covenant.

**11.1.4 Rights Cumulative.** No right, power or remedy of the City as provided in this Covenant is intended to be exclusive of any other right, power, or remedy of the City, but each and every such right, power and remedy shall be cumulative and concurrent and in addition to any other right, power or remedy available to the City now or hereafter existing at law or in equity and may be pursued separately, successively or together against Developer, any responsible person, or the Property or any part thereof, or any one or more of them, at the sole discretion of the City. The failure of the City to exercise any such right, power or remedy shall in no event be construed as a waiver or release thereof.

**11.2 Senior Lenders' and Investor Member's Right to Cure.** The City and CRA shall provide the Senior Lenders and the Investor Member with a copy of the Notice of Breach and the opportunity, but no obligation, to cure the breach on behalf of the Developer under the same terms and conditions as provided herein to Developer. Any such cure made or tendered by the Senior Lenders or the Investor Member shall be accepted or rejected on the same basis as if made by Developer. In addition, as to the Senior Lenders, if the Event of Default cannot practically be cured by the Senior Lender without the Senior Lender taking possession of the Property, then the City and CRA shall grant the Senior Lender such additional time as is reasonably necessary in order for the Senior Lender to obtain possession of the Property and cure such breach, provided that the Senior Lender diligently undertakes and proceeds to obtain possession of the Property and cure such breach, and further provided that the Senior Lender provides the City and CRA with documentation evidencing that it is diligently undertaking and proceeding to obtain such possession and cure such breach to the City's and CRA's reasonable satisfaction, but in any event,

the Senior Lender shall not have more than one hundred eighty (180) days from its receipt of the Notice of Breach to cure such breach.

## **Article XII**

### **MISCELLANEOUS**

**12.1 Binding Effect.** This Covenant and the terms and conditions hereof shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, and their respective tenants, agents, licensees, guests and invitees and shall run with the Residential Unit. With or without specific reference thereto, the conveyance of any interest in all or a portion of the Property shall be subject to the benefits, burdens and other terms and conditions of this Covenant, to the same extent as if all of the terms and conditions of this Covenant were set forth in full in such conveyance. Notwithstanding the foregoing, the Parties acknowledge and agree that this Covenant: (i) is intended to govern and relate to the construction, use and operation of the Project on the Property; and (ii) shall not be transferable to any other real property.

**12.2 Third-Party Beneficiary.** This Covenant is solely for the benefit of the Parties signed hereto and no right, nor any cause of action, shall accrue to or for the benefit of any third party.

**12.3 Controlling Laws.**

**12.3.1** This Covenant and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida, and all duly adopted ordinances, regulations, and policies of the City now in effect and those hereinafter adopted which are not inconsistent with the specific terms and agreements set forth herein.

**12.3.2** The location for settlement or litigation of any and all claims, controversies or disputes, arising out of or relating to any part of this Covenant, or any breach hereof, shall be Orange County, Florida.

**12.4 Entire Agreement.** This Covenant, including any and all exhibits or attachments (which are expressly incorporated herein by this reference), constitutes the entire agreement between the Parties with respect to the specific matters contained herein and supersedes all previous discussions, understandings, and agreements. Amendment to or waivers of the provisions herein must be made by all the Parties hereto, be in writing, and in recordable form.

**12.5 Savings Clause.** If any sentence, phrase, paragraph, provision or portion of this Covenant is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed an independent provision and such holding shall not affect the validity of the remaining portions hereto.

**12.6 Cost of Recording.** Developer shall pay for the cost of recording in the Public Records of Orange County, Florida this Covenant and the mortgages in favor of the City and the CRA evidencing or securing the City Loan or the CRA Loan. Further, Developer shall pay any

and all required documentary stamp tax and any intangible tax due upon any of the documents executed pursuant to the Development Agreement.

**12.7 Estoppel.** Upon the request of Developer, or Lender(s) for the Project, City and CRA hereby agree to furnish a letter stating that (i) this Covenant is in full force and effect if true, (ii) there are no defaults under their Agreement or if any identify them, and (iii) such other information as reasonably requested. Such letter shall be furnished within thirty (30) days after request therefor.

**12.8 Assignment.** This Covenant is personal to the Parties and Developer shall not be entitled to assign this Covenant, or rights pursuant to this Covenant, without prior written consent of the CRA and the City. No assignment shall cause a release of Developer's obligations pursuant to this Covenant. Subject to the restrictions on transfer set forth herein, this Covenant shall be binding upon and inure to the benefits of the successors and assigns of the Parties hereto. Notwithstanding the foregoing, the following events shall be expressly permitted hereunder and shall not require the consent of the City or CRA: (i) direct or indirect transfers of Investor Member interests in Developer, and (ii) the removal for cause and replacement of Developer's managing member pursuant to the Amended and Restated Operating Agreement of Developer dated on or about the date hereof.

**12.9 Force Majeure.** The Parties shall use reasonable diligence to ultimately accomplish the purposes of this Covenant, but shall not be in breach or liable to each other, or their successors or assigns, for damages, for breach of contract or otherwise, for failure, suspension, diminution, or other variations of services occasioned for a delay or occasioned by a cause or causes beyond the control of the Party whose performance is so delayed ("Force Majeure"). Such causes shall include, without limitation: moratoria; severe adverse weather conditions (such as tropical storms, tornados or hurricanes); war-like operations; terrorism; governmental or judicial action; legislation, or controls; acts of other government agencies (regulatory entities or courts) in their sovereign or contractual capacity; fires; floods; epidemics (excluding Covid-19); quarantines; restrictions; strikes or failure or breakdown of transmission or other facilities; material shortages; or acts of God. The Parties acknowledge and agree that either Party's incompetence, failure to deploy adequate resources, failure to commence its duties hereunder within a reasonable time frame in accordance with the time frames stated herein or the applicable construction contracts, failure to make payments, or failure to exercise commercially reasonable diligence in the performance of its obligations hereunder shall not be deemed to constitute a force majeure event. Notwithstanding the foregoing, no extension(s) of time referenced in this Covenant due to Force Majeure shall extend for more than one (1) year or a total of eighteen (18) months cumulatively.

**12.10 Disputes.** Prior to the institution of any judicial proceedings, the Parties agree to attempt to settle the dispute through mediation, and shall follow the procedure set forth below. Any time periods set forth in this Covenant for cure of default shall be extended to the end of the time periods set forth below to permit the Parties to attempt to resolve any disputes.

**12.10.1** The Party believing a dispute to exist will give the other party written notice thereof, setting forth in reasonable detail the facts alleged to give rise to such dispute, the relevant contractual provisions, the nature of any claimed default or breach and a statement of the manner in which such Party believes the dispute should be resolved.



**12.10.2** Within twenty (20) days after receipt of such notice, each Party against whom relief is sought in connection with such dispute will deliver a written response, setting forth in reasonable detail its view of the facts alleged to give rise to such dispute, the relevant contractual provisions, the nature of the claimed default or breach and a statement of the manner in which such Party believes the dispute should be resolved.

**12.10.3** If the Parties do not agree on the manner in which the dispute should be resolved, they will arrange to hold a meeting within twenty (20) days after delivery of the response. Each Party will have in attendance at such meeting a representative with authority to bind the represented Party to any agreement resolving the dispute. At the meeting (and any adjournments thereof), the Parties will negotiate in good faith in an attempt to agree as to whether a dispute exists, the exact nature of the dispute and the manner in which the dispute should be resolved. If deemed appropriate by any Party, a professional mediator may be engaged to assist in resolving the dispute with mediation costs borne equally by the Parties. Any resolution of the dispute will be evidenced by a written agreement setting forth in reasonable detail the actions to be taken by each Party. If no such written agreement is reached within 30 days after the first meeting, the Parties may pursue any legal remedies available to them with respect to such dispute.

**12.10.4** Notwithstanding the provisions of this Article, nothing herein shall prevent or hinder any Party from pursuing and obtaining injunctive relief in a court of law as to matters appropriate for such relief.

**12.10.5** Any and all remedies identified in this Covenant are cumulative and not exclusive and shall be in addition to any other remedy which the Parties may have.

**12.10.6** City and CRA are Florida municipal entities whose limits of liability are set forth in section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of City or CRA beyond that provided in section 768.28, Florida Statutes. Further, nothing herein is intended as a waiver of City's or CRA's sovereign immunity under section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to, anything which might allow claims otherwise barred by sovereign immunity or operation of law.

**12.10.7 THE CITY, CRA, THE DEVELOPER, AND EACH OF THEIR RESPECTIVE MEMBERS, OFFICIALS (WHETHER APPOINTED, ELECTED, OR OTHERWISE), AGENTS, EMPLOYEES AND INSURERS SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL LOSS OR DAMAGES OF ANY KIND OR NATURE WHATSOEVER CAUSED BY, ARISING OUT OF OR IN ANY WAY RELATED TO THIS COVENANT OR THE GRANTING OF THE CRA LOAN OR THE CITY LOAN, INCLUDING ANY CLAIMS FOR NEGLIGENCE OR THEIR OWN NEGLIGENCE.**

**12.11 Time.** In computing any period of time pursuant to this Covenant, the day of the act, event, or default from which the designated period of time begins to run shall not be included, but the time shall begin to run on the next succeeding day. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall

run until the end of the next day which is not a Saturday, Sunday or legal holiday. Time is of the essence.

**12.12 Headings.** Section and other headings contained in this Covenant are for reference purposes only and are not intended to describe, interpret, define, or limit the scope, extent, or intent of this Covenant or any provision hereof.

**12.13 No Liability or Monetary Remedy.** The Developer hereby acknowledges and agrees that it is sophisticated and prudent in business transactions and proceeds at its own risk under advice of its own counsel and advisors and without reliance on the City or CRA, and that the City and CRA bear no liability for direct, indirect or consequential damages. The only remedy available to the Developer for any breach by the City or CRA is to require the City's and/or CRA's specific performance under the terms and conditions of this Covenant.

**12.14 Effective Date and Term.** This Covenant shall become effective on the Effective Date first written above, and end, subject to the termination and severability provisions set forth herein, upon satisfaction in full of all of the obligations of the Parties.

**12.15 Relationship.** This Covenant does not evidence the creation of, nor shall it be construed as creating, a partnership or joint venture among the City, the CRA, and the Developer. The Developer cannot create any obligation or responsibility on behalf of the City or the CRA or bind the City or the CRA in any manner. Each party is

for its own account, and it has made its own independent decisions to enter into this Covenant and as to whether the same is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. Each party acknowledges that none of the other parties hereto is acting as a fiduciary for or an adviser to it in respect of this Covenant or any responsibility or obligation contemplated herein. The Developer further represents and acknowledges that no one was paid a fee, commission, gift or other consideration by the Developer as an inducement to entering into this Covenant.

**12.16 Extensions.** The CRA and the City nominate (a) David Barilla, as Executive Director of the Community Redevelopment Agency of the City Of Orlando and (b) Oren Henry, as HCD Director, respectively, who may collectively in their absolute discretion, act on behalf of the CRA and the City, respectively, to extend each and every deadline or any timeframe set forth in this Covenant for performance by the Developer for a period of up to ninety (90) days.

**12.17 Amendment.** This Covenant may not be amended, unless evidenced in writing and executed by all parties hereto.

**12.18 Personal Liability.**

**12.18.1** This Agreement is made subject to the nonrecourse provisions set forth in the promissory notes evidencing each of the CRA Loan and the City Loan, which nonrecourse provisions are incorporate herein by reference. No provision of this Covenant is intended, nor shall any be construed, as a covenant of any official (either elected or appointed), member, manager, officer, director, employee, owner or agent of the City or the CRA in an individual capacity and neither shall any such individuals be subject to personal liability by reason of any liability, covenant or obligation of the City or the CRA. Except to the extent the Investor Member

controls or directs management of the Developer, (i.e. the Investor Member exercises its removal right under Developer's amended and restated operating agreement or the amended and restated operating agreement is otherwise amended to provide that the Investor Member becomes a Managing Member of Developer), the Investor Member shall not be subject to any damages imposed by the foregoing sentence.

**12.19 Notices.** Any notices required to be given hereunder shall be effective upon receipt and sent by either facsimile, hand-delivery, U.S. mail, first class, postage prepaid, or by certified or registered mail (return receipt requested) to the following addresses or to such other representative or at such other postal address, facsimile number or electronic mail address of a Party as such Party may furnish to the other Parties in writing:

City:

City of Orlando  
400 South Orange Avenue  
7<sup>th</sup> Floor  
Orlando, Florida 32802-3370  
Attn: Stephanie Neves,  
Housing Development Project Manager  
e-mail: stephanie.neves@orlando.gov

and

City of Orlando  
400 South Orange Avenue  
7<sup>th</sup> Floor  
Orlando, Florida 32802-3370  
Attn: Oren J. Henry,  
Housing and Community Development Director  
e-mail: oren.henry@orlando.gov

CRA:

Community Redevelopment Agency of  
the City of Orlando, Florida  
400 South Orange Avenue  
Orlando, Florida 32802-3370  
Attn: David Barilla, Executive Director  
email: David.Barilla@downtownorlando.com

and

Developer:

BDG MARIPOSA GROVE, LLC  
501 North Magnolia Avenue  
Orlando, Florida 32801  
Attn: Scott Zimmerman, Manager;  
Alexander B. Kiss  
e-mail: szimmerman@agpmanager.com;  
Alex@BanyanDevelopmentGroup.com

With a Required Copy to:

Nelson Mullins Riley & Scarborough LLP  
390 N. Orange Avenue, Suite 1400  
Orlando, Florida 32801  
Attention: David F. Leon, Esq.  
Email: david.leon@nelsonmullins.com

With a Required Copy to Investor Member:

TCC BDG Mariposa Grove LLC  
c/o Truist Community Capital, LLC  
303 Peachtree Street, NE, Suite 2200  
Atlanta, Georgia 30308  
Attn: Mariposa Grove Asset Management

With a Required Copy to:

Holland & Knight LLP  
10 St. James Avenue, 12<sup>th</sup> Floor  
Boston, MA 02116  
Attn : Jarrod Connors, Esq.

FHFC

Florida Housing Finance Corporation  
227 N. Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329  
Attention: Executive Director

**12.20 Captions.** The captions and headings of sections or paragraphs used in this Covenant are for convenient reference only and shall not limit, define or otherwise affect the substance or construction of provisions of this Covenant.

**12.21 Permits.** The Developer shall obtain all state and local permits or other governmental authorizations and approvals required by law in order to construct Project on the Property. Nothing in this Covenant shall be deemed to restrict the City's free exercise of its duties in its regulatory capacity.

**12.22 Compliance with Laws.** The Developer shall at all times be in compliance with all applicable federal, state and local laws, statutes, rules and regulations, including, but not limited to the Orlando City Code and City Code sections pertaining specifically to planning, zoning and permitting. This paragraph is not intended to preclude the City from granting the Developer certain waivers, exemptions or variances under the Orlando City Code as allowed therein.

**12.23 Sovereign Immunity.** City and CRA are entities whose limits of liability are set forth in section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of City or CRA beyond that provided in section 768.28, Florida Statutes. Further, nothing herein is intended as a waiver of City's or CRA's sovereign immunity under section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to, anything which might allow claims otherwise barred by sovereign immunity or operation of law.

**12.24 Waiver of Trial by Jury.** DEVELOPER, CITY AND CRA HEREBY AGREE AS FOLLOWS: (A) EACH OF THEM KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM, OR OTHER LITIGATION (AN "ACTION") BASED UPON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS COVENANT OR ANY RELATED DOCUMENTS, INSTRUMENTS, OR AGREEMENTS (WHETHER ORAL OR WRITTEN AND WHETHER EXPRESS OR IMPLIED AS A RESULT OF A COURSE OF DEALING, A COURSE OF CONDUCT, A STATEMENT, OR OTHER ACTION OF EITHER PARTY); (B) NONE OF THEM MAY SEEK A TRIAL BY JURY IN ANY SUCH ACTION; (C) NONE OF THEM WILL SEEK TO CONSOLIDATE ANY SUCH ACTION (IN WHICH A JURY TRIAL HAS BEEN WAIVED) WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED; AND (D) NONE OF THEM HAS IN ANY WAY AGREED WITH OR REPRESENTED TO THE OTHER OF THEM THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.

IN WITNESS WHEREOF, the City, CRA and Developer have executed this Covenant as of the Effective Date.

**SIGNATURES BEGIN ON NEXT PAGE**

*DEVELOPER Execution Page to  
DECLARATION OF AFFORDABLE HOUSING RESTRICTIVE COVENANT FOR MARIPOSA  
GROVE APARTMENTS*

**IN WITNESS WHEREOF**, the Parties have caused these presents to be executed on the day and year indicated above.

**Witness**

**“DEVELOPER”**

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

BDG MARIPOSA GROVE, LLC  
a Florida limited liability company

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

By: BDG MARIPOSA GROVE GP, LLC,  
a Florida limited liability company, its Manager

**Witness**

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

By: \_\_\_\_\_  
Scott Zimmerman, Manager

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Scott Zimmerman, as Manager of BDG MARIPOSA GROVE GP, LLC, a Florida limited liability company, as Manager of BDG MARIPOSA GROVE, LLC, a Florida limited liability company, on behalf of the company who [ ] is personally known to me or [ ] has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
My Commission Expires: \_\_\_\_\_  
Commission No. \_\_\_\_\_

(affix seal)

## EXHIBIT A-1

### PROPERTY LEGAL DESCRIPTION

#### DESCRIPTION

PER FIDELITY NATIONAL TITLE INSURANCE COMPANY'S COMMITMENT NO. 4828687,  
EFFECTIVE: OCTOBER 30, 2014

##### PARCEL 1

LOT 1, JEWEL OF JACKSON, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 36, PAGE 103, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

##### PARCEL 2

THE SOUTH 120 FEET OF LOT 12, J.H. SMITH'S SUBDIVISION OF BLOCK 9 SUMMERLIN'S ADDITION TO ORLANDO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "D", PAGE 16, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

##### PARCEL 3

THE WEST 33 FEET OF THE EAST 50 FEET OF LOT 10, J.H. SMITH'S SUBDIVISION OF BLOCK 9 SUMMERLIN'S ADDITION TO ORLANDO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "D", PAGE 16, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, TOGETHER WITH THAT PORTION OF THE SOUTH ONE HALF (1/2) OF VACATED MARIPOSA STREET LYING NORTH OF SAID PARCEL, AS VACATED, CLOSED AND ABANDONED BY ORDINANCE RECORDED JULY 30, 2004, IN OFFICIAL RECORDS BOOK 7556, PAGE 3313, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

#### DESCRIPTION

PER FIRST AMERICAN TITLE INSURANCE COMPANY'S FILE NO: NCS-94331-ORL,  
EFFECTIVE: FEBRUARY 8, 2019

##### PARCEL I

THE NORTH 90.00 FEET OF LOT 11 AND THE NORTH 90.00 FEET OF THE WEST 10.00 FEET OF LOT 10, J.H. SMITH'S SUBDIVISION OF BLOCK 9, SUMMERLIN'S ADDITION TO ORLANDO, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK D, PAGE 16, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

##### PARCEL II

THE NORTH 70.00 FEET OF LOT 12, LESS THE WEST 11.00 FEET THEREOF, J.H. SMITH'S SUBDIVISION OF BLOCK 9, SUMMERLIN'S ADDITION TO ORLANDO, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK D, PAGE 16, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.

## EXHIBIT A-2

### RESIDENTIAL UNIT LEGAL DESCRIPTION

Unit 1 of Mariposa Grove Condominium, according to that certain Declaration of Condominium thereof, dated \_\_\_\_\_, and recorded \_\_\_\_\_ in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_, Public Records of Orange County, Florida, and all exhibits and amendments thereto.



## EXHIBIT B

### DEVELOPMENT PLAN

#### **Mariposa Grove – Affordable Apartment Community**

Mariposa Grove is a proposed 12-story, mixed-use, apartment building containing 138 senior (age 55+), multifamily rental housing community and ground floor commercial/retail. Closing on all funding sources totaling roughly \$80M is scheduled for 2025.

The property is located at 417 E Jackson Street between Mariposa Street and Jackson Street 3 blocks south of Lake Eola in Orlando. The location will allow pedestrian access to all of downtown Orlando's various amenities as well as public transportation options, including SunRail, LYNX, LYMMO, and SWAN. 3 specimen oak trees will be preserved along the sidewalk along the southern frontage and building access on Jackson Street.

The high-rise apartment community will consist of 138 total residential units on floors 1, 2, and 6-12, with entry on Mariposa St. 100% of units will be set aside at 70% AMI or below, with an average income of 60% AMI or below, for 50 years.

Floors 3-5 will be an integrated parking garage with 120 spaces total. A residential clubhouse and courtyard, plus meeting rooms and a fitness center will be located above the parking garage on the 6<sup>th</sup> floor. Additional resident amenities include card and computer rooms will be on the 1<sup>st</sup> floor. Residential services such as trash and mail will be on the 2<sup>nd</sup> floor along with property management and maintenance offices.

Water (including hot water), sewer, and trash service will be paid by landlord. Electric, cable, internet and phone services are to be paid by tenant. Resident programs will be provided at no cost to residents, including literacy training, computer training, and 24-hour support to assist residents in handling urgent issues. Additionally, the tenants will be referred to service providers who provide assistance with light housekeeping, grocery shopping and/or laundry services. Resident activities will be coordinated on a regular basis.

The building will consist of two "condo units", one for the residential apartment and one for the commercial/retail space. The commercial/retail space was necessary in order to allow for the height and density needed for the residential apartments. It will occupy the entire southern frontage along Jackson Street. The inside will be open to the second floor ceiling inside and be built out by future tenants.

The cost to construct the commercial/retail space and associated 20 parking spaces will be born separately and entirely by that condo owner via its cash escrowed at closing. 100% of the City funds will be used for the residential apartment.

Residential unit finishes will be akin to market rate units including granite counters, subway tile backsplash, and tile floors.

Green Construction Features for the Apartment Community to include:

- Programmable thermostat in each unit
- Water Sense certified dual flush toilets in all bathrooms
- Energy efficient, noise attenuating windows in each unit
- Florida Yards and Neighborhoods certification on all landscaping
- Daylight sensors, timers or motion detectors on all outdoor lighting attached to buildings
- Motion sensors for alternate emergency stair and interior lighting 24-7
- Low or No-VOC paint for all interior walls (Low-VOC means 50 grams per liter or less for flat; 150 grams per liter or less for non-flat paint);
- Low-flow water fixtures in bathrooms:
  - o Toilets: 0.8 gallons/flush or less
  - o Faucets: 1.5 gallons/minute or less
  - o Showerheads: 1.5 gallons/minute or less
- Energy Star certified refrigerator
- Energy Star certified dishwasher
- Energy Star certified ventilation fan in all bathrooms
- Energy Star certified gas tankless/instantaneous hot water heater
- Energy Star certified ceiling fans with lighting fixtures in bedrooms
- In-unit air conditioning: minimum 16 SEER
- Caulk, weather-strip, or otherwise seal all holes, gaps, cracks, penetrations, and electrical receptacles in building envelope; and
- Seal and insulate heating and cooling system ducts with mastic or metal backed tape.

Figure 1: The Northwest Corner



Figure 2: The South Elevation from the Street





Figure 3: Southwest Corner



Figure 4: The Residential Plaza Amenity over the Parking Garage



Figure 5: Northeast Corner Main Apartment Entry Looking Up from the Street



Figure 6: The Northeast Corner and Main Entry to the Apartments



## EXHIBIT C

### TENANT SELECTION CRITERIA REQUIREMENTS FOR PSH/HOMELESS UNITS

The following criteria will provide standards and procedures for the property manager of the Project in evaluating all prospective residents for the PSH/Homeless Units.

Included in each evaluation will be a review of the income, credit, criminal and rental histories of the prospective resident to determine their ability to lease rental housing, while at the same time taking into consideration the viability of the property and the safety of the entire resident community.

#### PSH/Homeless Unit Resident Approval Criteria and Move-In Accommodations:

1. All Applications for PSH/Homeless Units will be reviewed on a case-by-case basis in addition to any third-party information checks;
2. The Application Fee will be waived to help reduce an initial barrier to move-in costs;
3. Security or other deposit required can be paid monthly in installments over 120 days with at least 25% paid at move in;
4. One eviction in the past 24 months will be reviewed and will not be a reason for a decline if the eviction was based solely on financial obligations and did not include other lease violations or behavior that could be considered a threat to the health, safety and welfare of the community;
5. Income qualification will be based on the PSH/Homeless Unit rent;
6. Negative credit and payment history will not be a reason for a decline. However, all previous rental and housing history will be reviewed and maybe a reason for a decline; and
7. Criminal history and background decline will exclude two minor and non-violent criminal convictions in the last 24 months.

All applicants 18 or older will be processed in the standard resident selection approval criteria, including background and rental housing history, with the above exceptions provided.

## EXHIBIT D

### TENANT SELECTION CRITERIA REQUIREMENTS FOR PSH/HOMELESS UNITS

The following criteria will provide standards and procedures for the property manager of the Project in evaluating all prospective residents for the PSH/Homeless Units.

Included in each evaluation will be a review of the income, credit, criminal and rental histories of the prospective resident to determine their ability to lease rental housing, while at the same time taking into consideration the viability of the property and the safety of the entire resident community.

#### PSH/Homeless Unit Resident Approval Criteria and Move-In Accommodations:

8. All Applications for PSH/Homeless Units will be reviewed on a case-by-case basis in addition to any third-party information checks;
9. The Application Fee will be waived to help reduce an initial barrier to move-in costs;
10. Security or other deposit required can be paid monthly in installments over 120 days with at least 25% paid at move in;
11. One eviction in the past 24 months will be reviewed and will not be a reason for a decline if the eviction was based solely on financial obligations and did not include other lease violations or behavior that could be considered a threat to the health, safety and welfare of the community;
12. Income qualification will be based on the PSH/Homeless Unit rent;
13. Negative credit and payment history will not be a reason for a decline. However, all previous rental and housing history will be reviewed and maybe a reason for a decline; and
14. Criminal history and background decline will exclude two minor and non-violent criminal convictions in the last 24 months.

All applicants 18 or older will be processed in the standard resident selection approval criteria, including background and rental housing history, with the above exceptions provided.



Notwithstanding anything to the contrary set forth in this Promissory Note, Lender acknowledges that the loan evidenced by this Promissory Note and the rights of Lender with respect thereto or thereunder shall be subordinate, in right or payment and priority to: (a) a construction loan to Maker from Truist Bank, its successors and assigns ("Truist"), in the original principal amount of \$[\_\_\_\_\_]; (b) a permanent loan to Maker from The Bank of New York Mellon Trust Company, as fiscal agent, and its successors and assigns ("Permanent Lender"), in the original principal amount of up to \$[\_\_\_\_\_]; and (c) the following loans to Maker from Florida Housing Finance Corporation ("FHFC"): (i) a SAIL loan in the amount of \$11,000,000.00, (ii) an ELI loan in the amount of \$750,000.00, and (iii) a HOME ARP loan in the amount of \$1,675,000.00; in each case as the same may be assigned, amended, restated and/or supplemented from time to time, pursuant to a Subordination Agreement between each Senior Lender (defined below) and Lender. The foregoing subordinations are pursuant to: (i) a Subordination Agreement dated as of \_\_\_\_\_, 2025 among Truist and the holder this Promissory Note on the date of such Subordination Agreement, and (ii) a Subordination Agreement dated as of \_\_\_\_\_, 2025 by and among Permanent Lender and the holder this Promissory Note on the date of such Subordination Agreement, and (iii) a Subordination Agreement dated \_\_\_\_\_, 2025 by and among FHFC and the holder of this Promissory Note on the date of such Subordination Agreement. Truist, Permanent Lender and FHFC may be referred to collectively as the "Senior Lenders" or individually as a "Senior Lender."

### **PROMISSORY NOTE**

Orlando, Florida

**\$5,000,000.00**

\_\_\_\_\_, 2025

**FOR VALUE RECEIVED** the undersigned, **BDG MARIPOSA GROVE, LLC**, a Florida limited liability company (the "Maker") with offices at 501 North Magnolia Avenue, Orlando, Florida 32801, promises to pay to the order of the **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF ORLANDO, FLORIDA**, an agency created pursuant to Chapter 163, Part III, Florida Statutes (the "Lender"), at 400 South Orange Avenue, Orlando, Florida 32802 or such other location or address as the Lender may direct from time to time, the principal sum of **Five Million and 00/100 Dollars (\$5,000,000.00)**, or so much thereof as may be advanced hereunder.

Funds will be advanced by the Lender to the Maker upon Project Completion (as defined in the Loan Agreement (as hereinafter defined)) in accordance with the Development and Loan Agreement for Mariposa Grove Apartments dated \_\_\_\_\_, by and among the Lender, Maker and the City of Orlando, Florida (the "Loan Agreement").

This Promissory Note is secured by that certain Mortgage and Security Agreement (the "Mortgage") of even date herewith executed in favor of the Lender, relating to real property particularly described in the Mortgage (the "Property").

This Promissory Note shall bear interest at a rate equal to zero percent (0%) per annum.



Interest will be charged on a basis of a 360 day year and the actual number of days elapsed. The outstanding principal balance shall become due and payable upon the expiration of the Affordability Period as defined in the Loan Agreement.

At the option of the Lender, all sums advanced hereunder and all other sums due hereunder shall become immediately due and payable, without notice or demand, upon the occurrence of any one or more of the following Events of Default: (a) the Maker's failure to promptly pay in full any payment of principal or default interest due under this Promissory Note within ten (10) days following the date on which such payment is due, or (b) any uncured breach, following the giving of notice and the expiration of any applicable cure period, by the Maker of any of the terms, covenants or conditions set forth in the Mortgage. Upon the occurrence of any of the foregoing events (each, an "Event of Default"), and in addition to any other remedies provided in the Mortgage, the amount disbursed hereunder, together with interest accrued thereon at the rate provided herein, and all unpaid fees, charges and other obligations of the Maker due hereunder or under the Mortgage, shall, at Lender's option, be immediately due and payable.

No delay or omission on the part of the Lender in the exercise of any right hereunder shall operate as a waiver of such right or of any other right under this Promissory Note. A waiver by the Lender of any right or remedy conferred to it hereunder on any one occasion shall not be construed as a bar to, or waiver of, any such right and/or remedy as to any future occasion.

The Maker agrees that in the event each and every of the terms and conditions of this Promissory Note or any instrument which secures or collateralizes the payment of the sums hereunder is not duly performed, complied with, or abided by, subject to applicable notice and cure periods set forth in the Mortgage, the whole of said indebtedness then outstanding shall thereupon, at the option of the Lender, become immediately due and payable. If this Promissory Note becomes in default and is placed in the hands of an attorney for collection, the Maker agrees to pay all and singular the costs, charges, and expenses incurred by the Lender in the enforcement of its rights hereunder, including, but not limited to reasonable attorneys' fees and costs, including the attorneys' fees and costs for appellate proceedings.

The Maker and all persons now or hereafter becoming obligated or liable for the payment hereof, do jointly and severally waive demand, notice of non-payment, protest, notice of dishonor and presentment.

The Maker does not intend or expect to pay, nor does the Lender intend or expect to charge, collect or accept, any interest greater than the highest legal rate of interest which may be charged under any applicable law. Should the acceleration hereof or any charges made hereunder result in the computation or earning of interest in excess of such legal rate, any and all such excess shall be and the same is hereby waived by the Lender, and any such excess shall be credited by the Lender to the balance hereof.

Each Maker, endorser, or any other person, firm or corporation now or hereafter becoming liable for the payment of the loan evidenced by this Promissory Note, hereby consents to any renewals, extensions, modifications, releases of security or any indulgence shown to or any dealings between the Lender and any party now or hereafter obligated hereunder, without notice, and jointly

and severally agree that they shall remain liable hereunder notwithstanding any such renewals, extensions, modifications or indulgences, until the debt evidenced hereby is fully paid.

Upon the occurrence of any Event of Default as defined herein, all sums outstanding under this Promissory Note shall thereon immediately bear interest at ten percent (10%) per annum from the date of disbursement, without notice to the Maker or any guarantor or endorser of this Promissory Note, and without any affirmative action or declaration on the part of the Lender.

This Promissory Note shall be construed and enforced according to the laws of the State of Florida, excluding all principles of choice of laws, conflict of laws or comity. Any action pursuant to a dispute under this Promissory Note must be brought in Orange County, Florida and no other venue. All meetings to resolve said dispute, including voluntary arbitration, mediation, or other alternative dispute resolution mechanism, will take place in this venue.

The terms of this Promissory Note may not be changed orally.

The indebtedness evidenced by this Promissory Note shall be nonrecourse to the Maker and its members. Lender's sole recourse against Maker hereunder shall be the collateral secured by the Mortgage. The right of the holder of this Promissory Note to payment of any of the indebtedness evidenced by this Promissory Note is subordinate to the rights of Senior Lenders (defined above) as may be set forth in the Loan Agreement or in any Subordination Agreement between such Senior Lender and Lender.

The prevailing party in any action to enforce this Promissory Note, shall recover from the non-prevailing party all and singular the costs, charges and expenses, including but not limited to, reasonable attorney's fees, including but not limited to all trial, appellate, and bankruptcy litigation, including litigation for the amount as well as entitlement to such, costs, charges, and expenses, because of the failure on the part of the non-prevailing party to perform, comply with, and abide by, each and every of the stipulations, agreements, conditions and covenants of this Promissory Note, whether or not suit is brought, and the fees and costs shall bear interest from the date thereof at the maximum rate permitted by law.

**THE MAKER OF THIS PROMISSORY NOTE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS PROMISSORY NOTE OR ANY LOAN DOCUMENT(S) EXECUTED IN CONNECTION HERewith, OR THE FINANCING CONTEMPLATED HEREBY, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR THE ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE LENDER EXTENDING THE LOAN EVIDENCED BY THIS PROMISSORY NOTE.**

SIGNATURE APPEARS ON FOLLOWING PAGE

**IN WITNESS WHEREOF**, the Maker has hereunto set its hand and seal the day and year first above written.

**“MAKER”**

**BDG MARIPOSA GROVE, LLC**  
**a Florida limited liability company**

**By: BDG MARIPOSA GROVE GP, LLC,**  
**a Florida limited liability company, its Manager**

**By: \_\_\_\_\_**  
**Scott Zimmerman, Manager**

Prepared by, and after recording  
return to:  
1919 Pennsylvania Ave., NW.  
Suite 800  
Washington, DC 20006  
Attention: Michael P. Murphy, Esq.

**SUBORDINATION AGREEMENT**  
**GOVERNMENTAL ENTITY – TEL (Immediate)**  
**(Revised 2-25-2025)**

Freddie Mac Loan Number: 511553153  
Property Name: Mariposa Grove

**SUBORDINATION AGREEMENT  
GOVERNMENTAL ENTITY – TEL (Immediate)**

**(Revised 2-25-2025)**

THIS SUBORDINATION AGREEMENT (“**Agreement**”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between (i) **THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.**, a national banking association (“**Senior Lender**”), (ii) the **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF ORLANDO, FLORIDA**, an agency created pursuant to Chapter 163, Part III, Florida Statutes (“**Subordinate Lender**”).

**RECITALS**

- A. BDG Mariposa Grove, LLC, a limited liability company organized under the laws of the State of Florida (“**Borrower**”) is the owner of certain land located in Orange County, Florida, described in Exhibit A (“**Land**”). The Land is improved with a multifamily rental housing project (“**Improvements**”).
- B. Florida Housing Finance Corporation, a public corporation and public body, corporate and politic duly created and existing under the laws of the State of Florida (“**Governmental Lender**”), the original holder of the Senior Note, has made a loan to Borrower in the original principal amount of \$ [\_\_\_\_\_] (“**Senior Loan**”) of which \$[CONVERSION LOAN AMOUNT] is outstanding as of the date hereof and is subject to the terms and conditions of a Project Loan Agreement dated as of [\_\_\_\_\_] 1, 20\_\_ (“**Project Loan Agreement**”) among Governmental Lender, Senior Lender (in its capacity as Fiscal Agent under the Funding Loan Agreement (defined below)) and Borrower in connection with the Mortgaged Property. The Senior Loan is secured by a Multifamily Mortgage, Assignment of Rents and Security Agreement dated as of the date hereof (“**Senior Mortgage**”) encumbering the Land, the Improvements and related personal and other property described and defined in the Senior Mortgage as the “**Mortgaged Property**.”
- C. Pursuant to a Development and Loan Agreement for Mariposa Grove Apartments dated as of [\_\_\_\_\_] 2025 among Subordinate Lender, the City of Orlando, Florida, and Borrower (“**Subordinate Loan Agreement**”), Subordinate Lender has made or is making a loan to Borrower in the original principal amount of \$5,000,000.00 (“**Subordinate Loan**”). The Subordinate Loan is or will be secured by a Mortgage and Security Agreement dated as of [\_\_\_\_\_] 2025 (“**Subordinate Mortgage**”) encumbering all or a portion of the Mortgaged Property.

- D. The Senior Mortgage will be recorded in Official Records of Orange County, Florida (“**Recording Office**”). The Subordinate Mortgage is recorded in the Recording Office at Deed Book \_\_\_\_, Page \_\_\_\_].
- E. The Senior Note was assigned by Governmental Lender to Senior Lender as security for the Bonds, which have been converted as of the date hereof into the Governmental Note, which evidences the loan made by Funding Lender (defined below) to Governmental Lender pursuant to the Funding Loan Agreement (the “**Funding Loan**”). The Senior Mortgage was assigned by Governmental Lender to Senior Lender as security for the Funding Loan pursuant to an Assignment of Security Instrument dated as of the date hereof to be recorded in the Recording Office contemporaneously herewith.
- F. The execution and delivery of this Agreement is a condition of Funding Lender’s consenting to Subordinate Lender’s making of the Subordinate Loan and Borrower’s granting of the Subordinate Mortgage.

### **AGREEMENT**

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. **Definitions.** The following terms, when used in this Agreement (including, as appropriate, when used in the above recitals), will have the following meanings.

The terms “**Condemnation**,” “**Imposition Reserve Deposits**,” “**Impositions**,” “**Leases**,” “**Rents**” and “**Restoration**,” as well as any term used in this Agreement and not otherwise defined in this Agreement, will have the meanings given to those terms in the Continuing Covenant Agreement.

“**Bankruptcy Proceeding**” means any bankruptcy, reorganization, insolvency, composition, restructuring, dissolution, liquidation, receivership, assignment for the benefit of creditors, or custodianship action or proceeding under any federal or state law with respect to Borrower, any guarantor of any of the Senior Indebtedness, any of their respective properties, or any of their respective partners, members, officers, directors, or shareholders.

“**Borrower**” means all persons or entities identified as “Borrower” in the first Recital of this Agreement, together with their successors and assigns, and any other person or entity who acquires title to the Mortgaged Property after the date of this Agreement; provided that the term “Borrower” will not include Senior Lender or Funding Lender if Senior Lender or Funding Lender acquires title to the Mortgaged Property.

“**Casualty**” means the occurrence of damage to or loss of all or any portion of the Mortgaged Property by fire or other casualty.

**“Continuing Covenant Agreement”** means the Continuing Covenant Agreement dated as of [ ] between Funding Lender and Borrower.

**“Enforcement Action”** means any of the following actions taken by or at the direction of Subordinate Lender: the acceleration of all or any part of the Subordinate Indebtedness, the advertising of or commencement of any foreclosure or trustee’s sale proceedings, the exercise of any power of sale, the acceptance of a deed or assignment in lieu of foreclosure or sale, the collecting of Rents, the obtaining of or seeking of the appointment of a receiver, the seeking of default interest, the taking of possession or control of any of the Mortgaged Property, the commencement of any suit or other legal, administrative, or arbitration proceeding based upon the Subordinate Note or any other of the Subordinate Loan Documents, the exercising of any banker’s lien or rights of set-off or recoupment, or the exercise of any other remedial action against Borrower, any other party liable for any of the Subordinate Indebtedness or obligated under any of the Subordinate Loan Documents, or the Mortgaged Property.

**“Enforcement Action Notice”** means a Notice given from Subordinate Lender to Senior Lender and Funding Lender, following one or more Subordinate Mortgage Default(s) and the expiration of any applicable notice or cure periods, setting forth in reasonable detail the Subordinate Mortgage Default(s) and the Enforcement Actions proposed to be taken by Subordinate Lender.

**“Funding Lender”** means Grandbridge Real Estate Capital, LLC, a North Carolina limited liability company and any successor holder of the Governmental Note.

**“Funding Loan Agreement”** means the Funding Loan Agreement dated as of [ ] among Funding Lender, Governmental Lender and Senior Lender.

**“Governmental Note”** means the [ISSUE DESIGNATION] delivered by Governmental Lender evidencing the Funding Loan.

**“Lien”** means any lien, encumbrance, estate or other interest, recorded against or secured by the Mortgaged Property.

**“Loss Proceeds”** means all monies received or to be received under any insurance policy, from any condemning authority, or from any other source, as a result of any Condemnation or Casualty.

**“Notice”** means all notices, requests, demands, consents, approvals or other communication pursuant to this Agreement provided in accordance with the provisions of Section 10.

**“Regulatory Agreement”** means the Declaration of Affordable Housing Restrictive Covenant for Mariposa Grove Apartments dated as of [ ], 2025 among Subordinate Lender, the City of Orlando, Florida, and Borrower, dated as of

[\_\_\_\_], 2025 and recorded at [Deed Book \_\_\_\_, Page \_\_\_\_] in the Recording Office.

**“Senior Indebtedness”** means the “Indebtedness” as defined in the Continuing Covenant Agreement.

**“Senior Lender”** is defined above. When any other person or entity becomes the legal holder of the Senior Note, such other person or entity will automatically become Senior Lender.

**“Senior Loan Documents”** means the “Financing Documents” as defined in the Continuing Covenant Agreement, as such documents may be amended.

**“Senior Mortgage Default”** means any act, failure to act, event, condition, or occurrence which constitutes, or which with the giving of Notice or the passage of time, or both, would constitute, an “Event of Default” as defined in the Continuing Covenant Agreement.

**“Senior Note”** means the Project Note as defined in the Continuing Covenant Agreement.

**“Subordinate Indebtedness”** means all sums evidenced or secured or guaranteed by, or otherwise due and payable to Subordinate Lender pursuant to, the Subordinate Loan Documents.

**“Subordinate Lender”** means the person or entity named as such in the first paragraph of this Agreement and any other person or entity who becomes the legal holder of the Subordinate Note after the date of this Agreement.

**“Subordinate Loan Documents”** means the Subordinate Mortgage, the Subordinate Note, the Subordinate Loan Agreement, the Regulatory Agreement and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Subordinate Indebtedness, as such documents may be amended.

**“Subordinate Mortgage Default”** means any act, failure to act, event, condition, or occurrence which allows (but for any contrary provision of this Agreement) Subordinate Lender to take an Enforcement Action.

**“Subordinate Note”** means the promissory note or other evidence of the Subordinate Indebtedness and any replacement of the Subordinate Note.

**“Surplus Cash”** means, with respect to any period, any revenues of Borrower remaining after paying, or setting aside funds for paying, all the following:

- (a) All sums due or currently required to be paid under the Senior Loan Documents, including any reserves and Imposition Reserve Deposits.



- (b) All reasonable operating expenses of the Mortgaged Property, including real estate taxes, insurance premiums, utilities, building maintenance, painting and repairs, management fees, payroll, administrative expenses, legal expenses and audit expenses (excluding any developer fees payable with respect to the Mortgaged Property).

## **2. Subordinate Lender's Representations and Warranties.**

- (a) Subordinate Lender represents and warrants that each of the following is true as of the date of this Agreement:
  - (i) Subordinate Lender is now the owner and holder of the Subordinate Loan Documents.
  - (ii) No Subordinate Mortgage Default has occurred and is continuing.
  - (iii) The current unpaid principal balance of the Subordinate Indebtedness is \$5,000,000.00.
  - (iv) No scheduled payments under the Subordinate Note have been prepaid.
- (b) Without the prior written consent of Senior Lender, Subordinate Lender will not do any of the following:
  - (i) Pledge, assign, transfer, convey, or sell any interest in the Subordinate Indebtedness or any of the Subordinate Loan Documents.
  - (ii) Take any action which has the effect of increasing the Subordinate Indebtedness, except to cure a Senior Mortgage Default as contemplated under Section 5(a) of this Agreement.
  - (iii) Accept any prepayment of the Subordinate Indebtedness.

## **3. Terms of Subordination.**

- (a) Agreement to Subordinate. The Subordinate Indebtedness is and will at all times continue to be subject and subordinate in right of payment to the prior payment in full of the Senior Indebtedness. Each of the Subordinate Loan Documents is, and will at all times remain, subject and subordinate in all respects to the liens, terms, covenants, conditions, operations, and effects of each of the Senior Loan Documents.

- (b) Subordination of Subrogation Rights. If Subordinate Lender, by indemnification, subrogation or otherwise, acquires any Lien on any of the Mortgaged Property, then that Lien will be fully subject and subordinate to the receipt by Senior Lender of payment in full of the Senior Indebtedness, and to the Senior Loan Documents, to the same extent as the Subordinate Indebtedness and the Subordinate Loan Documents are subordinate pursuant to this Agreement.
- (c) Payments Before Senior Mortgage Default; Soft Subordinate Debt. Until the occurrence of a Senior Mortgage Default, Subordinate Lender will be entitled to retain for its own account all payments of the principal of and interest on the Subordinate Indebtedness pursuant to the Subordinate Loan Documents; provided that Subordinate Lender expressly agrees that it will not accept any such payment that is made more than 10 days in advance of its due date.
- (d) Payments After Senior Mortgage Default or Bankruptcy.
  - (i) Immediately upon Subordinate Lender's receipt of Notice or actual knowledge of a Senior Mortgage Default, Subordinate Lender will not accept any payments of the Subordinate Indebtedness, and the provisions of this Section 3(d) will apply.
  - (ii) If Subordinate Lender receives any of the following, whether voluntarily or by action of law, after a Senior Mortgage Default of which Subordinate Lender has actual knowledge (or is deemed to have actual knowledge as provided in Section 4(c)) or has been given Notice, such will be received and held in trust for Senior Lender:
    - (A) Any payment, property, or asset of any kind or in any form in connection with the Subordinate Indebtedness.
    - (B) Any proceeds from any Enforcement Action.
    - (C) Any payment, property, or asset in or in connection with any Bankruptcy Proceeding.
  - (iii) Subordinate Lender will promptly remit, in kind and properly endorsed as necessary, all such payments, properties, and assets described in Section 3(d)(ii) to Senior Lender. Senior Lender will apply any payment, asset, or property so received from Subordinate Lender to the Senior Indebtedness in such order, amount (with respect to any asset or property other than immediately available funds), and manner as Senior Lender determines in its sole and absolute discretion.
- (e) Bankruptcy. Without the prior written consent of Senior Lender, Subordinate Lender will not commence, or join with any other creditor in commencing, any Bankruptcy Proceeding. In the event of a Bankruptcy Proceeding, Subordinate

Lender will not vote affirmatively in favor of any plan of reorganization or liquidation unless Senior Lender has also voted affirmatively in favor of such plan.

#### **4. Default Under Subordinate Loan Documents.**

##### **(a) Notice of Subordinate Mortgage Default and Cure Rights.**

- (i) Subordinate Lender will deliver to Senior Lender and Funding Lender a copy of each Notice delivered by Subordinate Lender pursuant to the Subordinate Loan Documents within 5 Business Days of sending such Notice to Borrower. Neither giving nor failing to give a Notice to Senior Lender or Funding Lender pursuant to this Section 4(a) will affect the validity of any Notice given by Subordinate Lender to Borrower.
- (ii) For a period of 90 days following delivery to Senior Lender of an Enforcement Action Notice, Senior Lender will have the right, but not the obligation, to cure any Subordinate Mortgage Default. However, if such Subordinate Mortgage Default is a non-monetary default and is not capable of being cured within such 90-day period and Senior Lender has commenced and is diligently pursuing such cure to completion, Senior Lender will have such additional period of time as may be required to cure such Subordinate Mortgage Default or until such time, if ever, as Senior Lender takes either of the following actions:
  - (A) Discontinues its pursuit of any cure.
  - (B) Delivers to Subordinate Lender Senior Lender's written consent to the Enforcement Action described in the Enforcement Action Notice.
- (iii) Senior Lender will not be subrogated to the rights of Subordinate Lender under the Subordinate Loan Documents as a result of Senior Lender having cured any Subordinate Mortgage Default.
- (iv) Subordinate Lender acknowledges that all amounts advanced or expended by Senior Lender in accordance with the Senior Loan Documents or to cure a Subordinate Mortgage Default will be added to and become a part of the Senior Indebtedness and will be secured by the lien of the Senior Mortgage.

##### **(b) Subordinate Lender's Exercise of Remedies After Notice to Senior Lender.**

- (i) In the event of a Subordinate Mortgage Default, Subordinate Lender will not commence any Enforcement Action until 90 days after Subordinate Lender has delivered to Senior Lender and Funding Lender an Enforcement Action Notice. During such 90-day period or such longer

period as provided in Section 4(a), Subordinate Lender will be entitled to seek specific performance to enforce covenants and agreements of Borrower relating to income, rent, or affordability restrictions contained in the Regulatory Agreement, subject to Senior Lender's right to cure a Subordinate Mortgage Default set forth in Section 4(a).

- (ii) Subordinate Lender may not commence any other Enforcement Action, including any foreclosure action under the Subordinate Loan Documents, until the earlier of:
  - (A) The expiration of such 90-day period or such longer period as provided in Section 4(a).
  - (B) The delivery by Senior Lender to Subordinate Lender of Senior Lender's written consent to such Enforcement Action by Subordinate Lender.
- (iii) Subordinate Lender acknowledges that Senior Lender may grant or refuse consent to Subordinate Lender's Enforcement Action in Senior Lender's sole and absolute discretion. At the expiration of such 90-day period or such longer period as provided in Section 4(a) and, subject to Senior Lender's right to cure set forth in Section 4(a), Subordinate Lender may commence any Enforcement Action.
- (iv) Senior Lender may pursue all rights and remedies available to it under the Senior Loan Documents, at law, or in equity, regardless of any Enforcement Action Notice or Enforcement Action by Subordinate Lender. No action or failure to act on the part of Senior Lender in the event of a Subordinate Mortgage Default or commencement of an Enforcement Action will constitute a waiver on the part of Senior Lender of any provision of the Senior Loan Documents or this Agreement.
- (c) Cross Default. Subordinate Lender acknowledges that a Subordinate Mortgage Default constitutes a Senior Mortgage Default. Accordingly, upon the occurrence of a Subordinate Mortgage Default, Subordinate Lender will be deemed to have actual knowledge of a Senior Mortgage Default. If Subordinate Lender notifies Senior Lender and Funding Lender in writing that any Subordinate Mortgage Default of which Senior Lender has received Notice has been cured or waived, as determined by Subordinate Lender in its sole discretion, then provided that Senior Lender has not conducted a sale of the Mortgaged Property pursuant to its rights under the Senior Loan Documents, any Senior Mortgage Default under the Senior Loan Documents arising solely from such Subordinate Mortgage Default will be deemed cured, and the Senior Loan will be reinstated.

## **5. Default Under Senior Loan Documents.**

(a) Notice of Senior Mortgage Default and Cure Rights.

- (i) Senior Lender or Funding Lender will deliver to Subordinate Lender a copy of any Notice sent by Senior Lender or Funding Lender to Borrower of a Senior Mortgage Default within 5 Business Days of sending such Notice to Borrower. Failure of Senior Lender or Funding Lender to send Notice to Subordinate Lender will not prevent the exercise of Senior Lender's rights and remedies under the Senior Loan Documents.
- (ii) Subordinate Lender will have the right, but not the obligation, to cure any monetary Senior Mortgage Default within 30 days following the date of such Notice. During such 30-day period Senior Lender will be entitled to continue to pursue its remedies under the Senior Loan Documents.
- (iii) Subordinate Lender may, within 90 days after the date of the Notice, cure a non-monetary Senior Mortgage Default if during such 90-day period, Subordinate Lender keeps current all payments required under the Senior Loan Documents. If such a non-monetary Senior Mortgage Default creates an unacceptable level of risk relative to the Mortgaged Property, or Senior Lender's secured position relative to the Mortgaged Property, as determined by Senior Lender in its sole discretion, then during such 90-day period Senior Lender may exercise all available rights and remedies to protect and preserve the Mortgaged Property and the Rents, revenues and other proceeds from the Mortgaged Property.
- (iv) All amounts paid by Subordinate Lender to Senior Lender to cure a Senior Mortgage Default will be deemed to have been advanced by Subordinate Lender pursuant to, and will be secured by the lien of, the Subordinate Mortgage. Notwithstanding anything in this Section 5(a) to the contrary, Subordinate Lender's right to cure any Senior Mortgage Default will terminate immediately upon the occurrence of any Bankruptcy Proceeding.

(b) Release of Mortgaged Property.

- (i) Subordinate Lender consents to and authorizes any future release by Senior Lender of all or any portion of the Mortgaged Property from the lien, operation, and effect of the Senior Loan Documents. Subordinate Lender waives to the fullest extent permitted by law, all equitable or other rights it may have in connection with the release of all or any portion of the Mortgaged Property, including any right to require Senior Lender to do any of the following:
  - (A) To conduct a separate sale of any portion of the Mortgaged Property.

- (B) To exhaust its remedies against all or any portion of the Mortgaged Property or any combination of portions of the Mortgaged Property or any other collateral for the Senior Indebtedness.
  - (C) To proceed against Borrower, any other party that may be liable for any of the Senior Indebtedness (including any general partner of Borrower if Borrower is a partnership), all or any portion of the Mortgaged Property or combination of portions of the Mortgaged Property or any other collateral, before proceeding against all or such portions or combination of portions of the Mortgaged Property as Senior Lender determines.
- (ii) Subordinate Lender consents to and authorizes, at the option of Senior Lender, the sale, either separately or together, of all or any portion of the Mortgaged Property. Subordinate Lender acknowledges that without Notice to Subordinate Lender and without affecting any of the provisions of this Agreement, Senior Lender may do any of the following:
- (A) Extend the time for or waive any payment or performance under the Senior Loan Documents.
  - (B) Modify or amend in any respect any provision of the Senior Loan Documents.
  - (C) Modify, exchange, surrender, release, and otherwise deal with any additional collateral for the Senior Indebtedness.
- (c) Termination Upon Foreclosure. The lien of the Subordinate Loan Documents will automatically terminate upon the acquisition by Senior Lender or by a third-party purchaser of title to the Mortgaged Property pursuant to a foreclosure of, deed in lieu of foreclosure, or trustee's sale or other exercise of a power of sale or similar disposition under the Senior Mortgage.

**6. Conflicts.** If there is any conflict or inconsistency between the terms of the Subordinate Loan Documents and the terms of this Agreement, then the terms of this Agreement will control. Borrower acknowledges that the terms and provisions of this Agreement will not, and will not be deemed to do any of the following:

- (a) Extend Borrower's time to cure any Senior Mortgage Default or Subordinate Mortgage Default.
- (b) Give Borrower the right to receive notice of any Senior Mortgage Default or Subordinate Mortgage Default, other than that, if any, provided, respectively under the Senior Loan Documents or the Subordinate Loan Documents.

- (c) Create any other right or benefit for Borrower as against Senior Lender or Subordinate Lender.

**7. Rights and Obligations of Subordinate Lender Under the Subordinate Loan Documents and of Senior Lender under the Senior Loan Documents.**

(a) Insurance.

- (i) All requirements pertaining to insurance under the Subordinate Loan Documents (including requirements relating to amounts and types of coverages, deductibles and special endorsements) will be deemed satisfied if Borrower complies with the insurance requirements under the Senior Loan Documents and of Senior Lender and Funding Lender.
- (ii) All original policies of insurance required pursuant to the Senior Loan Documents will be held by Senior Lender or Funding Lender.
- (iii) Nothing in this Section 7(a) will preclude Subordinate Lender from requiring that it be named as a mortgagee and loss payee, as its interest may appear, under all policies of property damage insurance maintained by Borrower with respect to the Mortgaged Property, provided such action does not affect the priority of payment of Loss Proceeds, or that Subordinate Lender be named as an additional insured under all policies of liability insurance maintained by Borrower with respect to the Mortgaged Property.

(b) Condemnation or Casualty.

In the event of a Condemnation or a Casualty, the following provisions will apply:

- (i) The rights of Subordinate Lender (under the Subordinate Loan Documents or otherwise) to participate in any proceeding or action relating to a Condemnation or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Condemnation or a Casualty, will be and remain subordinate in all respects to Senior Lender's rights under the Senior Loan Documents, and Subordinate Lender will be bound by any settlement or adjustment of a claim resulting from a Condemnation or a Casualty made by Senior Lender.
- (ii) All Loss Proceeds will be applied either to payment of the costs and expenses of Restoration or to payment on account of the Senior Indebtedness, as and in the manner determined by Senior Lender in its sole discretion; provided however, Senior Lender agrees to consult with Subordinate Lender in determining the application of Casualty proceeds. In the event of any disagreement between Senior Lender and Subordinate

Lender over the application of Casualty proceeds, the decision of Senior Lender, in its sole discretion, will prevail.

- (iii) If Senior Lender or Funding Lender holds Loss Proceeds, or monitors the disbursement of Loss Proceeds, Subordinate Lender will not do so. Nothing contained in this Agreement will be deemed to require Senior Lender to act for or on behalf of Subordinate Lender in connection with any Restoration or to hold or monitor any Loss Proceeds in trust for or otherwise on behalf of Subordinate Lender, and all or any Loss Proceeds may be commingled with any funds of Senior Lender.
  - (iv) If Senior Lender elects to apply Loss Proceeds to payment on account of the Senior Indebtedness, and if the application of such Loss Proceeds results in the payment in full of the entire Senior Indebtedness, any remaining Loss Proceeds held by Senior Lender will be paid to Subordinate Lender unless another party has asserted a claim to the remaining Loss Proceeds.
- (c) Modification of Subordinate Loan Documents. Subordinate Lender agrees that, until the principal of, interest on and all other amounts payable under the Senior Loan Documents have been paid in full, it will not, without the prior written consent of Senior Lender, increase the amount of the Subordinate Loan, increase the required payments due under the Subordinate Loan, decrease the term of the Subordinate Loan, increase the interest rate on the Subordinate Loan, or otherwise amend the Subordinate Loan terms in a manner that creates an adverse effect upon Senior Lender or Funding Lender under the Senior Loan Documents. If Subordinate Lender either (i) amends the Subordinate Loan Documents in the manner set forth above or (ii) assigns the Subordinate Loan without Senior Lender's consent, then such amendment or assignment will be void ab initio and of no effect whatsoever.
- (d) Modification of Senior Loan Documents. Senior Lender may amend, waive, postpone, extend, renew, replace, reduce or otherwise modify any provisions of the Senior Loan Documents without the necessity of obtaining the consent of or providing Notice to Subordinate Lender, and without affecting any of the provisions of this Agreement. Notwithstanding the foregoing, Senior Lender may not modify any provision of the Senior Loan Documents that increases the Senior Indebtedness, except for increases in the Senior Indebtedness that result from advances made by Senior Lender to protect the security or lien priority of Senior Lender under the Senior Loan Documents or to cure defaults under the Subordinate Loan Documents.
- (e) Commercial or Retail Leases. If requested, Subordinate Lender will enter into attornment and non-disturbance agreements with all tenants under commercial or retail Leases, if any, to whom Senior Lender has granted attornment and non-disturbance, on the same terms and conditions given by Senior Lender.



- (f) Consent Rights. Whenever the Subordinate Loan Documents give Subordinate Lender approval or consent rights with respect to any matter, and a right of approval or consent for the same or substantially the same matter is also granted to Senior Lender or Funding Lender pursuant to the Senior Loan Documents or otherwise, Senior Lender's or Funding Lender's approval or consent or failure to approve or consent will be binding on Subordinate Lender. None of the other provisions of Section 7 are intended to be in any way in limitation of the provisions of this Section 7(f).
  - (g) Escrows. Except as provided in this Section 7(g), and regardless of any contrary provision in the Subordinate Loan Documents, Subordinate Lender will not collect any escrows for any cost or expense related to the Mortgaged Property or for any portion of the Subordinate Indebtedness. However, if Senior Lender or Funding Lender is not collecting escrow payments for one or more Impositions, Subordinate Lender may collect escrow payments for such Impositions; provided that all payments so collected by Subordinate Lender will be held in trust by Subordinate Lender to be applied only to the payment of such Impositions.
  - (h) Certification. Within 10 days after request by Senior Lender or Funding Lender, Subordinate Lender will furnish Senior Lender and Funding Lender with a statement, duly acknowledged and certified setting forth the then-current amount and terms of the Subordinate Indebtedness, confirming that there exists no default under the Subordinate Loan Documents (or describing any default that does exist), and certifying to such other information with respect to the Subordinate Indebtedness as Senior Lender may request.
8. **Refinancing.** Subordinate Lender agrees that its agreement to subordinate under this Agreement will extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Indebtedness (including reasonable and necessary costs associated with the closing and/or the refinancing, and any reasonable increase in proceeds for rehabilitation in the context of a preservation transaction). All terms and covenants of this Agreement will inure to the benefit of any holder of any such refinanced debt, and all references to the Senior Loan Documents and Senior Lender will mean, respectively, the refinance loan documents and the holder of such refinanced debt.
9. **Governmental Powers.** Nothing in this Agreement is intended, nor will it be construed, to in any way limit the exercise by Subordinate Lender of its governmental powers (including police, regulatory and taxing powers) with respect to Borrower or the Mortgaged Property to the same extent as if it were not a party to this Agreement or the transactions contemplated by this Agreement.
10. **Notices.**
- (a) Any Notice required or permitted to be given pursuant to this Agreement will be in writing and will be deemed to have been duly and sufficiently given if (i)

personally delivered with proof of delivery (any Notice so delivered will be deemed to have been received at the time so delivered), or (ii) sent by a national overnight courier service (such as FedEx) designating earliest available delivery (any Notice so delivered will be deemed to have been received on the next Business Day following receipt by the courier), or (iii) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any Notice so sent will be deemed to have been received on the date of delivery as confirmed by the return receipt), addressed to the respective parties as follows:

Notices intended for Senior Lender will be addressed to:

The Bank of New York Mellon Trust Company, N.A.  
4655 Salisbury Road, Suite 300  
Jacksonville, Florida 32256  
Attention: Caroline Cowart

Notices intended for Subordinate Lender will be addressed to:

Community Redevelopment Agency of  
the City of Orlando, Florida  
400 South Orange Avenue  
Orlando, Florida 32802-3370  
Attn: David Barilla, Executive Director  
email: David.Barilla@downtownorlando.com

with a copy to:

Lisa Pearson  
Chief Assistant City Attorney  
400 South Orange Avenue  
Orlando, Florida 32802-3370  
Email: Lisa.Pearson@cityoforlando.net

with a copy to:

Stacey Y. Adams, Assistant City Attorney  
Chief City Attorney's Office  
400 South Orange Avenue  
Orlando, Florida 32801  
email: Stacey.adams@cityoforlando.net

Notices intended for Funding Lender will be addressed to:

Grandbridge Real Estate Capital LLC  
214 North Tryon Street

Suite 2000  
Charlotte, NC 28202

With a copy to:

Federal Home Loan Mortgage Corporation  
8100 Jones Branch Drive  
McLean, Virginia 22102  
Attention: Multifamily Operations - Loan Accounting  
Email: mfla@freddiemac.com  
Telephone: (703) 714-4177

*And to:*

Federal Home Loan Mortgage Corporation  
8200 Jones Branch Drive  
McLean, Virginia 22102  
Attention: Managing Associate General Counsel –  
Multifamily Legal Division  
Email: guy\_nelson@freddiemac.com  
Telephone: (703) 903-2000

- (b) Any party, by Notice given pursuant to this Section 10, may change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses, for its Notices, but Notice of a change of address will only be effective upon receipt. Neither party will refuse or reject delivery of any Notice given in accordance with this Section 10.

**11. Reserved**

**12. Miscellaneous Provisions.**

- (a) Assignments/Successors. This Agreement will be binding upon and will inure to the benefit of the respective legal successors and permitted assigns of the parties to this Agreement. Without prior notice to or the consent of the Subordinate Lender or the Borrower, the Senior Lender may freely transfer or assign the Senior Loan and the Senior Loan Documents, including this Agreement, in whole or in part, and the Subordinate Lender acknowledges and agrees that any future legal holder of the Senior Note will automatically be a legal successor and permitted assignee of Senior Lender hereunder, without the necessity of any further action or instrument. Except for Funding Lender, no other party will be entitled to any benefits under this Agreement, whether as a third-party beneficiary or otherwise.

- (b) No Partnership or Joint Venture. Nothing in this Agreement or in any of the Senior Loan Documents or Subordinate Loan Documents will be deemed to constitute Senior Lender or Funding Lender as a joint venturer or partner of Subordinate Lender.
- (c) Further Assurances. Upon Notice from Senior Lender or Funding Lender, Subordinate Lender will execute and deliver such additional instruments and documents, and will take such actions, as are required by Senior Lender or Funding Lender to further evidence or implement the provisions and intent of this Agreement.
- (d) Amendment. This Agreement may be amended, changed, modified, altered or terminated only by a written instrument signed by the parties to this Agreement or their successors or assigns.
- (e) Governing Law. This Agreement will be governed by the laws of the State in which the Land is located.
- (f) Severable Provisions. If any one or more of the provisions contained in this Agreement, or any application of any such provisions, is invalid, illegal, or unenforceable in any respect, the validity, legality, enforceability, and application of the remaining provisions contained in this Agreement will not in any way be affected or impaired.
- (g) Term. The term of this Agreement will commence on the date of this Agreement and will continue until the earliest to occur of the following events:
  - (i) The payment of all the Senior Indebtedness; provided that this Agreement will be reinstated in the event any payment on account of the Senior Indebtedness is avoided, set aside, rescinded or repaid by Senior Lender or Funding Lender.
  - (ii) The payment of all the Subordinate Indebtedness other than by reason of payments which Subordinate Lender is obligated to remit to Senior Lender pursuant to this Agreement.
  - (iii) The acquisition by Senior Lender or by a third-party purchaser of title to the Mortgaged Property pursuant to a foreclosure of, deed in lieu of foreclosure, or trustee's sale or other exercise of a power of sale or similar disposition under the Senior Mortgage.
  - (iv) With the prior written consent of Senior Lender, without limiting the provisions of Section 4(b)(iv), the acquisition by Subordinate Lender of title to the Mortgaged Property subject to the Senior Mortgage pursuant to

a foreclosure, or a deed in lieu of foreclosure, of (or the exercise of a power of sale under) the Subordinate Mortgage.

- (h) Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.
- (i) Entire Agreement. This Agreement represents the entire understanding and agreement between the parties regarding the matters addressed in this Agreement, and will supersede and cancel any prior agreements regarding such matters.
- (j) Authority. Each person executing this Agreement on behalf of a party to this Agreement represents and warrants that such person is duly and validly authorized to do so on behalf of such party with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations under this Agreement.
- (k) No Waiver. No failure or delay on the part of any party to this Agreement in exercising any right, power, or remedy under this Agreement will operate as a waiver of such right, power, or remedy, nor will any single or partial exercise of any such right, power or remedy preclude any other or further exercise of such right, power, or remedy or the exercise of any other right, power or remedy under this Agreement.
- (l) Remedies. Each party to this Agreement acknowledges that if any party fails to comply with its obligations under this Agreement, the other parties will have all rights available at law and in equity, including the right to obtain specific performance of the obligations of such defaulting party and injunctive relief.
- (m) Funding Lender's Rights to Control. Notwithstanding anything herein to the contrary, pursuant to Section 17(c) of the Senior Mortgage and Section 6.03 of the Funding Loan Agreement, all acts, consents, approvals and undertakings of Senior Lender hereunder must be solely at the written direction of Funding Lender. The parties hereto acknowledge and agree that Funding Lender is a third-party beneficiary of this Agreement, with full rights as such.

**13. Attached Riders.** The following Riders are attached to this Agreement:

Rider To Subordination Agreement – Governmental Entity – Regulatory Agreement  
Primes Mortgage

**14. Attached Exhibits.** The following Exhibits, if marked with an “X” in the space provided, are attached to this Agreement:

<input checked="" type="checkbox"/>	Exhibit A	Description of the Land (required)
<input type="checkbox"/>	Exhibit B	Ground Lease Description (if applicable)

**[SIGNATURE AND ACKNOWLEDGMENT PAGES FOLLOW]**

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the day and year first above written.

**SENIOR LENDER:**

**THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF FLORIDA                    )  
  ) SS:  
COUNTY OF DUVAL                )

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 202\_, by \_\_\_\_\_, as \_\_\_\_\_ of The Bank of New York Mellon Trust Company, N.A., on behalf of such bank.

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

Type of Identification Produced: \_\_\_\_\_

[NOTARY SEAL]

\_\_\_\_\_  
Print or Stamp Name: \_\_\_\_\_  
Notary Public, State of Florida  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**SUBORDINATE LENDER:**

Attest:

**COMMUNITY REDEVELOPMENT AGENCY  
OF THE CITY OF ORLANDO, FLORIDA**, an  
agency created pursuant to Chapter 163, Part III,  
Florida Statutes

By: \_\_\_\_\_  
David Barilla, as Executive Director

By: \_\_\_\_\_  
Buddy Dyer, as Chairman

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

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 202\_\_,  
by means of ☐ physical presence or ☐ online notarization by Buddy Dyer, as Chairman, and David  
Barilla, as Executive Director of the Community Redevelopment Agency of the City of Orlando,  
Florida, an agency organized pursuant to Chapter 163, Part III, Florida Statutes, who [ ] is  
personally known to me or [ ] has produced \_\_\_\_\_ as identification.

**WITNESS** my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_

\_\_\_\_\_  
NOTARY PUBLIC

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



## CONSENT OF BORROWER

Borrower acknowledges receipt of a copy of this Subordination Agreement, dated \_\_\_\_\_, 20\_\_, by and between The Bank of New York Mellon Trust Company, N.A. and the Community Redevelopment Agency of the City of Orlando, Florida, and consents to the agreement of the parties set forth in this Agreement.

**BDG MARIPOSA GROVE, LLC**, a  
Florida limited liability company

By: BDG-Mariposa Grove GP, LLC, a  
Florida limited liability company, its  
Manager

By: \_\_\_\_\_  
Scott Zimmerman, Manager

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing Agreement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by means of ☐ physical presence or ☐ online notarization, by Scott Zimmerman, as Manager of BDG-Mariposa Grove GP, LLC, a Florida limited liability company, as Manager of BDG Mariposa Grove, LLC, a Florida limited liability company, on behalf of the company, who ☐ is personally known to me or ☐ who has produced \_\_\_\_\_ as identification.

**WITNESS** my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
NOTARY PUBLIC

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

## **RIDER TO SUBORDINATION AGREEMENT – GOVERNMENTAL ENTITY**

### **REGULATORY AGREEMENT PRIMES MORTGAGE**

**(Revised 7-23-2025)**

The following changes are made to the Agreement which precedes this Rider:

A. Section 1 is modified as follows:

(A) The definition of Subordinate Loan Documents is modified to add the following:

**“Subordinate Loan Documents”** means the Subordinate Mortgage, the Subordinate Note, the Subordinate Loan Agreement and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Subordinate Indebtedness, as such documents may be amended; provided, however, that the Regulatory Agreement is specifically **excluded** from the definition of Subordinate Loan Documents.

(B) The following definitions are added:

**“First Transfer”** has the meaning set forth in Section 11 of this Agreement.

**“Foreclosure Action”** has the meaning set forth in Section 11 of this Agreement.

**“Regulatory Agreement Default”** means any act, failure to act, event, condition, or occurrence which (but for any contrary provision of this Agreement) is a default under the Regulatory Agreement, which continues beyond the giving of notice and expiration of any applicable cure period as provided in the Regulatory Agreement.

**“Regulatory Agreement Enforcement Action”** means the exercise of any rights or remedies under the Regulatory Agreement following a Regulatory Agreement Default.

**“Regulatory Agreement Enforcement Action Notice”** means a Notice given from Subordinate Lender to Senior Lender following one or more Regulatory Agreement Default(s), setting forth in reasonable detail the Regulatory Agreement Default(s) and the Regulatory Agreement Enforcement Actions proposed to be taken by Subordinate Lender.

B. Section 11 is deleted and replaced with the following:

#### **11. Regulatory Agreement.**

(a) Representations and Warranties.

- (i) Subordinate Lender represents and warrants that each of the following is true with respect to the Regulatory Agreement as of the date of this Agreement:
    - (A) Subordinate Lender is the owner and holder of the Regulatory Agreement.
    - (B) No Regulatory Agreement Default has occurred and is continuing.
  - (ii) Without the prior written consent of Senior Lender, Subordinate Lender will not do any of the following:
    - (A) Pledge, assign, transfer, convey, or sell any interest in the Regulatory Agreement.
    - (B) Amend the Regulatory Agreement in any manner.
- (b) Agreement to Subordinate.
- (i) The Senior Indebtedness is and will at all times continue to be subject and subordinate in priority to the Regulatory Agreement. Each of the Senior Loan Documents is, and will at all times remain, subject and subordinate in all respects to the lien of the Regulatory Agreement. Therefore, following a foreclosure under the Senior Mortgage, or the acceptance by Senior Lender of a deed to the Mortgaged Property in lieu of such a foreclosure (each, a “**Foreclosure Action**”), the Regulatory Agreement will survive and the successor owner of the Mortgaged Property will acquire the Mortgaged Property subject to the Regulatory Agreement, except that, notwithstanding anything to the contrary set forth in the Regulatory Agreement:
    - (A) Senior Lender (or its nominee) will have the right, without further consent of Subordinate Lender, to commence a Foreclosure Action and transfer (or cause the transfer of) the Mortgaged Property pursuant to a Foreclosure Action and, following such Foreclosure Action, in the event Senior Lender (or its nominee) acquires title to the Mortgaged Property, transfer the Mortgaged Property to any third-party (the “**First Transfer**”).
    - (B) No limitation on creation of indebtedness or creation of any lien securing indebtedness will apply to any third-party

acquiring title to the Mortgaged Property in connection with a Foreclosure Action or the First Transfer.

- (C) Any remedies in the Regulatory Agreement, other than specific performance or injunctive relief, will terminate after the Foreclosure Action.

(ii) Subordinate Lender agrees that:

- (A) Subordinate Lender will look to Senior Lender (or its nominee) and any third-party acquiring title to the Mortgaged Property in connection with a Foreclosure Action or the First Transfer to perform the obligations of owner of the Mortgaged Property accruing only from and after the date of foreclosure or possession. Subordinate Lender will not hold Senior Lender (or its nominee) or any third-party acquiring title to the Mortgaged Property in connection with a Foreclosure Action or the First Transfer responsible for the past actions or inactions of Borrower or any prior owner of the Mortgaged Property.
- (B) Neither Senior Lender nor any third-party acquiring title to the Mortgaged Property in connection with a Foreclosure Action or the First Transfer will be obligated to pay, or otherwise have any liability for or in connection with, (1) any rents or other payments received by Borrower prior to foreclosure in excess of what Borrower is permitted to charge and receive under the Regulatory Agreement or (2) any claim by Subordinate Lender for liquidated damages, for indemnification or for damages in connection with any breach of any term or provision of the Regulatory Agreement first occurring prior to the date upon which Senior Lender or such third-party acquired title to the Mortgaged Property.

(c) Notice of Regulatory Agreement Default and Cure Rights.

- (i) Subordinate Lender will deliver to Senior Lender a copy of each Notice of a Regulatory Agreement Default delivered by Subordinate Lender pursuant to the Regulatory Agreement within 5 Business Days of sending such Notice to Borrower. Neither giving nor failing to give a Notice to Senior Lender pursuant to this Section 11(c) will affect the validity of any Notice given by Subordinate Lender to Borrower.
- (ii) Senior Lender will have the right, but not the obligation, to cure any Regulatory Agreement Default, until such time, if ever, as Senior Lender delivers to Subordinate Lender written consent to proceed with the Regulatory Agreement Enforcement Action described in the Regulatory Agreement Enforcement Action Notice.
- (iii) Subordinate Lender acknowledges that all amounts advanced or expended by Senior Lender in accordance with the Senior Loan Documents or to cure a Regulatory Agreement Default will be added to and become a part of the Senior Indebtedness and will be secured by the lien of the Senior Mortgage.

(d) Exercise of Remedies following Notice of Regulatory Agreement Enforcement Action.

- (i) In the event of a default under the Regulatory Agreement, Subordinate Lender will not commence any Regulatory Agreement Enforcement Action until 90 days after Subordinate Lender has delivered to Senior Lender a Regulatory Agreement Enforcement Action Notice. Notwithstanding the forgoing, at all times following delivery to Senior Lender of a Regulatory Agreement Enforcement Action Notice, Subordinate Lender may exercise only the remedies of specific performance, injunctive relief, or the replacement of the property manager, subject to Senior Lender's right to cure a Regulatory Agreement Default set forth in Section 11(c).
- (ii) Subject to Senior Lender's right to cure a Regulatory Agreement Default set forth in Section 11(c), Subordinate Lender may not commence any other Regulatory Agreement Enforcement Action, until the earlier of:
  - (A) The expiration of the 90-day period in Section 11(d)(i) above.

- (B) The delivery by Senior Lender to Subordinate Lender of Senior Lender's written consent to such Regulatory Agreement Enforcement Action by Subordinate Lender.
- (iii) Subordinate Lender acknowledges that Senior Lender may grant or refuse consent to Subordinate Lender's Regulatory Agreement Enforcement Action in Senior Lender's sole and absolute discretion.
- (iv) Senior Lender may pursue all rights and remedies available to it under the Senior Loan Documents, at law, or in equity, regardless of any Regulatory Agreement Enforcement Action Notice or Regulatory Agreement Enforcement Action by Subordinate Lender. No action or failure to act on the part of Senior Lender in the event of a Regulatory Agreement Default or commencement of any enforcement action with respect to such a default will constitute a waiver on the part of Senior Lender of any provision of the Senior Loan Documents or this Agreement.
- (e) Operating Covenants. With respect to the operating covenants under the Regulatory Agreement, if any, Subordinate Lender acknowledges and agrees as follows:
  - (i) reserve requirements imposed by the Regulatory Agreement, if any, will be deferred so long as adequate deposits to the same or similar reserves required by the Senior Loan Documents are made by Borrower;
  - (ii) insurance requirements imposed by the Regulatory Agreement, if any, will be deemed satisfied if Borrower complies with the insurance requirements under the Senior Loan Documents and of Senior Lender and all Loss Proceeds will be paid to Senior Lender and applied in accordance with Section 7(b) of this Agreement; and
  - (iii) Subordinate Lender will have no claim to or security interest in reserve funds or accounts as required under the Senior Loan Documents, which will be owned and controlled as set forth in the Senior Loan Documents; provided however that this section will not be construed to allow Borrower or its partners or members, as applicable, to distribute any amount remaining in such reserve funds or accounts as part of a sale or refinancing transaction prior to the expiration of the Regulatory Agreement.
- (f) Written Statement. Within 30 days after a written request by Senior Lender, Subordinate Lender will furnish Senior Lender with a statement confirming that no Regulatory Agreement Default exists (or describing any default that does exist).

- (g) Cross Default. Borrower and Subordinate Lender acknowledge that a Regulatory Agreement Default constitutes a Senior Mortgage Default. Accordingly, upon the occurrence of a Regulatory Agreement Default, Subordinate Lender will be deemed to have actual knowledge of a Senior Mortgage Default. If Subordinate Lender notifies Senior Lender in writing that a Regulatory Agreement Default of which Senior Lender has received Notice has been cured or waived, then provided that Senior Lender has not conducted a sale of the Mortgaged Property pursuant to its rights under the Senior Loan Documents, any Senior Mortgage Default under the Senior Loan Documents arising solely from such Subordinate Mortgage Default will be deemed cured, and the Senior Loan will be reinstated.

**EXHIBIT A**  
**LEGAL DESCRIPTION**  
**[TO BE INCLUDED]**



THIS INSTRUMENT PREPARED BY:  
and after recording return to:

Daniel L. DeCubellis  
Carlton Fields, P.A.  
200 South Orange Avenue, Suite 1000  
Orlando, Florida 32801

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**Subordination.** Notwithstanding anything to the contrary set forth in this Mortgage, Mortgagee acknowledges that the Loan and the rights of Mortgagee with respect thereto or thereunder shall be subordinate, in right or payment and priority to: (a) a construction loan to Mortgagor from Truist Bank, its successors and assigns ("Truist"), in the original principal amount of \$[\_\_\_\_\_]; (b) a permanent loan to Mortgagor from The Bank of New York Mellon Trust Company, as fiscal agent, and its successors and assigns ("Permanent Lender"), in the original principal amount of up to \$[\_\_\_\_\_]; and (c) the following loans to Mortgagor from Florida Housing Finance Corporation ("FHFC"): (i) a SAIL loan in the amount of \$11,000,000.00, (ii) an ELI loan in the amount of \$750,000.00, and (iii) a HOME ARP loan in the amount of \$1,675,000.00; in each case as the same may be assigned, amended, restated and/or supplemented from time to time, pursuant to a Subordination Agreement between each Senior Lender (defined below) and Lender. The foregoing subordinations are pursuant to: (i) a Subordination Agreement dated as of \_\_\_\_\_, 2025 among Truist and the holder this Mortgage on the date of such Subordination Agreement, and (ii) a Subordination Agreement as of the date executed by and among Permanent Lender and the holder this Mortgage on the date of such Subordination Agreement, and (iii) a Subordination Agreement dated \_\_\_\_\_, 2025 by and among FHFC and the holder of this Mortgage on the date of such Subordination Agreement. Truist, Permanent Lender and FHFC may be referred to collectively as the "Senior Lenders" or individually as a "Senior Lender," and the loans made by the Senior Lenders for the Project may be referred to collectively as the "Senior Financing."

## **MORTGAGE AND SECURITY AGREEMENT**

**THIS MORTGAGE AND SECURITY AGREEMENT** (the "Mortgage"), is executed and delivered the \_\_\_\_ day of \_\_\_\_\_, 2025 by **BDG MARIPOSA GROVE, LLC**, a Florida limited liability company with offices at 501 North Magnolia Avenue, Orlando, Florida 32801 (the "Mortgagor"), to the **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF ORLANDO, FLORIDA**, an agency created pursuant to Chapter 163, Part III, Florida Statutes, with offices at 400 South Orange Avenue, Orlando, Florida 32802 (the "Mortgagee").

**W I T N E S S E T H:**

FOR GOOD AND VALUABLE CONSIDERATION, and to secure the payment of indebtedness in the aggregate amount of Five Million and 00/100 Dollars (\$5,000,000.00) (the "Loan")<sup>1</sup>, or so much thereof as may be advanced, to be paid in accordance with that certain Promissory Note of even date herewith from Mortgagor to Mortgagee (the "Note"), together with interest thereon and any and all sums due or which may become due under the Note, and together with any and all sums due or which may become due under this Mortgage or any other agreement securing the indebtedness evidenced by the Note, Mortgagor does grant, bargain, sell, alien, remise, release, convey and confirm unto the Mortgagee, its successors and assigns, all of the Mortgagor's estate in and to that certain land situate in the County of Orange, State of Florida, and more particularly described in Exhibit "A" attached hereto and made a part hereof, and together with all right, title and interest of Mortgagor to the use, occupancy, possession and enjoyment of said lands, howsoever created or established, including without limitation, pursuant to any agreements, stipulations and rights constituting a basis for such occupancy, possession, use and enjoyment to which Mortgagor and/or others and their respective successors and assigns, may be a party, together with the buildings and improvements thereon erected or to be erected (hereinafter referred to as the "Premises");

TOGETHER with the following:

- (i) All right, title and interest of Mortgagor in and to all leases, or subleases covering the Premises or any portion thereof now or hereafter existing or entered into, and all right, title and interest of Mortgagor thereunder, including, without limitation, all cash or security deposits, advance rentals, and deposits or payments of similar nature;
- (ii) all right, title and interest of Mortgagor in and to all easements, streets, ways, alleys, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and thereto, and all water rights;
- (iii) any and all buildings, structures and improvements now or hereafter erected thereon, including, but not limited to the fixtures, attachments, appliances, equipment, machinery, and other articles attached to said building, structures and improvements (sometimes hereinafter referred to as the "Improvements");
- (iv) all right, title and interest of Mortgagor in and to all fixtures, appliances, machinery, equipment, furniture, furnishings and articles of personal property now or hereafter affixed to, placed upon or used in connection with the operation of any of said properties and all gas, steam, electric, water and other heating, cooking, refrigerating, lighting, plumbing, ventilating,

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<sup>1</sup> NOTICE TO RECORDER: DOCUMENTARY STAMP TAXES IN THE AMOUNT OF \$17,500.00 AND INTANGIBLE TAXES IN THE AMOUNT OF \$10,000.00 ARE BEING PAID IN CONNECTION WITH THE RECORDING OF THIS INSTRUMENT BASED ON THE AMOUNT OF \$5,000,000.00 SECURED BY THIS MORTGAGE.

irrigating and power systems, machines, appliances, fixtures, and appurtenances which are now or may hereafter pertain to or be used with, in or on said Premises, even though they may be detached or detachable and all building improvement and construction materials, supplies and equipment hereafter delivered to said land contemplating installation or use in the constructions thereon and all rights and interests of Mortgagor in building permits, driveway and drainage permits, stormwater permits, utility permits and any other governmental permits issued for the development of the Premises and the Improvements, master plan approvals, architectural plans and specifications, construction contracts, architect contracts, construction management agreement, construction documents, books and records relating to contemplated constructions or Improvements on said Premises;

- (v) all awards and proceeds of condemnation for the Premises or any part thereof to which Mortgagor is entitled for any taking of all or any part of the Premises by condemnation or exercise of the right of eminent domain. All such awards and condemnation proceeds are hereby assigned to Mortgagee and the Mortgagee is hereby authorized, subject to the provisions contained in this Mortgage, to apply such awards and condemnation proceeds or any part thereof, after deducting therefrom any expenses incurred by the Mortgagee in the collection or handling thereof, toward the payment, in full or in part, of the Note secured by this Mortgage, notwithstanding the fact that the amount owing thereon may not then be due and payable; provided, however, so long as an Event of Default under the Loan Documents does not then exist and is not then continuing, and subject to the rights of the Senior Lenders (defined below), in the event of any casualty or condemnation, the insurance proceeds or condemnation awards received therefrom shall be used to restore the Premises, subject to the rights of Senior Lenders as may be set forth in the Development and Loan Agreement for Mariposa Grove Apartments by and among Mortgagor, Mortgagee and the City of Orlando, Florida (the "Development Agreement"), or in any Subordination Agreement by and between such Senior Lender and Mortgagee;
- (vi) all right, title and interest of Mortgagor in and to all options to purchase, sell or lease the Premises or any portion thereof or interest therein;
- (vii) all rents, issues and profits of the Premises and all the estate, right, title and interest of every nature whatsoever of the Mortgagor in and to the same;
- (viii) all accounts (including contract rights) and general intangibles, including any and all permits and licenses, pertaining to or arising from or in connection with all or any part of the Mortgaged Property, as hereinafter defined, including without limitation, all proceeds and choses in action arising under any insurance policies maintained with respect to all or any part of the Mortgaged Property;

- (ix) all proceeds, products, replacements, additions, substitutions, renewals and accessions of any of the foregoing items.
- (x) all right, title and interest of Mortgagor under any planned unit development, zoning, concurrency, governmental land use regulations, certificates, exemptions, or all development rights affecting the Premises.

All of the foregoing real and personal property, and all rights, privileges and franchises are collectively referred to as the "Mortgaged Property."

TO HAVE AND TO HOLD all and singular the Mortgaged Property hereby conveyed, and the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof and also all the estate, right, title, interest, property, possession, claim and demand whatsoever as well in law as in equity of the said Mortgagor in and to the same and every part and parcel thereof unto the said Mortgagee in fee simple.

PROVIDED ALWAYS that if the Mortgagor shall pay to the Mortgagee any and all indebtedness due by Mortgagor to Mortgagee (including the indebtedness evidenced by the Note and any and all renewals of the same) and shall perform, comply with and abide by each and every stipulation, agreement, condition, and covenant of this Mortgage, the Development Agreement and the Loan Documents; then this Mortgage and the estate hereby created shall cease and be null and void. Provided, it is further covenanted and agreed by the parties hereto that this Mortgage also secures the payment of and includes all future or further advances as hereinafter set forth to the same extent as if such made on the date of the execution of this Mortgage, and any disbursements made for the payment of tax, levies or insurance on the Mortgaged Property, with interest on such disbursements at the Default Rate as hereinafter defined.

To protect the security of this Mortgage, the Mortgagor covenants, warrants and agrees with the Mortgagee as follows:

## **ARTICLE I COVENANTS AND AGREEMENTS OF MORTGAGOR**

**1.1 Performance of Note, Mortgage and Covenants.** The Mortgagor shall pay or otherwise fully perform its obligations with respect to the payment of the principal, interest and other sums of money payable by virtue of the Note and this Mortgage, or either, promptly when the same become due and payable, and shall perform, comply with and abide by each and every of the agreements, conditions and covenants set forth in the Note and this Mortgage together with the agreements, conditions and covenants set forth below (terms which are capitalized but not defined herein shall have the meanings given to them in that certain Development Agreement by and among Mortgagor, Mortgagee and the City of Orlando, Florida.

Mortgagor shall not sell, lease or transfer the Mortgaged Property without the prior written consent of Mortgagee until Project Completion. The foregoing shall not be construed to prohibit the pledge or mortgage of Mortgagor's interest in the Mortgaged Property to a mortgage lender providing financing for the construction of the Project.

**1.2 Warranties and Representations.** Mortgagor hereby covenants with Mortgagee that it has fee simple title to the lands described in Exhibit "A," subject only to the matters set forth in the title commitment approved by Mortgagee; that the Mortgagor has full power and lawful right to convey its interest in the Premises as aforesaid; that it shall be lawful for Mortgagor at all times peaceably and quietly to enter upon, hold, occupy and enjoy said Mortgaged Property and every part thereof; that Mortgagor will make such further assurances to perfect the lien interest in said Premises in Mortgagee as may reasonably be required; and that Mortgagor does hereby fully warrant the title to the Mortgaged Property and every part thereof and will defend the same against the lawful claims of all persons whomsoever.

Mortgagor further represents and warrants to Mortgagee that all information, reports, paper, and data given to Mortgagee with respect to Mortgagor, and to the Loan evidenced by the Note and Mortgage are accurate and correct in all material respects and complete insofar as may be necessary to give Mortgagee a true and accurate knowledge of the subject matter.

**1.3 Leases, Subleases and Easements.** Mortgagor, at Mortgagor's sole cost and expense, shall maintain and cause to be performed all of the covenants, agreements, terms, conditions and provisions on its part to be kept, observed and performed under any lease, sublease or easements which may constitute a portion of or an interest in the Premises, shall require its tenants, or subtenants, to keep, observe and perform all of the covenants, agreements, terms, conditions and provisions on their part to be kept, observed or performed under any leases, subleases or easements; and shall not suffer or permit any breach or default to occur with respect to the foregoing; and in default thereof the Mortgagee shall have the right to perform or to require performance of any such covenants, agreements, terms, conditions or provisions of any lease, sublease or easement, and to add any expense incurred in connection therewith to the debt secured hereby, which such expense shall bear interest from the date of payment to the date of recovery by the Mortgagee at the Default Rate as hereinafter defined. Any such payment by the Mortgagee with interest thereon shall be immediately due and payable. The Mortgagor shall not, without the consent of the Mortgagee, consent to the modification, amendment, cancellation, termination or surrender of any easement.

No release or forbearance of any of Mortgagor's obligation under any such lease or sublease, shall release Mortgagor from any of its obligations under this Mortgage.

**1.4 Leases Affecting Mortgaged Property.** The Mortgagor shall comply with and observe its obligations as landlord under all leases affecting all or any portion of the Mortgaged Property (the "Residential Leases"). Upon request, the Mortgagor shall furnish

promptly to the Mortgagee executed copies of all such Residential Leases now existing or hereafter created.

**1.5 Required Insurance.** Subject to the rights of Senior Lenders (as hereinabove defined) under the documents governing any Senior Financing (as hereinabove defined), Mortgagor will, at Mortgagor's sole cost and expense, maintain or cause to be maintained with respect to the Mortgaged Property, and each part thereof, the following insurance: Insurance against loss or damage to the Improvements by fire or other hazards and any of the risks covered by insurance of the type known as all-risk or open peril property insurance (including without limitation, fire, hurricane or windstorm and sinkhole coverage) in an amount not less than the full replacement cost of the Improvements. All policies of insurance shall be issued by companies and in amounts in each company satisfactory to Mortgagee. All policies of insurance shall have attached thereto a lender's loss payment endorsement for the benefit of Mortgagee in form satisfactory to Mortgagee. Mortgagor shall furnish Mortgagee with evidence satisfactory to Mortgagee of the payment of premium and the reissuance, or reissuance, of a policy continuing insurance in force as required by this Mortgage. All such policies shall contain a provision that such policies will not be canceled or materially amended, which term shall include any reduction in the scope or limits of coverage, without at least thirty (30) days prior written notice to Mortgagee. In the event Mortgagor fails to provide, maintain, keep in force or deliver and furnish to Mortgagee the policies of insurance required by this Section, Mortgagee may procure such insurance or single-interest insurance for such risks covering Mortgagee's interest, and Mortgagor will pay all premiums thereon promptly upon demand by Mortgagee, and until such payment is made by Mortgagor the amount of all such premiums together with interest thereon at the rate of interest after maturity or default provided in the Note or the maximum rate permitted by Florida law, whichever is less (the "Default Rate").

Notwithstanding anything to the contrary contained herein, upon the occurrence of loss or damage to all or any portion of the Premises, in the event that (i) no Event of Default has occurred and is continuing hereunder, and (ii) insurance proceeds are sufficient to rebuild the Premises, such insurance proceeds may, at Mortgagor's request, be applied towards reconstruction or restoration of the Premises.

**1.6 Taxes and other Charges.** The Mortgagor shall pay before any interest, charge or penalty is due thereon, all taxes, assessments, levies, liabilities, obligations, encumbrances, water and sewer rents and all other charges or claims of every nature and kind which may be imposed or filed at any time against this Mortgage, the Mortgaged Property or any part thereof or against the interest of the Mortgagee therein, or which by any present or future law may have priority over the indebtedness secured hereby; provided, however, that if the Mortgagor in good faith and by appropriate legal action shall contest the validity of any such items or the amount thereof, and shall have established on its books or by deposit of cash with the Mortgagee or the holder of any senior lien on the Mortgaged Property a reserve for the payment thereof in such amount as the Mortgagee may require, then the Mortgagor shall not be required to pay the item: (a) while the reserve is maintained; and (b) so long as the contest operates to prevent collection, is maintained and prosecuted with diligence, and shall not have been terminated or discontinued adversely to the

Mortgagor. The Mortgagor shall furnish the Mortgagee with annual receipted tax bills evidencing payment within ninety (90) days from their due date.

**1.7 Maintenance, Repairs, Alterations.** Mortgagor shall keep the Mortgaged Property, or cause the same to be kept, in good condition and repair and fully protected from the elements. Mortgagor shall not commit nor permit to be committed waste thereon. Mortgagor will not remove, demolish or structurally alter any of the Improvements (except such alterations as may be required by laws, ordinances or regulations) without the prior written permission of the Mortgagee. Mortgagor shall complete promptly and in good and workmanlike manner any building or other improvement which may be constructed on the premises and promptly restore in like manner any Improvements which may be damaged or destroyed thereon and will pay when due all claims for labor performed and materials furnished therefor. Mortgagor shall use and operate, and shall require its lessees or licensees to use or operate, the Mortgaged Property in compliance with all applicable laws, ordinances, regulations, covenants, conditions and restrictions, and with all applicable requirements of any ground lease, lease or sublease now or hereafter affecting the Premises or any part thereof.

**1.8 Survival of Warranties.** All representations, warranties and covenants of Mortgagor contained herein or incorporated by reference shall survive funding of the Loan evidenced by the Note and shall remain continuing obligations, warranties and representations of Mortgagor during any time when any portion of the obligations secured by Mortgage remain outstanding.

**1.9 Inspections.** Mortgagee, or its agents, representatives or workmen, are authorized, subject to the rights of tenants, to enter at any reasonable time upon or in any part of the Premises for the purpose of inspecting the same, and for the purpose of performing any of the acts it is authorized to perform under the terms of this Mortgage.

**1.10 Liens.** Mortgagor shall pay and promptly discharge, at Mortgagor's cost and expense, all liens, encumbrances and charges upon the Mortgaged Property or any part thereof or interest therein. Mortgagor shall have the right to contest in good faith the validity of any such lien, encumbrance or charge, provided Mortgagor shall first deposit with Mortgagee a bond other security satisfactory to Mortgagee in such amounts as Mortgagee shall reasonably require, and provided further that Mortgagor shall thereafter diligently proceed to cause such lien, encumbrance or charge to be removed and discharged. If Mortgagor shall fail to discharge any such lien, encumbrance or charge, then, in addition to any other right or remedy of Mortgagee, Mortgagee may, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge of such lien by depositing in court a bond for the amount claimed or otherwise giving security for such claim, or in such manner as is or may be prescribed by law. Any amount so paid by the Mortgagee shall, at Mortgagee's option, become immediately due and payable with interest at the Default Rate, and shall be deemed part of the indebtedness secured by this Mortgage.

**1.11 Future Advances.** This Mortgage is given to secure not only existing indebtedness, but also future advances, whether such advances are obligatory or are to be

made at the option of Mortgagee, or otherwise, as are made within twenty (20) years from the date hereof, to the same extent as if such future advances are made on the date of the execution of this Mortgage. The total amount of indebtedness that may be so secured may decrease to a zero amount from time to time, or may increase from time to time, but the total unpaid balance so secured at one time shall not exceed three times the face amount of the Note, plus interest thereon, and any disbursements made for the payment of taxes, levies or insurance on the Mortgaged Property, with interest on such disbursements at the Default Rate as hereinafter defined.

## **ARTICLE II ASSIGNMENT OF LEASES, SUBLEASES, FRANCHISES, RENTS, ISSUES AND PROFITS**

**2.1 Assignment of Rents.** Mortgagor hereby collaterally assigns and transfers to Mortgagee all the leases, subleases, franchises, rents, issues and profits of the Mortgaged Property, and hereby gives to and confers upon Mortgagee the right, power and authority to collect such rents, issues and profits as herein set forth. Mortgagor irrevocably appoints Mortgagee its true and lawful attorney-in-fact, at the option of Mortgagee, immediately and without further legal action being necessary to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Mortgagor or Mortgagee, for all such rents, issues and profits and apply the same to the indebtedness secured hereby; provided, however, that Mortgagor shall have the right to collect such rents, issues and profits (but not more than one month in advance) prior to or at anytime there is not an Event of Default under this Mortgage.

**2.2 Collection upon Default.** Upon any Event of Default under this Mortgage, Mortgagee may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Mortgaged Property, or any part thereof, in its own name, sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorneys' fees, upon any indebtedness secured hereby, and in such order as Mortgagee may determine. The collection of such rents, issues and profits, or the entering upon and taking possession of the Mortgaged Property, or the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such Default or pursuant to such notice of Default.

**2.3 Residential Leases.** All leases or subleases entered into by Mortgagor with respect to the Mortgaged Property or any part thereof, shall be subordinate to the lien of this Mortgage.

## **ARTICLE III ENVIRONMENTAL CONDITION OF PREMISES**

**3.1 Environmental Condition of Property.** Mortgagor hereby warrants and represents to Mortgagee after thorough investigation that:



(a) the Premises are now and at all times hereafter will continue to be in full compliance with all Federal, State and local environmental laws and regulations, including but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), Public Law No. 96-510, 94 Stat. 2767, and the Superfund Amendments and Reauthorization Act of 1986 (SARA), Public law No. 99-499, 100 Stat. 1613, and

(b) (i) as of the date hereof there are no hazardous materials, substances, waste or other environmentally regulated substances (including without limitation, any materials containing asbestos) located on, in or under the Premises or used in connection therewith, or (ii) Mortgagor has fully disclosed to Mortgagee in writing the existence, extent and nature of any such hazardous material, substance, waste or other environmentally regulated substance, currently present or which Mortgagor is legally authorized and empowered to maintain on, in or under the Premises or use in connection therewith, Mortgagor has obtained and will maintain all licenses, permits and approvals required with respect thereto, and is and will remain in full compliance with all of the terms, conditions and requirements of such licenses, permits and approvals. Mortgagor further warrants and represents that it will promptly notify Mortgagee of any change in the environmental condition of the Premises or in the nature or extent of any hazardous materials, substances or wastes maintained on, in or under the Premises or used in connection therewith, and will transmit to Mortgagee copies of any citations, orders, notices or other material governmental or other communication received with respect to any other hazardous materials, substances, waste or other environmentally regulated substance affecting the Premises.

Mortgagor hereby indemnifies and holds harmless Mortgagee from and against any and all damages, penalties, fines, claims, suits, liabilities, costs, judgments and expenses (including attorneys', consultants' or experts' fees) of every kind and nature incurred, suffered by or asserted against Mortgagee as a direct or indirect result of:

(a) any warranty or representation made by Mortgagor in this paragraph being or becoming false or untrue in any material respect or

(b) any requirement under the law, regulation or ordinance, local, state or federal, regarding the removal or elimination of any hazardous materials, substances, waste or other environmentally regulated substances.

Mortgagor's obligations hereunder shall not be limited to any extent by the term of the Note, and, as to any act or occurrence prior to payment in full and satisfaction of said Note which gives rise to liability hereunder shall continue, survive and remain in full force and effect notwithstanding foreclosure of this Mortgage, where Mortgagee is the purchaser at the foreclosure sale, or delivery of a deed in lieu of foreclosure to Mortgagee.

## **ARTICLE IV SECURITY AGREEMENT**

**4.1 Creation of Security Interest.** This Mortgage also constitutes a security agreement as defined under the Uniform Commercial Code. The Mortgagor hereby grants to the Mortgagee a security interest in and to personal property described in this Mortgage as a part of the Mortgaged Property, including, without limitation, all furniture, furnishings, equipment, machinery, and personal property of every nature whatsoever now owned or hereafter acquired by the Mortgagor located upon the Premises together with all proceeds therefrom. The Mortgagor shall execute any and all documents as the Mortgagee may request, including, without limitation, financing statements pursuant to the Uniform Commercial Code as adopted by the State of Florida, to preserve and maintain the priority of the lien created hereby on property which may be deemed personal property or fixtures. The Mortgagor hereby authorizes and empowers the Mortgagee to execute and file on behalf of the Mortgagor all financing statements and refilings and continuations thereof as the Mortgagee deems necessary or advisable to create, preserve or protect said lien. The Mortgagor and Mortgagee expressly agree that the filing of a financing statement shall never be construed as in anywise derogating from or impairing the express declaration and intention of the parties hereto that all such personality located on or utilized in connection with the real property encumbered by this Mortgage shall at all times and for all purposes, in all proceedings both legal and equitable, be deemed a part of the real property encumbered by this Mortgage.

## **ARTICLE V REMEDIES UPON DEFAULT**

**5.1 Events of Default.** Any one or more of the following shall constitute a default ("Default" and sometimes an "Event of Default") under this Mortgage and the Note hereby secured:

- (a) The occurrence of any default under the Note or this Mortgage.
- (b) The occurrence of any default under the Development Agreement (including, without limitation, any Event of Default of the Affordability Requirements set forth in the Development Agreement), or any Loan Document.
- (c) Failure of Mortgagor to comply with or perform in a material respect any warranty, covenant or agreement contained herein, or in the Note or in any other document executed by Mortgagor in conjunction with this transaction, of even date herewith, within any applicable time period provided therein; provided, however, that Mortgagor will have such additional time as may be required provided Mortgagor is continuously and in good faith attempting to remedy such default.
- (d) The institution of any bankruptcy reorganization or insolvency proceedings against the then owner or Mortgagor in possession of the Mortgaged Property or the appointment of a receiver or a similar official with respect to all or a substantial part of the properties of the then owner or Mortgagor in possession of the

Mortgaged Property and a failure to have such proceedings dismissed or such appointment vacated within a period of sixty (60) days.

(e) The institution of any voluntary bankruptcy, reorganization or insolvency proceedings by the then owner or Mortgagor in possession of the Mortgaged Property, or the appointment of a receiver or a similar official with respect to all or a substantial part of the properties of the then owner or Mortgagor in possession of the Mortgaged Property at the instance of the then owner or Mortgagor in possession of the Mortgaged Property.

Mortgagee will not be entitled to declare an acceleration of the Note or otherwise to pursue any remedies for default unless: (a) in the case of a default other than the failure to pay money, the default is not cured within thirty (30) days following written notice from the Mortgagee, or if such default not cannot practicably be cured within thirty (30) days, then within such additional time as may be required to effect a cure (such additional time not to exceed one hundred and twenty (120) days), so long as (i) the cure is commenced within thirty (30) days and is diligently prosecuted and (ii) the lack of a cure during such continuing cure period has no material adverse effect on the Mortgaged Property, or (b) in the event any of said sums of money required to be paid by the Note or by this Mortgage are not promptly and fully paid within five (5) days next after the same become due and payable, without demand or notice.

As more particularly described in the Development Agreement, Mortgagor's non-managing members shall have the right, but not the obligation, to cure any Default or Event of Default on behalf of Mortgagor under this Mortgage or any of the Loan Documents.

**5.2 Default Rate.** The Default Rate shall be equal to the maximum rate of interest permitted by applicable law.

**5.3 Acceleration upon Default, Additional Remedies.** In the event that one or more Defaults as above provided shall occur, the remedies available to Mortgagee shall include, but not necessarily be limited to, any one or more of the following:

(a) Mortgagee may declare the entire unpaid balance of the Note immediately due and payable without notice.

(b) Mortgagee may apply to any court of competent jurisdiction for the appointment of a receiver or similar official to manage and operate the Mortgaged Property, or any part thereof, and to apply the net rents and profits therefrom to the payment of the interest and/or principal of said Note and/or any other obligations of Mortgagor to Mortgagee hereunder or in any Loan Document. In event of such application, Mortgagor agrees to consent to the appointment of such receiver or similar official and agrees that such receiver or similar official may be appointed without notice to Mortgagor, without regard to the adequacy of any security for the debts and without regard to the solvency of Mortgagor or any other person, firm or corporation who or which may be liable for the payment of the Note or any other obligation of Mortgagor hereunder.

(c) Mortgagee may institute proceedings for the complete or partial foreclosure of this Mortgage.

(d) Without declaring the entire unpaid principal balance due, the Mortgagee may foreclose only as to the sum past due, without injury to this Mortgage or the displacement or impairment of the remainder of the lien thereof, and at such foreclosure sale the property shall be sold subject to all remaining items of indebtedness; and Mortgagee may again foreclose in the same manner as often as there may be any sum past due.

(e) To the maximum extent permitted under the laws of the State of Florida, Mortgagee shall have the right, but not the duty, upon the happening of any Event of Default, in addition to the rights or remedies available to it under this Mortgage, to enter into possession of the Premises and perform any and all work and labor, supply all materials and incur any costs and expenses including attorneys' fees, necessary to protect and/or secure the Improvements

**5.4 Additional Provisions.** Mortgagor expressly agrees, on behalf of itself, its successors and assigns and any future owner of the Mortgaged Property, or any part thereof or interest therein, as follows;

(a) All remedies available to Mortgagee with respect to this Mortgage shall be cumulative and may be pursued concurrently or successively. No delay by Mortgagee in exercising any such remedy shall operate as a waiver thereof or preclude the exercise thereof during the continuance of that or any subsequent default.

(b) The obtaining of a judgment or decree on the Note, whether in the State of Florida or elsewhere, shall not in any manner affect the lien of this Mortgage upon the Mortgaged Property covered hereby, and any judgment or decree so obtained shall be secured to the same extent as said Note are now secured.

(c) In event of any foreclosure sale hereunder all net proceeds shall be available for application to the indebtedness hereby secured whether or not such proceeds may exceed the value of the Mortgaged Property for recordation tax, mortgage tax, insurance or other purposes.

(d) The only limitation upon the foregoing agreements as to the exercise of Mortgagee's remedies is that there shall be but one full and complete satisfaction of the indebtedness secured hereby.

**5.5 Protective Advances.** Mortgagee may, at its option, and without waiving its right to accelerate the indebtedness hereby secured and to foreclose the same, pay after delinquency any or all of those certain obligations required by the terms hereof to be paid by the Mortgagor for the protection of the Mortgage security or for the collection of the indebtedness hereby secured. All sums so advanced or paid by Mortgagee shall bear interest from the date thereof at the Default Rate as fully and to the same extent as though a part of

the original indebtedness evidenced by the Note and secured by this Mortgage, excepting however, that said sums shall be repaid to the Mortgagee within fifteen (15) days after demand by the Mortgagee to the Mortgagor for said payment.

## **ARTICLE VI MISCELLANEOUS**

**6.1 Corporate Existence.** So long as the Mortgaged Property shall be owned or held by a corporation, limited partnership, limited liability partnership or limited liability company, such corporation, partnership or company, (and any corporate general partner or member of such limited partnership, limited liability partnership or limited liability company, as applicable) shall at all times maintain its existence and shall be fully authorized to do business in the State of Florida and shall maintain in the State of Florida a duly authorized registered agent for the service of process. Failure to comply with such obligations shall be a Default under this Mortgage. Within ninety (90) days after the expiration of the time for filing its annual report and the payment of the appropriate taxes in the State of Florida, Mortgagor will furnish to Mortgagee a certificate of good standing or other evidence satisfactory to Mortgagee to show compliance with the provisions of this Section.

**6.2 Successors and Assigns.** The provisions hereof shall be binding upon and shall inure to the benefit of the Mortgagor its successors and assigns, including without limitation subsequent owners of the Premises or any part thereof; shall be binding upon and shall inure to the benefit of Mortgagee, its successors and assigns and any future holder of the Note hereby secured, and any successors or assigns of any future holder of the Note. In the event the ownership of the Mortgaged Property or any interest that may be covered by this Mortgage, becomes vested in a person other than Mortgagor, Mortgagee may, without notice to Mortgagor deal with such successor or successors in interest with reference to this instrument and the debt hereby secured in the same manner as with the Mortgagor and may alter the interest rate and/or alter or extend the terms of payment of the Note without notice to Mortgagor hereunder or under the Note hereby secured or the lien or priority of this Mortgage with respect to any part of the Mortgaged Property covered hereby, but nothing herein contained shall serve to relieve Mortgagor of any liability under the Note or this Mortgage (or any other agreement executed in conjunction therewith) unless Mortgagee shall expressly release Mortgagor in writing. Mortgagor and any transferee or assignee shall be jointly and severally liable for any documentation or intangible taxes imposed as a result of any transfer or assumption.

**6.3 Mortgagee Need Not Cure Specified Defaults.** Nothing contained herein shall require Mortgagee or its designee, as a condition to exercise its right hereunder, to cure any default of Mortgagor.

**6.4 Release of Mortgaged Property.** Mortgagee reserves the right, at any time, to release portions of the Mortgaged Property, with or without consideration, at Mortgagee's election, without waiving or affecting any of its rights hereunder or under the Note or the other Loan Documents, and any such release shall not affect Mortgagee's rights in connection with the portion of the Mortgaged Property not so released.

**6.5 Notice Requirements.** All notices, demands and requests given by either party hereto to the other party shall be in writing. All notices, demands and requests by the Mortgagee to the Mortgagor shall be deemed to have been properly given if sent by United States registered or certified mail, postage prepaid, addressed to the Mortgagor at the address as the Mortgagor may from time to time designate by written notice to the Mortgagee, given as herein required. All notices, demands and requests by the Mortgagor to the Mortgagee shall be deemed to have been properly given if sent by United States registered or certified mail, postage prepaid, addressed to the Mortgagee at the address as the Mortgagee may from time to time designate by written notice to the Mortgagor given as herein required. Notices, demands and requests given in the manner aforesaid shall be deemed sufficiently served or given for all purposes hereunder at the time such notice, demand or request shall be deposited in any post office or branch post office regularly maintained by the United States Government. Notices, demands and requests shall also be deemed sufficiently served or given for all purposes hereunder (i) when delivered, if delivered by hand and (ii) upon the day after the deposit with any nationally or regionally recognized overnight carrier service which requires proof of delivery.

The Mortgagor shall deliver to the Mortgagee, promptly upon receipt of same, copies of all notices, certificates, documents and instruments received by it which materially affect any part of the Mortgaged Property covered hereby.

A copy of any notice provided to Mortgagor hereunder shall be provided to Mortgagor's non-managing members as required by the Development Agreement.

**6.6 Modifications in Writing.** This Mortgage may not be changed, terminated or modified orally or in any other manner than by an instrument in writing signed by the party against whom enforcement is sought.

**6.7 Captions.** The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Mortgage.

**6.8 Invalidity of Certain Provisions.** If the lien of this Mortgage is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Mortgaged Property, the unsecured portion of the debt shall be completely paid prior to the payments of the secured portion of the debt, and all payments made on the debt, whether voluntary or otherwise, shall be considered to have been first paid on and applied to the full payment of that portion of the debt which is not secured or fully secured by the lien of this Mortgage.

**6.9 No Merger.** Upon the foreclosure of the lien created by this Mortgage on the Mortgaged Property pursuant to the provisions hereof, any leases or subleases then existing and created by Mortgagor shall not be destroyed or terminated by application of the law of merger or as a result of such foreclosure sale unless the foreclosure judgment provides for the termination of such leases or subleases. No act by or on behalf of Mortgagee or any such purchaser shall constitute a termination of any lease or sublease unless Mortgagee or such purchaser shall give written notice thereof to such tenant or subtenant.

**6.10 Governing Law and Construction of Clauses.** This Mortgage shall be governed and construed by the laws of the State of Florida. No act of the Mortgagee shall be construed as an election to proceed under any one provision of the Mortgage or of the applicable statutes of the State of Florida to the exclusion of any other such provision, anything herein or otherwise to the contrary notwithstanding.

**6.11 Severability.** If any term, condition or covenant of this Mortgage, the Note or any other document secured by this Mortgage, or the application thereof to any person or circumstances shall be invalid or unenforceable, the remainder of this Mortgage, Note and other Loan Documents and the application of such term, covenant or condition to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, and each term, covenant or condition of this Mortgage, the Note and other Loan Documents shall be valid and enforceable to the fullest extent permitted by law.

**6.12 Meaning of Words.** The words "Mortgagor" and "Mortgagee" whenever used herein shall include all individuals, limited or general partnerships, corporations (and if a corporation, its officers, employees or agents), trusts and any and all other persons or entities, and the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and all those holding under either of them, and the pronouns used herein shall include when appropriate, either gender and both singular and plural, and the word "Note" shall also include one or more Note and the grammatical construction of sentences shall conform thereto. The words "Loan Document(s)" shall mean any document or instrument submitted by or for the parties in connection with this Loan, including, but not limited to the Note, the Development Agreement and this Mortgage.

**6.13 Limitation of Remedies.** Mortgagor and Mortgagee agree that they shall not have a remedy of punitive or exemplary damages against the other in any dispute arising out of, or as a result of, any obligation or provision contained in this Mortgage, and hereby waive any right or claim to punitive or exemplary damages they have now or which may arise in the future in connection with any dispute.

**6.14 Consent to Jurisdiction and Venue.** Mortgagor irrevocably and unconditionally agrees that (a) any suit, action, or other legal proceeding arising out of or relating to this Agreement may be brought, at the option of the Mortgagee, in a court of record, of competent jurisdiction in the State of Florida in the County where the Mortgaged Property is located; (b) consents to the jurisdiction of each such court in any such suit, action, or proceeding; and (c) waives any objection which it may have to the laying of venue of any such suit, action, or proceeding in any such courts.

**6.15 Litigation Expenses.** In any litigation arising in any way out of this Mortgage, the Note or the Loan, the prevailing party shall be entitled to recover all its attorneys' fees and expenses, including any and all attorneys' fees and expenses incurred in any appellate, bankruptcy or post-judgment proceedings. Furthermore, any judgment rendered in favor of Mortgagee in any litigation arising in any way out of this Note, shall accrue interest at the highest rate allowed by law. Any judgment rendered against the undersigned will include a provision allowing for the subsequent assessment and award of attorneys' fees and costs incurred after judgment by the holder for the enforcement or

collection of the judgment and reserving jurisdiction to the trial court for the purpose of making such award.

**6.16 WAIVER OF JURY TRIAL. MORTGAGOR AND MORTGAGEE KNOWINGLY, INTENTIONALLY, VOLUNTARILY AND IRREVOCABLY WAIVE ANY RIGHT THEY MAY HAVE TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BETWEEN MORTGAGOR AND MORTGAGEE IN CONNECTION WITH OR ARISING OUT OF THIS MORTGAGE AND THE TRANSACTIONS AND LOAN DOCUMENTS RELATED HERETO.**

SIGNATURE ON FOLLOWING PAGE



IN WITNESS WHEREOF, Mortgagor has hereunto set hand and seal all done as of the day and year first hereinbefore written.

**Witnesses**

\_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

**Witness**

\_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

**“MORTGAGOR”**

BDG MARIPOSA GROVE, LLC  
a Florida limited liability company

By: BDG MARIPOSA GROVE GP, LLC,  
a Florida limited liability company,  
its Manager

By: \_\_\_\_\_  
Scott Zimmerman, Manager

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by Scott Zimmerman, as Manager of BDG MARIPOSA GROVE GP, LLC, a Florida limited liability company, as Manager of BDG MARIPOSA GROVE, LLC, a Florida limited liability company, on behalf of the company who [ ] is personally known to me or [ ] has produced \_\_\_\_\_ as identification.

(affix seal)

## **EXHIBIT "A"**

Unit 1 of Mariposa Grove Condominium, according to that certain Declaration of Condominium thereof, dated \_\_\_\_\_, and recorded \_\_\_\_\_ in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_, Public Records of Orange County, Florida, and all exhibits and amendments thereto.

THIS INSTRUMENT PREPARED  
BY AND RETURN TO:  
Jan Albanese Carpenter, Esq.  
Latham, Luna, Eden & Beaudine, LLP  
P.O. Box 3353  
Orlando, Florida 32802

ABOVE SPACE RESERVED FOR  
RECORDING PURPOSES ONLY

## **SUBORDINATION AGREEMENT**

**(The City of Orlando & Orlando CRA HOME, City and CRA Loans  
Subordination to FHFC SAIL + ELI and HOME-ARP Loans)**

**(Mariposa Grove / SAIL + ELI / RFA 2023-205 / 2024-047BSA)**

**THIS SUBORDINATION AGREEMENT** (this “Agreement”) is made and entered into as of October \_\_, 2025, by (i) FLORIDA HOUSING FINANCE CORPORATION, a public corporation and a public body corporate and politic duly created and existing under the laws of the State of Florida, in its capacities as second mortgage lender of SAIL + ELI funds, and third mortgage lender of HOME-ARP funds, (collectively, the “Senior Mortgagee”) (which term as used in every instance shall include Senior Mortgagee’s successors and assigns); (ii) THE CITY OF ORLANDO, FLORIDA, a municipal corporation in its capacities as fourth mortgage lender of HOME Loan funds and as fifth mortgage lender of City Loan funds (the “City”); (iii) COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF ORLANDO, FLORIDA, an agency created pursuant to Chapter 163, Part III, Florida Statutes as sixth lender of CRA funds (the “CRA” and together with the City, the “Subordinate Mortgagee”); and (iii) BDG MARIPOSA GROVE, LLC, a Florida limited liability company (the “Borrower”).

## **RECITALS**

A. Florida Housing has agreed to finance a portion of the costs of the Improvements pursuant to a first mortgage loan to the Borrower in the original principal amount of \$23,000,000 (the “First Mortgage Loan”) secured by a Mortgage, Security Agreement and Assignment of Rents and Fixture Filing (the “First Mortgage”), as assigned to The Bank of New York Mellon Trust Company, N. A., a national banking association, as trustee (the “First Mortgagee”), relating to the issuance by Florida Housing of its \$40,000,000 Florida Housing Finance Corporation Multifamily Mortgage Revenue Note, 2025 Series \_ (Mariposa Grove) (the “Governmental Note”) and which loan is evidenced and secured by the First Mortgage and other mortgage loan documents including a Land Use Restriction Agreement (the “First Mortgage Loan Documents”).

B. Florida Housing (the “Second Mortgagee”) has also agreed to finance a portion of the costs of the Improvements pursuant to a second mortgage loan to the Borrower of (i) State

Apartment Incentive Loan (“SAIL”) Program funds under the Florida Housing Finance Corporation Request for Applications 2023-205, in effect as of July 5, 2023 (“RFA”), and the SAIL Program, Section 420.5087, Fla. Stat., and governed by the rules of Florida Housing Finance Corporation, as codified at Chapter 67-48, Fla. Admin. Code, in effect as of June 28, 2023, and Chapter 67-53, Fla. Admin. Code, in effect as of August 20, 2009 (collectively, including the RFA, the “Rule”) and (ii) Extremely Low Income (“ELI”) Program funds under the RFA, in the original principal amount of \$11,750,000 (consisting of an award of SAIL Base Loan Program funds in the amount of \$11,000,000 and an award of ELI Program funds in the amount of \$750,000) (collectively, the “Second Mortgage Loan”), secured by a second mortgage dated as of the date hereof and other loan documents, agreements, guarantees, and instruments, including a Land Use Restriction Agreement (collectively, the “Second Mortgage”).

C. Florida Housing (the “Third Mortgagee”) has also agreed to finance a portion of the costs of the Improvements pursuant to a third mortgage loan to the Borrower of HOME-ARP and governed by the RFA, in the original principal amount of \$1,675,000 (the “Third Mortgage Loan”), secured by a third mortgage dated as of the date hereof and other loan documents, agreements, guarantees, and instruments, including a Land Use Restriction Agreement (collectively, the “Third Mortgage”).

The First Mortgage, the Second Mortgage and the Third Mortgage are hereinafter collectively referred to as the “Senior Mortgage;” the First Mortgagee, the Second Mortgagee, and the Third Mortgagee are hereinafter collectively referred to as the “Senior Mortgagee;” and, the First Mortgage Loan, the Second Mortgage Loan, and the Third Mortgage Loan are hereinafter collectively referred to as the “Senior Mortgage Loan.”

In the event any of the First Mortgage Loan, the Second Mortgage Loan, and/or the Third Mortgage Loan are satisfied and the corresponding loan documents terminated of record, this Subordination Agreement shall remain effective to subordinate the Subordinate Mortgage to the remaining senior mortgage loans and the collective term “Senior Mortgage,” Senior Mortgagee” and “Senior Mortgage Loan” shall thereafter refer to the remaining mortgagee(s), loan(s) and loan document(s).

D. The Subordinate Mortgagee has agreed to finance a portion of the costs of the Improvements pursuant to (i) a fourth mortgage loan to the Borrower from the City in the original principal amount of \$1,500,000 (the “HOME Note”) and (ii) a fifth mortgage loan to the Borrower the original principal amount of \$3,500,000 (the “City Note”), and (iii) a sixth mortgage loan from the CRA in the original principal amount of \$5,000,000 (the “CRA Note,” and together with the HOME Note and the City Note, the “Subordinate Note”). The Subordinate Note is secured by three separate Mortgage and Security Agreements all dated as of the date hereof (collectively, the “Subordinate Mortgage”) all to be recorded in the Public Records of Orange County, Florida. The Subordinate Mortgage and the Senior Mortgage encumber real property described in Exhibit “A” attached hereto and made a part hereof, the improvements thereon, and certain personal property relating thereto (collectively, the “Property”). Hereinafter, the aforesaid Subordinate Note, the Subordinate Mortgage, the Development and Loan Agreement and the Declaration of Affordable

Housing Restrictive Covenants for Mariposa Grove, and all other loan documents, restrictive covenants, agreements, instruments and guarantees executed in connection with the Subordinate Loan are collectively referred to as the "Subordinate Mortgage".

E. To induce the Senior Mortgagee to make the Senior Mortgage Loan, the Subordinate Mortgagee is willing to subordinate the Subordinate Mortgage to the Senior Mortgage.

## **AGREEMENT**

**NOW, THEREFORE**, in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, from one to the other paid, the receipt and sufficiency whereof is hereby acknowledged, and to induce Senior Mortgagee to make the Senior Loan, the parties do hereby agree:

1. **Recitals.** The Recitals are true and correct and are made a part hereof.

2. **Subordination.**

(a) The Subordinate Mortgage is now and forever hereafter made subordinate and inferior to the Senior Mortgage and to all debt evidenced or secured thereby including principal, interest, costs and expenses, and to any and all extensions, modifications, amendments, enlargements or renewals thereof or future advances made thereunder. Further, the terms of the Subordinate Mortgage and all rights and remedies of the Subordinate Mortgagee available to the Subordinate Mortgagee pursuant to the Subordinate Mortgage, including but not limited to the right to claim or receive any insurance or condemnation awards or proceeds, are hereby expressly subordinate to the terms of the Senior Mortgage and the rights and remedies of Senior Mortgagee under the Senior Mortgage.

(b) The indebtedness of Borrower, and any other obligor pursuant to the Subordinate Mortgage, and any and all other indebtedness and other obligations of Borrower to Subordinate Mortgagee, and the Subordinate Mortgage and all other liens, encumbrances and security interests given to secure the payment of the Subordinate Mortgage and any other obligations of payment or performance of Borrower to Subordinate Mortgagee, whether now existing or hereafter created or acquired, shall be and hereby are subordinated in lien, priority and payment of principal and interest and all other charges and fees, including, without limitation, taxes and insurance premiums paid by Senior Mortgagee and interest accruing after any default or petition in bankruptcy, to the indebtedness of Borrower pursuant to the Senior Mortgage, and all liens, encumbrances and security interests given to secure the payment thereof, whether now existing or hereafter created or acquired, including, without limitation, the Senior Mortgage and to any and all other loans, advances, extensions of credit, or other accommodations to or for the account of Borrower as Senior Mortgagee may elect to make from time to time, and any and all other indebtedness of Borrower to Senior Mortgagee, whether now existing or hereafter created or acquired, and any and all liens, encumbrances, and security interests given to secure the repayment or payment thereof, whether now existing or hereafter created or acquired, and to such renewals and extensions thereof as Senior Mortgagee may elect to make from time to time.

3. **Conditions Precedent to Remedial Action.** If a default occurs under the Subordinate Mortgage (a "Subordinate Loan Default") and is continuing, the Subordinate Mortgagee agrees that, without the Senior Mortgagee's prior written consent, it will not commence foreclosure proceedings with respect to the Property under the Subordinate Mortgage or exercise any other rights or remedies it may have under the Subordinate Mortgage, including, but not limited to accelerating the Subordinate Loan (and enforcing any "due on sale" provision included in the Subordinate Mortgage), collecting rents, appointing (or seeking the appointment of) a receiver or exercising any other rights or remedies thereunder unless and until it has given the Senior Mortgagee at least thirty (30) days' prior written notice. The Senior Mortgagee shall have the right, but not the obligation, to cure any Subordinate Loan Default within the same time period for curing a default which is given to the Borrower under the Subordinate Loan Documents, except that the Senior Mortgagee's time period for cure shall begin on the date on which it receives notice of the Subordinate Loan Default. All amounts advanced or expended by the Senior Mortgagee to cure a Subordinate Loan Default shall be deemed to have been advanced by the Senior Mortgagee pursuant to, and shall be secured by the lien of, the Senior Mortgage.

4. **Insurance, Condemnation.** In the event of partial or total destruction of the Property which results in the payment of insurance proceeds, or in the event of a condemnation or similar proceeding which results in the payment of an award, the proceeds or award shall be applied in accordance with the relevant provisions of the Senior Mortgage.

5. **Modifications to Subordinate Mortgage.** Borrower agrees that it will not modify the Subordinate Mortgage without the prior written consent of the Senior Mortgagee. Borrower and Subordinate Mortgagee agree that no future advances may be made under the Subordinate Loan without the prior written consent of Senior Mortgagee.

6. **Notices.** Each notice, request, demand, consent, approval or other communication (hereinafter in this section referred to collectively as "notices" and referred to singly as a "notice") which the Senior Mortgagee or the Subordinate Mortgagee is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered); or (b) sent by Federal Express (or other similar national overnight courier) designating early morning delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received two (2) days after mailing in the United States), addressed to the respective parties as follows:

Senior Mortgagee: Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329  
Attention: Executive Director  
Telephone: (850) 488-4197

with a copy to: Latham, Luna, Eden & Beaudine, LLP  
 201 South Orange Ave., Suite 1400  
 Orlando, Florida 32801  
 Attention: Jan Albanese Carpenter, Esq.  
 Telephone: (407) 481-5800  
 Email: Jcarpenter@lathamluna.com

Subordinate  
 Mortgagee: City of Orlando  
 Housing and Community Development Department  
 400 South Orange Avenue, 7<sup>th</sup> Floor  
 Orlando, Florida 32802-3370  
 Attention: Oren J. Henry  
 Housing and Community Development Director  
 E-mail: oren.henry@orlando.gov

Community Redevelopment Agency of  
 the City of Orlando, Florida  
 400 South Orange Avenue  
 Orlando, Florida 32802-3370  
 Attention: David Barilla, Executive Director  
 Email: David.Barilla@downtownorlando.

with a copy to: City of Orlando  
 400 South Orange Avenue  
 Orlando, Florida 32802-3370  
 Attention: Lisa Pearson, Esq.  
 Telephone: (407) 246-2295  
 Email: Lisa.Pearson@cityoforlando.net

Borrower: BDG Mariposa Grove, LLC  
 c/o Banyan Development Group, LLC  
 501 North Magnolia Avenue  
 Orlando, Florida 32801  
 Attention: Scott Zimmerman  
 Telephone: 407-777-2323  
 Email: szimmerman@agpmanager.com

with a copy to: Nelson Mullins Riley & Scarborough LLP  
 390 N. Orange Avenue, Suite 1400  
 Orlando, Florida 32801  
 Attention: David F. Leon, Esq.  
 Telephone: (407) 650 0918  
 Email: David.Leon@nelsonmullins.com

Borrower Investor  
Limited Partner: TCC BDG Mariposa Grove LLC  
c/o Truist Community Capital LLC  
303 Peachtree Street N.E., Suite 2200  
Atlanta, Georgia 30308  
Attention: Asset Management (Mariposa Grove Apartments)

with a copy to: Holland & Knight LLP  
10 Saint James Avenue, 11th Floor  
Boston, Massachusetts 02116  
Attention: Jarrod Connors  
Telephone: (617) 854-1426  
Email: Jarrod.connors@hklaw.com

Either party may, by notice given pursuant to this Section, change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses for its notices, but notice of a change of address shall only be effective upon receipt.

7. **No Waiver.** The giving of consent by Senior Mortgagee to the giving of the Subordinate Mortgage is not and shall not be deemed a waiver of the Senior Mortgagee's rights to prohibit any other junior mortgage of the Property. No delay on the part of Senior Mortgagee or Subordinate Mortgagee in the exercise of any right or remedy hereunder or under the Senior Mortgage or Subordinate Mortgage, respectively, shall operate as a waiver of any right hereunder.

8. **Counterparts.** The parties hereto agree that this Subordination Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

9. **Costs of Enforcement.** Should suit be brought to enforce the provisions of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees incurred both at trial and on appeal.

10. **Paragraph Headings.** The headings of the various paragraphs of this Subordination Agreement have been inserted only for the purposes of convenience, and are not part of this Subordination Agreement and shall not be deemed in any manner to modify, explain or restrict any of the provisions of this Subordination Agreement.

11. **Choice of Law.** This Agreement shall be construed, interpreted, enforced and governed by and in accordance with the laws of the State of Florida, excluding the principles thereof governing conflicts of law. If any provision shall be held prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating any other provision of this Agreement.

12. **Binding Effect.** This Agreement shall be binding upon the Borrower and the Subordinate Mortgagee and their respective successors and assigns and shall inure to the benefit of the Senior Mortgagee, its successors and assigns.



**13. Senior Debt and/or Senior Refinancing.** Subordinate Mortgagee further agrees that its agreement to subordinate hereunder shall extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Loan (including reasonable and necessary costs associated with the closing and/or the refinancing); and that all the terms and covenants of this Agreement shall inure to the benefit of any holder of any such refinanced debt; and that all references to the Senior Loan, the Senior Note, the Senior Mortgage and Senior Mortgagee shall mean, respectively, the refinance loan, the refinance note, the mortgage securing the refinance note, all documents evidencing securing or otherwise pertaining to the refinance note and the holder of the refinance note.

**14. Severability.** If any covenant, condition, term, or provision contained in this Agreement is held to be invalid by final judgment of any court of competent jurisdiction, the invalidity of such covenant, condition, term, or provision shall not in any way affect any other covenant, condition, term, or provision contained in this Agreement.

[COUNTERPART SIGNATURE PAGES TO FOLLOW]

**COUNTERPART SIGNATURE PAGE TO  
SUBORDINATION AGREEMENT**

**(The City of Orlando, Florida CRA, HOME and City Loans  
Subordination to FHFC SAIL + ELI and HOME-ARP Loans)**

**(Mariposa Grove / SAIL + ELI / RFA 2023-205 / 2024-047BSA)**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first written above.

WITNESSES:

FLORIDA HOUSING FINANCE  
CORPORATION, a public corporation

\_\_\_\_\_  
Print: \_\_\_\_\_  
227 N. Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329

By: \_\_\_\_\_  
Melissa Levy  
Managing Director of Multifamily Programs  
227 N. Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329

\_\_\_\_\_  
Print: \_\_\_\_\_  
227 N. Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2025, by MELISSA LEVY, as Managing Director of Multifamily Programs of the FLORIDA HOUSING FINANCE CORPORATION, a public corporation and a public body corporate and politic duly created and existing under the laws of the State of Florida, on behalf of Florida Housing. Said person is personally known to me or has produced a valid driver's license as identification.

\_\_\_\_\_  
Notary Public; State of Florida  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission No.: \_\_\_\_\_

**COUNTERPART SIGNATURE PAGE TO  
SUBORDINATION AGREEMENT**

**((The City of Orlando, Florida CRA, HOME and City Loans  
Subordination to FHFC SAIL + ELI and HOME-ARP Loans)**

**(Mariposa Grove / SAIL + ELI / RFA 2023-205 / 2024-047BSA)**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first written above.

**ATTEST**

By: \_\_\_\_\_  
City Clerk

Print Name: \_\_\_\_\_

\_\_\_\_\_  
Approved as to form and legality for the use and  
reliance of the City of Orlando, Florida, only.

By: \_\_\_\_\_  
Assistant City Attorney

Print Name: \_\_\_\_\_

**“City”**

**CITY OF ORLANDO, FLORIDA**, a municipal  
corporation of the State of Florida

By: \_\_\_\_\_  
Buddy Dyer,  
as Mayor of the City of Orlando

400 S. Orange Avenue  
Orlando, Florida 32801

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence  
or ☐ online notarization this \_\_\_\_ day of \_\_\_\_\_, 2025, by Buddy Dyer, as Mayor of the  
City of Orlando, Florida, a municipal corporation of the State of Florida, who [ ] is personally  
known to me or [ ] has produced \_\_\_\_\_ as  
identification.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
My Commission Expires: \_\_\_\_\_  
Commission No. \_\_\_\_\_

(affix seal)

**COUNTERPART SIGNATURE PAGE TO  
SUBORDINATION AGREEMENT**

**((The City of Orlando, Florida CRA, HOME and City Loans  
Subordination to FHFC SAIL + ELI and HOME-ARP Loans)**

**(Mariposa Grove / SAIL + ELI / RFA 2023-205 / 2024-047BSA)**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first written above.

**ATTEST**

By: \_\_\_\_\_  
David Barilla, as Executive Director

**“CRA”**

**COMMUNITY REDEVELOPMENT AGENCY  
OF THE CITY OF ORLANDO, FLORIDA,**  
an agency created pursuant to Chapter 163, Part III,  
Florida Statutes

By: \_\_\_\_\_  
Buddy Dyer,  
as Chairman

400 S. Orange Avenue  
Orlando, Florida 32801

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this \_\_ day of \_\_\_\_\_, 2025, by Buddy Dyer, as Chairman, and Davis Barilla, as Executive Director, of the Community Redevelopment Agency of the City of Orlando, Florida, an agency created pursuant to Chapter 163, Part III, Florida Statutes, who [ ] are personally known to me or [ ] have produced \_\_\_\_\_ as identification.

(affix seal)

\_\_\_\_\_  
Notary Public, State of Florida at Large  
My Commission Expires: \_\_\_\_\_  
Commission No. \_\_\_\_\_

**COUNTERPART SIGNATURE PAGE TO  
SUBORDINATION AGREEMENT**

**(The City of Orlando, Florida CRA, HOME and City Loans  
Subordination to FHFC SAIL + ELI and HOME-ARP Loans)**

**(Mariposa Grove / SAIL + ELI / RFA 2023-205 / 2024-047BSA)**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first written above.

WITNESSES:

BDG MARIPOSA GROVE, LLC, a Florida  
limited liability company

\_\_\_\_\_  
Name: \_\_\_\_\_  
501 N. Magnolia Avenue  
Orlando, FL 32801

By: BDG Mariposa Grove GP, LLC, a Florida  
limited liability company, its manager

\_\_\_\_\_  
Name: \_\_\_\_\_  
501 N. Magnolia Avenue  
Orlando, FL 32801

By: \_\_\_\_\_  
Scott Zimmerman, Manager  
501 N. Magnolia Avenue  
Orlando, FL 32801

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2025, by SCOTT ZIMMERMAN, as Manager of BDG MARIPOSA GROVE GP, LLC, a Florida limited liability company, as manager of BDG MARIPOSA GROVE, LLC, a Florida limited liability company, on behalf of the limited liability companies. Said person is ☐ personally known to me or ☐ has produced a valid driver's license as identification.

\_\_\_\_\_  
Notary Public; State of Florida  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission No.: \_\_\_\_\_

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**(The City of Orlando, Florida CRA, HOME and City Loans  
Subordination to FHFC SAIL + ELI and HOME-ARP Loans)**

**(Mariposa Grove / SAIL + ELI / RFA 2023-205 / 2024-047BSA)**

PREPARED BY AND UPON  
RECORDATION RETURN TO:

Holland & Knight LLP  
1180 West Peachtree Street, NW  
Suite 1800  
Atlanta, GA 30309  
Attention: Drew H. Gandy, Esq.

**SUBORDINATION  
AGREEMENT**

THIS SUBORDINATION AGREEMENT (this “**Agreement**”) is made and executed as of [\_\_\_\_\_, 2025], by the COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF ORLANDO, FLORIDA, an agency created pursuant to Chapter 163, Part III, Florida Statutes (“**Subordinate Lender**”) for the benefit of TRUIST BANK (“**Senior Lender**”); and acknowledged and agreed to by BDG MARIPOSA GROVE, LLC, a Florida limited liability company (“**Borrower**”).

WITNESSETH:

A. Borrower is constructing a 138-unit senior housing development on the real property described in the attached **Exhibit A** (the real estate and improvements thereon shall be collectively referred to as the “**Property**”); and

B. Subordinate Lender is making a loan (the “**Subordinate Loan**”) to Borrower. The Subordinate Loan is evidenced by a Promissory Note in the principal amount of \$5,000,000 (the “**Subordinate Note**”) and secured by *inter alia* a Mortgage and Security Agreement (the “**Subordinate Security Instrument**”) from Borrower to Subordinate Lender, conveying the Property as collateral for the Subordinate Loan. The Subordinate Note, the Subordinate Security Instrument, and all other documents or instruments relating to or evidencing the Subordinate Loan are collectively referred to as the “**Subordinate Loan Documents**.” The obligations created under and pursuant to the Subordinate Loan Documents are herein referred to collectively as the “**Subordinate Obligations**”; and

C. Senior Lender has made a construction loan (the “**Senior Loan**”) to Borrower, the proceeds of which will be disbursed pursuant to a Construction Loan Agreement (the “**Senior Loan Agreement**”). The Senior Loan is evidenced by a Note in the principal amount of [\$27,000,000], dated of even date herewith (the “**Senior Note**”) and secured by *inter alia* a Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (the “**Senior Security Instrument**”) from Borrower to Senior Lender, conveying the Property as collateral for the

Truist / Mariposa Grove  
Subordination Agreement (City of Orlando, Florida Community Redevelopment Agency)  
141016489

Senior Loan. The Senior Loan Agreement, the Senior Note, the Senior Security Instrument, and all other documents or instruments relating to or evidencing the Senior Loan, and any amendment, modification, restatement, replacement, extension or renewal of any of them, are herein collectively referred to as the "**Senior Loan Documents**." The obligations created under and pursuant to the Senior Loan Documents are herein referred to collectively as the "**Senior Obligations**"; and

D. As a condition under the Senior Loan Documents, Senior Lender has required that Subordinate Lender subordinate the Subordinate Loan, Subordinate Obligations and Subordinate Loan Documents in all respects to the Senior Loan, Senior Loan Obligations and Senior Loan Documents in the manner set forth herein. It was and continues to be of substantial benefit to Subordinate Lender and to Borrower for Senior Lender to disburse the Senior Loan proceeds, and Subordinate Lender is willing to subordinate the Subordinate Loan Documents and the Subordinate Loan on the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements set forth herein and for other good and valuable consideration, the mutuality, receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. Recitals Incorporated. The recitals set forth hereinabove are incorporated herein by reference to the same extent and with the same force and effect as if fully set forth hereinbelow, provided, however, that such recitals shall not be deemed to modify the express provisions hereinafter set forth.

2. Subordination. Subordinate Lender does hereby subordinate (a) the Subordinate Security Instrument, (b) all of the Subordinate Obligations, and (c) all of its right, title, lien, and interest in and to the Property and the rents, issues, and profits therefrom, to (i) the Senior Security Instrument, (ii) all of the Senior Obligations, and (iii) all of the right, title, lien and interest held by Senior Lender, or its successors and assigns (including, without limitation, all subsequent holders of the Senior Note and the Senior Security Instrument), in and to the Property and the rents, issues, and profits therefrom, under and pursuant to the Senior Loan Documents. From and after the date hereof, all of the documents, indebtednesses, right, title, lien, and interest described in clauses (a), (b) and (c) hereinabove shall be subject and subordinate to all of the documents, indebtednesses, right, title, lien, and interest described in clauses (i), (ii) and (iii) hereinabove. The priorities herein specified are applicable irrespective of the time of creation of the Senior Obligations or the Subordinate Obligations. Subordinate Lender does hereby agree that, notwithstanding anything provided in the Subordinate Loan Documents to the contrary, so long as the Senior Obligations remain outstanding, unless Senior Lender shall consent in writing: (A) all of the Senior Obligations shall be paid and satisfied in full before any payment is made on account of the Subordinate Obligations; and (B) no prepayment of the Subordinate Obligations shall be made. Notwithstanding the foregoing, until such time as Subordinate Lender shall have received written notice from Senior Lender of a default under the Senior Loan Documents, Subordinate Lender may receive and collect any regularly scheduled payments of principal or interest or other amounts then due under the Subordinate Loan Documents and apply same against the payment then due and owing under the Subordinate Loan Documents. Upon notice from Senior Lender that a default has occurred under the Senior Loan Documents, Subordinate



Lender shall not collect any payments (whether principal, interest, fees or other amounts) under the Subordinate Loan Documents. In the event that any payment is made to Subordinate Lender on account of the principal, interest, fees, or other amounts on or with respect to the Subordinate Obligations which is not permitted hereunder, such payment shall be held by Subordinate Lender in trust for the benefit of Senior Lender and shall be paid forthwith over and delivered to Senior Lender for application to the payment of all of the Senior Obligations remaining unpaid.

3. Amendments to the Subordinate Loan Documents. Notwithstanding anything in the Subordinate Loan Documents to the contrary, Subordinate Lender agrees that, so long as the Senior Obligations remain outstanding, Subordinate Lender shall not execute a written agreement with Borrower amending, modifying, or waiving any monetary provision, the term of the Subordinate Loan, or renewing, or replacing any provision of any of the Subordinate Loan Documents without Senior Lender's prior, written consent in its sole discretion,

4. Enforcement of Rights and Remedies Under Subordinate Loan Documents. Subordinate Lender agrees that it will not accelerate the Subordinate Obligations or otherwise exercise any rights under the Subordinate Loan Documents (including, but not limited to, instituting a foreclosure proceeding) or take or accept a deed in lieu of foreclosure of the Subordinate Security Instrument until the Senior Obligations shall have been indefeasibly paid and performed in full and the Senior Security Instrument shall have been satisfied and cancelled of record. As long as any portion of the Senior Obligations shall remain outstanding, the sole remedy of the holder of the Subordinate Loan Documents, in the event of any default under the Subordinate Loan Documents, shall be to pay off (or to purchase at par, without warranty or recourse) the Senior Loan and the Senior Loan Documents as a condition to, and prior to asserting, any rights or remedies under the Subordinate Loan Documents. Notwithstanding the foregoing, Subordinate Lender will be entitled to seek specific performance to enforce (i) the federal HOME affordability set-asides set forth in the Declaration of Restrictive Covenant Containing Rent and Income Restrictions and the Declaration of Restrictive Covenant dated as of the Closing Date, executed by the Borrower for the benefit of Subordinate Mortgagee (as such set-asides are prescribed by the HOME program regulations at 24 CFR part 92), and (ii) the affordability restrictions set forth in the Declaration of Affordable Housing Restrictive Covenant for Mariposa Grove Apartments dated as of the Closing Date, executed by the Borrower for the benefit of Subordinate Mortgagee, all subject to Senior Lender's right to cure a default under the Subordinate Loan Documents as set forth in Section 5.

5. Cure Provisions. If a default occurs under the Subordinate Loan Documents which Subordinate Lender seeks to enforce, Subordinate Lender shall notify the Senior Lender in writing contemporaneously with any notice of such default to the Borrower, which notice shall specify the nature of the default. For a period of thirty (30) days following the Senior Lender's receipt of such notice, but in no event less than the period of time afforded Borrower under the Subordinate Loan Documents (the "**Cure Period**"), Senior Lender shall have the right (but not the obligation) to cure Borrower's default without meeting any requirements as to the assumption of the Subordinate Loan Documents. If Senior Lender cures the default within the Cure Period or if Borrower cures the default, then the Subordinate Loan shall be deemed reinstated, and, in the latter case, Subordinate Lender shall notify Senior Lender of the cure.

6. Warranties, Representations and Acknowledgements of Subordinate Lender. Subordinate Lender hereby warrants and represents to Senior Lender that:

- a. Subordinate Lender is the owner and holder of the Subordinate Loan Documents, free and clear of any lien, security interest or other claim whatsoever;
- b. Subordinate Lender has full power and authority to enter into this Agreement, the persons executing, acknowledging, and delivering this Agreement on behalf of Subordinate Lender are fully authorized to do so, and all of the terms and provisions of this Agreement are fully enforceable against Subordinate Lender and its successors and assigns (including, without limitation, all subsequent holders of the Subordinate Note and the Subordinate Security Instrument).
- c. This Agreement does not violate any contract or other obligation by which Subordinate Lender is bound, and the Senior Loan does not cause a default under the Subordinate Loan Documents;
- d. **Exhibit B** attached hereto is a true, correct and complete listing of all of the Subordinate Loan Documents as of the date hereof. To Subordinate Lender's knowledge, there currently exists no default or event which, with the giving of notice or the lapse of time, or both, would constitute a default under any of the Subordinate Loan Documents.

7. Casualty and Condemnation. In the event of a casualty to, or a condemnation or taking under a power of eminent domain of all or any portion of, the Property or payment under any payment or performance bond obtained by Borrower, Senior Lender shall have a first and prior interest in and to any payments, awards, proceeds, distributions, or consideration arising from any such event (the "**Award**"), and Senior Lender shall have the right to apply any such Award in accordance with the terms of the Senior Loan Documents. If Senior Lender makes any portion of the Award available to the Borrower for the repair or restoration of the Property, such portion of the Award shall not be subject to attachment by Subordinate Lender, and Subordinate Lender shall likewise make available to Borrower for the purpose of restoration the insurance proceeds or condemnation award (if any) to which it is entitled under the Subordinate Loan Documents.

8. Bankruptcy. (a) Upon any distribution of the assets or properties of Borrower or upon any dissolution, winding up, liquidation, bankruptcy or reorganization involving Borrower (whether in bankruptcy, insolvency or receivership proceedings or upon an assignment for the benefit of creditors or otherwise, herein referred to as a "**Proceeding**"):

(i) Senior Lender shall first be entitled to receive payment in full of the principal of and interest on the Senior Obligations and all fees and any other payments (including post-petition interest and all costs and expenses) due pursuant to the terms of the Senior Documents, before Subordinate Lender is entitled to receive any payment on account of the Subordinate Obligations; and

(ii) any payment or distribution of the assets or properties of Borrower of any kind or character, whether in cash, property, or securities, to which Subordinate Lender

would be entitled except for the provisions of this Agreement, shall be paid by the debtor in possession, liquidating trustee or agent or other person making such payment or distribution directly to Senior Lender; and

(iii) in the event that, notwithstanding the foregoing, any payment or distribution of the assets or properties of Borrower of any kind or character, whether in cash, property, or securities, shall be received by Subordinate Lender on account of principal, interest, fees, or other amounts on or with respect to the Subordinate Obligations before all of the Senior Obligations are paid in full, such payment or distribution shall be received and held in trust for and shall be paid over to Senior Lender forthwith, for application to the payment of the Senior Obligations until all such Senior Obligations shall have been paid in full in accordance with the terms of the Senior Loan Documents.

In the event of a Proceeding, Subordinate Lender, by its execution of this Agreement, authorizes and expressly directs Senior Lender to take such action as may be necessary or appropriate, in Senior Lender's sole discretion, from time to time to effectuate the subordination provided herein and the foregoing, and does hereby: (i) irrevocably assign to Senior Lender all of Subordinate Lender's rights as a secured or unsecured creditor in any Proceeding and authorizes Senior Lender to take, or refrain from taking, any action to assert, enforce, modify, waive, release or extend Subordinate Lender's lien and/or claim in such Proceeding, including but not limited to (a) filing a proof of claim arising out of the Subordinate Obligations, (b) voting or refraining from voting claims arising from the Subordinate Obligations, either in Subordinate Lender's name or in the name of Senior Lender as attorney-in-fact of Subordinate Lender, (c) accepting or rejecting any payment or distribution made with respect to any claim arising from the Subordinate Obligations and applying such payment and distribution to payment of Senior Lender's claim until the Senior Obligations are paid and satisfied in full in accordance with their terms, and (d) taking any and all actions necessary to effectuate the foregoing and, inter alia, to establish Senior Lender's entitlement to assert Subordinate Lender's claim in such Proceeding; and (ii) release Senior Lender from and against any claims, causes of action, losses, costs or damages to Subordinate Lender arising out of or with respect to Senior Lender's actions in a Proceeding as set forth in this Agreement.

(b) For so long as the Senior Obligations shall remain outstanding, Subordinate Lender shall not, and shall not solicit any person or entity to, and shall not direct or cause Borrower to: (i) commence any Proceeding or other action against Borrower under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors; (ii) institute proceedings to have Borrower adjudicated a bankrupt or insolvent; (iii) consent to, , the institution of a Proceeding against Borrower; (iv) file a petition or consent to the filing of a petition seeking reorganization, arrangement, adjustment, winding-up, dissolution, composition, liquidation or other relief by or on behalf of Borrower; (v) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, custodian or any similar official for Borrower, the Property (or any portion thereof) or any other collateral securing the Senior Obligations (or any portion thereof); (vi) make an assignment for the benefit of any credit of Borrower; or (vii) take any action in furtherance of any of the foregoing.

#### 9. No Modification to Senior Loan Documents; Dealings with Borrower; No Third Party

Trust / Mariposa Grove

Subordination Agreement (City of Orlando, Florida Community Redevelopment Agency)

141016489

Beneficiaries. Nothing herein shall be deemed to modify, limit or in any way affect the rights and obligations of Borrower to Senior Lender, or the rights and remedies of Senior Lender, under the Senior Loan Documents, except as expressly set forth herein. Senior Lender may extend, renew, modify, or amend the Senior Obligations and any of the Senior Loan Documents, and release, transfer, assign, sell, or exchange any security therefor and otherwise deal freely with Borrower to the same extent as could any person, all without notice to or consent of Subordinate Lender and without affecting the liabilities and obligations of Subordinate Lender. Senior Lender shall have no obligations or liability to Subordinate Lender with respect to the Senior Loan, except as expressly set forth herein. Without limiting the foregoing, Senior Lender has no obligation to Subordinate Lender to advance any funds under the Senior Loan Documents, and Senior Lender is under no obligation or duty to, nor has Senior Lender represented that it will, see to the application of the proceeds of the Senior Loan by Borrower or any other person to whom Senior Lender disburses such proceeds. The parties hereto do not intend the benefits of this Agreement to inure to Borrower or any other person or entity.

10. Waiver; Modification. No delay on the part of Senior Lender in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by Senior Lender of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy; nor shall any modification or waiver of any of the provisions of this Agreement be binding upon Senior Lender except as expressly set forth in a writing duly signed and delivered by or on behalf of Senior Lender.

11. Legend. Subordinate Lender and Borrower hereby agree to cause the Subordinate Note and the Subordinate Security Instrument to contain a legend in substantially the following form:

“The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of all amounts then due and payable (including, but not limited to, all amounts due and payable by virtue of any default or acceleration or upon maturity) with respect to the indebtedness evidenced by the Note (as defined by that certain Mortgage, Assignment of Rents, Security Agreement and Fixture Filing by the Borrower in favor of Truist Bank, in the original maximum principal amount of [\$27,000,000], executed by Borrower and payable to Truist Bank (“**Senior Lender**”), to the extent and in the manner provided in that certain Subordination Agreement, dated as of [\_\_\_\_\_, 2025] between Senior Lender and the holder of this Note (the “**Subordination Agreement**”). The rights and remedies of the payee and each subsequent holder of this Note shall be deemed, by virtue of such holder’s acquisition of this Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the “Junior Lender” under the Subordination Agreement.”

12. Notices. Any notice or other communication required or permitted hereunder shall be given in writing and deemed to be duly given and received on the date the same shall be personally delivered to the addressee (including delivery by a professional overnight courier service), or on the third day after the same shall be deposited in the United States mail, certified mail, return receipt requested postage prepaid, at the address specified below:

If to Subordinate Lender:

Community Redevelopment Agency of the City of Orlando, Florida  
400 South Orange Avenue  
Orlando, Florida 32802-3370  
Attn: David Barilla, Executive Director

with a copy to:

Stacey Y. Adams, Assistant City Attorney  
Chief City Attorney's Office  
400 South Orange Avenue  
Orlando, Florida 32801

and

Florida Housing Finance Corporation  
227 N. Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329  
Attention: Executive Director

If to Senior Lender:

Truist Bank  
Unified CRE Lending Service Delivery  
303 Peachtree Center Avenue, NE., Suite 500  
Mail Code 803-04-05-30  
Atlanta, GA 30303

and

Truist Bank  
303 Peachtree Street NE, Floor 22  
Atlanta, GA 30308  
Attention: Colin M. Whittier

With a copy to (for information purposes only):

Holland & Knight LLP  
1180 West Peachtree Street, NW  
Suite 1800  
Atlanta, Georgia 30309  
Attention: Woodrow W. Vaughan III

Any party hereto may by written notice in the manner herein provided change the address to which any such notice or other communication shall be thereafter given to it.

13 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns (including all subsequent holders of any note, security instrument or other instrument described in this Agreement). Any references to the parties shall be deemed to include the parties hereto and their successors and assigns.

14. Miscellaneous. This Agreement is made and executed under and in all respects is to be governed and construed by the law of the state where the Property is located. Subordinate Lender waives any right to trial by jury in connection with any action arising under this Agreement. Headings to this Agreement are for the purpose of reference only and shall not limit or otherwise affect the meaning hereof. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which, taken together, shall constitute one instrument. This Agreement sets forth the final expression of the entire agreement of the parties hereto with regard to the subordination provided for herein and shall supersede and cancel any prior agreements as to such subordination, including without limitation any provisions in the Subordinate Security Instrument. So long as the Senior Security Instrument shall affect the Property or any portion thereof, Subordinate Lender, its successors or assigns, or any other legal holder of the Subordinate Security Instrument, as the case may be, shall execute, acknowledge, and deliver upon the reasonable request of Senior Lender, at any time or times, any and all further documents or instruments in recordable form for the purpose of further confirming the subordination and the agreements herein set forth.

15. Governmental Powers. Nothing in this Agreement is intended, nor will it be construed, to in any way limit the exercise by Subordinate Lender, or its governmental affiliates of their governmental powers (including police, regulatory, building, code enforcement and taxing powers) with respect to Borrower or the Property to the same extent as if it were not a party to this Agreement or the transactions contemplated by this Agreement. In addition, nothing herein shall be construed to be a waiver of Subordinate Lender's sovereign immunity under Florida law.

*[Signature Page Follows]*

IN WITNESS WHEREOF, Subordinate Lender has caused this instrument to be executed by its duly authorized officer as of the day and year first above written.

ATTEST:

**SUBORDINATE LENDER:**

**COMMUNITY REDEVELOPMENT  
AGENCY OF THE CITY OF ORLANDO,  
FLORIDA**

By: \_\_\_\_\_  
David Barilla, Executive Director

By: \_\_\_\_\_  
Buddy Dyer, Chairman

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

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by \_\_\_\_ physical presence or \_\_\_\_ online notarization this \_\_\_\_ day of \_\_\_\_\_, 2025, by Buddy Dyer as Chairman and David Barilla as Executive Director of the Community Redevelopment Agency of the City of Orlando.

\_\_\_\_\_  
Signature of Notary Public – State of Florida  
Print, Type, or Stamp Notary Name: \_\_\_\_\_

(Affix Notary Stamp or Seal Above)

\_\_\_\_ Personally Known or \_\_\_\_ Produced Identification

Type of Identification Produced \_\_\_\_\_

Approved as to form and legality for the use  
and reliance of the City of Orlando, Florida only

\_\_\_\_\_, 2025

By: \_\_\_\_\_  
Chief Assistant City Attorney

The undersigned have set their respective hands and seals hereto to acknowledge and agree to the terms and conditions of the foregoing Agreement as of the day and year first above written, by Subordinate Lender, for the benefit of Senior Lender, and acknowledged and agreed to by the undersigned:

**BORROWER:**

WITNESSES:

**BDG MARIPOSA GROVE, LLC**, a Florida limited liability company

Print: \_\_\_\_\_

By: BDG Mariposa Grove GP, LLC, a Florida limited liability company, its manager

Print: \_\_\_\_\_

By: \_\_\_\_\_  
Scott Zimmerman, Manager

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by \_\_\_\_ physical presence or \_\_\_\_ online notarization this \_\_\_\_ day of \_\_\_\_\_, 2025, by Scott Zimmerman, as the Manager of BDG Mariposa Grove GP, LLC, a Florida limited liability company, manager of **BDG MARIPOSA GROVE, LLC**, a Florida limited liability company, on behalf of the limited liability companies. Said person is personally known to me or has produced a valid driver's license as identification.

\_\_\_\_\_  
Notary Public; State of Florida

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

My Commission No.: \_\_\_\_\_



**EXHIBIT A**  
**LEGAL DESCRIPTION**

[To Be Inserted]

## **EXHIBIT B**

1. Mortgage and Security Agreement by Borrower in favor of Subordinate Lender;
2. Promissory Note by Borrower in favor of Subordinate Lender; and
3. Development and Loan Agreement for Mariposa Grove Apartments, among Borrower, the City of Orlando and the City of Orlando, Florida Community Redevelopment Agency

**HIGH WAGE/HIGH VALUE JOB CREATION PROGRAM AGREEMENT  
BETWEEN THE COMMUNITY REDEVELOPMENT AGENCY  
OF THE CITY OF ORLANDO AND  
ECS FLORIDA, LLC.**

THIS AGREEMENT is entered into by and between the **Community Redevelopment Agency of the City of Orlando**, Florida, a body politic and corporate of the State of Florida, with a principal address of 400 South Orange Avenue, Orlando, Florida 32802 (hereinafter referred to as the “CRA”), and **ECS FLORIDA, LLC** (hereinafter referred to as “ECS Florida”), a foreign corporation with a mailing address of 14030 Thunderbolt Place, Chantilly, VA 20151 and whose Federal Employer I.D. Number is 20-1067793.

**W I T N E S S E T H:**

**WHEREAS**, the CRA was created as a public body corporate and politic of the State of Florida, for the purposes of the community redevelopment objectives of Part III, Chapter 163, Florida Statutes; and

**WHEREAS**, the Downtown Orlando Community Redevelopment Plan (the “Plan”) provides for the CRA to create economic development programs, specifically including a High Wage/High Value Job Creation Program, and provides incentives under such programs; and

**WHEREAS**, in an effort to accomplish the objectives of Part III, Chapter 163, Florida Statutes and the goals of the Plan, the CRA established the High Wage/High Value Job Creation Program (the “Program”) in order to encourage targeted industries and targeted headquarters to locate high-value jobs to the Downtown Orlando Community Redevelopment Area (the “Area”); and

**WHEREAS**, the Program is intended to provide funding incentives for job creation (“Program Incentives”) to qualified companies upon locating additional high-value jobs to a Downtown Orlando location within the Area; and

**WHEREAS**, the funding shall be contingent upon the number of jobs established and compliance with the terms and conditions of each Program Incentive in which the company is participating; and

**WHEREAS**, ECS Florida is a multidisciplinary engineering consulting firm specializing in geotechnical, environmental, construction materials testing, and facilities services, supporting clients across the country with comprehensive project solutions; and

**WHEREAS**, ECS Florida is a targeted industry proposing to create high-value job opportunities in the Area (the “Project”); and

**WHEREAS**, ECS Florida anticipates creating 27 new high-value jobs in the Area over a three-year period with an average annual salary of \$102,092.81 which is 150% of the 2023 average annual private sector wage in Orange County; and

**WHEREAS**, the CRA proposes to provide ECS Florida funds from the High Wage/High Value Job Creation Program for Program Incentives set forth in **Exhibit “B”** in an amount not to exceed One Hundred, Seventeen Thousand Dollars and No Cents (\$117,000.00) to be paid to ECS Florida in annual payments, in arrears, beginning in Fiscal Year (FY) 2025-2026 which will be based on ECS Florida’s actual job creation; and

**WHEREAS**, the CRA finds and declares it is in the public's best interest to award these funds to ECS Florida pursuant to this Agreement.

**NOW THEREFORE**, in consideration of the premises and mutual covenants hereinafter contained, the parties do agree as follows:

1. Recitals. The above recitals are true and correct and form a material part of this Agreement.
2. Incorporation of Premises. The premise of this Agreement is incorporated herein as if fully set out below. All exhibits to this Agreement are hereby deemed a part hereof.
3. Effective Date. This Agreement shall be effective on the date it is last executed by a party hereto, and shall, unless sooner terminated as provided herein, automatically terminate ten (10) years after the creation of the last incented job.
4. Obligations of the CRA:
  - a. The CRA shall appropriate an amount not to exceed the total sum of \$117,000.00 from the High Wage/High Value Job Creation Program for FY's 2025-2026 through 2030-2031. The CRA shall make annual payments ("Program Payments") in accordance with the schedule in **Exhibit "B"**, based on the actual number of jobs created as shown in the Annual Report described in section 8 herein, provided ECS Florida meets its obligations as set forth in section 5.
  - b. The CRA's obligations to make the Program Payments shall arise only upon receipt of the following:
    - i. ECS Florida's written request for a Program Payment for the applicable calendar year by March 1 of the following calendar year; and
    - ii. ECS Florida's provision to the CRA of all documents, statements, including the Annual Report, and other evidence of completion of the requirements contained in this Agreement and the applicable Program Incentive(s), as described in **Exhibit "A"**, which is incorporated herein by reference.
  - c. Provided the CRA has determined that ECS Florida has complied with the requirements of this Agreement and the applicable Program Incentive(s), the CRA shall make the appropriate Program Payment within 90 days of receipt of a written request for a Program Payment.
  - d. ECS Florida expressly understands that the CRA will not accrue obligations for Program Payments for calendar years in which ECS Florida fails to provide a written request for payment by March 1 of the following calendar year.

5. Obligations of ECS Florida:

- a. ECS Florida shall create 27 new jobs over a three-year period, paying an average annual wage of \$65,000.00 not including benefits, in accordance with the schedule set forth in **Exhibit “B”**. The CRA shall pay a prorated portion of the Program Payments referenced in section 4 herein based on the actual number of jobs created as shown in the Annual Report described in section 8 herein.
- b. ECS Florida shall maintain its downtown location and comply with the terms and conditions set forth for each Program Incentive in **Exhibit “A”** in which ECS Florida is participating, as listed in **Exhibit “B”**. If ECS Florida fails to maintain its location, comply with such terms and conditions, or fails to create the requisite number of jobs, then ECS Florida shall receive no Program Payment referenced in section 4 for that particular Program Incentive(s) for that particular year and any remaining year(s).
- c. ECS Florida shall maintain the requisite number of jobs for the ten-year period following the execution of an incentive agreement with the CRA. ECS Florida shall notify the CRA of any changes to the number of incented jobs during this maintenance period. ECS Florida understands that if it fails to maintain the requisite number of jobs for the ten-year period following the creation of the last incented job, then ECS Florida must reimburse the CRA a prorated portion of the Program Payments based on the actual time period the jobs were in existence.

6. Termination.

- a. This Agreement shall terminate on September 30, 2036, unless terminated sooner as provided herein.
- b. If ECS Florida breaches any material term of this Agreement and such breach remains uncured for a period of thirty (30) days, the CRA may terminate the whole or any part of this Agreement and may pursue any and all legal remedies available to seek reimbursement of funds already paid.
- c. Before the CRA may exercise its right of termination, the CRA shall provide written notice to ECS Florida of ECS Florida’s breach or default and ECS Florida shall have thirty (30) days thereafter within which to cure the breach or default.
- d. Waiver by the CRA of breach of any of the provisions of this Agreement shall not be deemed a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7. Records. ECS Florida shall maintain books, records, and other evidence relating to the Project in accordance with generally accepted accounting principles, procedures and practices, which documents the Project in a manner that fulfills the requirements of this Agreement.

8. Annual Report. ECS Florida shall submit an Annual Report to the CRA in the format provided in **Exhibit “C”** for each applicable calendar year that a Program Payment is due as indicated in **Exhibit “B.”** The Annual Report shall be submitted no later than March 1 of the calendar year following the applicable year that a payment is due. This report shall show the actual number of jobs created and/or maintained, the time period in which the jobs were created and/or maintained, and the location and wages of the jobs created and/or maintained. ECS Florida shall not receive Program Payments for calendar years in which ECS Florida fails to submit an Annual Report by March 1.
9. Audit. ECS Florida expressly acknowledges that, during the term of this Agreement, the CRA shall have the right to audit the books and records from time to time to verify compliance by ECS Florida with the terms, conditions, limitations, restrictions and requirements of this Agreement. The CRA shall, upon reasonable notice, have full access during normal business hours for inspection, review and audit of the books and records. Any cost incurred by ECS Florida as a result of a CRA audit shall be the sole responsibility of and shall be borne by ECS Florida.
10. Repayment. ECS Florida shall be liable for repayment of any Program Payments dispersed under the terms of this Agreement, which may be deemed by the CRA to have been dispersed in error.
11. Indemnification. ECS Florida shall indemnify and hold harmless the CRA, its agents, employees, and elected and appointed officials, from and against all claims, damages, losses, and expenses (including all attorney’s costs and fees, and all attorney’s costs and fees on appeal) arising out of or resulting from ECS Florida’s performance or activities as provided herein.
12. Notification of Address Change. ECS Florida shall notify the CRA of any changes to the mailing and principal address of any of its offices within ten (10) calendar days of the official address change.
13. Force Majeure. The parties shall use reasonable diligence to ultimately fulfill the intent of this Agreement but shall not be liable to each other, or their successors or assigns, for damages, costs, attorney’s fees (including costs or attorney’s fees on appeal) for breach of contract, or otherwise for failure, suspension, diminution, or other variations of services occasioned by any cause beyond the control and without the fault of the parties. Such causes may include but shall not be limited to, Acts of God, or of the public enemy, acts of other government (including regulatory entities or court) in its sovereign or prior contractual capacity, fires, floods, epidemics, quarantines, restrictions, strikes, or failure or breakdown of transmission or other facilities.
14. Controlling Laws.
  - a. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida, and all duly adopted ordinances, regulations and policies of the CRA now in effect and those hereinafter adopted.

- b. The location for settlement of any and all claims, controversies, or disputes arising out of or relating to any part of this Agreement, or any breach hereof, shall be Orange County, Florida.

15. Miscellaneous.

- a. ECS Florida warrants that it has not employed or retained any company or person, other than a bona fide employee or consultant working for them, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for them, any fee, commission, percentage, gift, or any other consideration that is contingent upon or resulting from the award or making of this Agreement.
- b. ECS Florida warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, or marital status.
- c. This Agreement constitutes the entire agreement between the parties with respect to the specific matters contained herein and supersedes all previous discussions, understandings, and agreements. Amendment to or waivers of the provisions herein shall be made by the parties in writing.
- d. If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed an independent provision and such holding shall not affect the validity of the remaining portion hereto.
- e. If either party has to file suit to enforce the terms of this Agreement or pursue reimbursement of funds, the prevailing party shall be entitled to attorney's fees.
- f. Upon execution, this Agreement shall be recorded in the Public Records of Orange County, Florida.

16. Notices. Any notices required or allowed herein under shall be in writing and given by certified mail, return receipt requested, or in person with proof of delivery to the addresses below or such other addresses either party shall have specified by written letters to the other party delivered in accordance herewith:

CRA:                      Executive Director  
                                 Community Redevelopment Agency  
                                 400 South Orange Avenue, 6<sup>th</sup> Floor  
                                 Orlando, FL 32801

                                 Economic Development Department Director  
                                 City of Orlando  
                                 400 South Orange Avenue, 3<sup>rd</sup> Floor  
                                 Orlando, FL 32801

ECS Florida: ECS Florida, LLC.  
Attn: James Hendrickson, Senior Vice President  
14030 Thunderbolt Place  
Chantilly, VA 20151

**IN WITNESS WHEREOF**, the parties hereto have executed these presents and have set their hands and seals each upon the date so indicated.

[SIGNATURES ON FOLLOWING PAGES]



**ECS FLORIDA, LLC.**, a foreign corporation,

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

PERSONALLY APPEARED before me, the undersigned authority,  
\_\_\_\_\_, [ ] well known to me or [ ] who has produced his/her  
\_\_\_\_\_ as identification, and known to me to be the  
\_\_\_\_\_ of above-mentioned corporation, and acknowledged before me that he/she  
executed the foregoing High-Value Job Creation Program Agreement on behalf of said corporation,  
as its true act and deed, and that he/she was duly authorized to do so.

WITNESS my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
NOTARY PUBLIC

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**COMMUNITY REDEVELOPMENT AGENCY**

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

Print Name: \_\_\_\_\_

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

ATTEST: \_\_\_\_\_  
Executive Director

Print Name: \_\_\_\_\_

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

APPROVED as to form and legality,  
for the use and reliance of the  
CRA/City of Orlando, Florida only.

\_\_\_\_\_, 2025.

\_\_\_\_\_  
Assistant City Attorney  
City of Orlando, Florida

STATE OF FLORIDA  
COUNTY OF ORANGE

PERSONALLY APPEARED before me, the undersigned authority,  
\_\_\_\_\_, [ ] well known to me or [ ] who has produced his/her  
\_\_\_\_\_ as identification, and known to me to be the Chairman of the  
Community Redevelopment Agency, and acknowledged before me that he/she executed the  
foregoing High-Value Job Creation Program Agreement on behalf of the Community  
Redevelopment Agency as its true act and deed, and that he/she was duly authorized to do so.

WITNESS my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
NOTARY PUBLIC

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

## **EXHIBIT "A"**

### **HIGH WAGE/HIGH VALUE JOB CREATION PROGRAM**

#### **OVERVIEW**

It is the City of Orlando's and the CRA's intent to attract and encourage the expansion of targeted industries and targeted headquarters with high-wage, high-value jobs to Downtown Orlando by providing the following incentives for the purpose of accomplishing goals such as: Diversifying the local economy, growing high-wage, high-value jobs, and growing targeted industries. Incentives are available for qualified companies that offer high-wage, high-value jobs that are or will be located within the Downtown Orlando Community Redevelopment Area ("the Area").

**Job Creation Incentive** - In recognition of a company's job creation, the CRA may provide a job creation incentive payment, as long as funds are available, of up to \$2,000 per job created within a five-year period to be paid by the CRA to the company annually, in arrears. The company will be required to maintain these jobs for a ten (10) year period from execution of an incentive agreement with the CRA.

The Job Creation Incentive is contingent upon the company having an established minimum number of employees by the end of Year 1 at a Downtown Orlando location within the CRA and retaining a minimum number of employees at the Downtown Orlando location through Year 10. To qualify for the Program's Job Creation Incentive, the average annual wage must meet one of the following percentages:

Annual Average Wage (AAW)	Per job incentive value of up to
115% of the Orange County or State of Florida AAW	\$750
150% of the Orange County or State of Florida AAW	\$1,500
200% of the Orange County or State of Florida AAW	\$2,000

- I. If a company qualifies for the Job Creation Incentive, it may qualify for one or more of the following additional incentives as long as funds are available:

**Parramore HQ Incentive** - A company that locates high wage, high-value jobs within the Parramore Planning Area may receive an additional per job incentive value of up to \$2,000 provided that the following additional criteria are met:

- Must have a minimum of 750 employees;
- Must lease space that is paying property taxes; and
- Must have a minimum initial/base lease term of 10 years or more.

Incentive payments will begin upon commencement of the lease and will be made in accordance with the funding agreement.

**Downtown Living Incentive** - An additional incentive of up to \$1,000 per job incented under paragraph 1 herein may be provided to a company having a certain number of employees with a permanent primary residence located within the Area. The following percentages of employees must be met:

- 15% in Year 1;
- 20% in Year 2; and
- 25% in Year 3 and for the subsequent 10-year period.

Appropriate documentation showing proof of residency (i.e. tax record, evidence of a lease agreement, utility bill, etc...) must be provided in accordance with the incentive agreement.

**Public Transportation Incentive** - An additional incentive up to \$1,000 per incented job under paragraph 1 may be provided to a company which has a certain number of employees who are utilizing a Transportation Spending Account, as defined in the Internal Revenue Code Section 132 and the federal Transportation Equity Act for the 21st Century ("Transportation Spending Account"). The following percentages of employees must be met:

- 15% in Year 1;
- 20% in Year 2; and
- 25 % in Year 3 and for the subsequent 10-year period.

Appropriate documentation showing proof of the employee's use of a transportation spending account must be provided in accordance with the funding agreement. To qualify for this incentive, each Transportation Spending Account must be funded in an amount of at least \$560 annually.

In addition to financial incentives, the CRA may provide successful applicants with assistance in obtaining access to relevant market data, labor force data, and real estate data, in connecting applicants with regional economic development organizations for workforce training, technical assistance, and strategic planning, and in coordinating with respect to permitting processes.

1. The CRA may determine overall incentive recommendations on a case-by-case basis.
2. Cumulative incentives granted to any one company under this Program will not exceed \$4,000 per job.
3. Eligible companies must occupy a physical location within the Area that provides at least 150 square feet of space per incented employee.
4. Eligible companies must sign a written agreement certifying that incented employees will spend at least 50 percent of their working hours in the CRA location.
5. Recipients of the HWHV program funding must submit an annual statement to certify their performance. The annual report must be reviewed and certified by a third-party, Certified Public Accountant (CPA), prior to submittal to the CRA.

The Average Annual Wage for eligible Downtown Orlando companies shall be determined by the new high-value job wages. For existing companies within the city that are expanding, existing jobs shall be excluded.

**EXHIBIT “B”**  
**Payout Schedule for Each Program Incentive**

ECS Florida, LLC - Phase In Schedule									
High Wage High Value Job Incentive		\$ 1,500.00							
Downtown Living Incentive									
Public Transportation Incentive									
Parramore Headquarters Incentive									
Total Incentive Per Job		\$ 1,500.00							
High Wage High Value Job Incentive									
Fiscal Year	Existing Jobs	Year 1	Year 2	Year 3	Year 4	Year 5	Total		
Incented Jobs	51	8	10	9					
2025/2026	\$ 19,125	\$ 3,000					\$	22,125	
2026/2027	\$ 19,125	\$ 3,000	\$ 3,750				\$	25,875	
2027/2028	\$ 19,125	\$ 3,000	\$ 3,750	\$ 3,375			\$	29,250	
2028/2029	\$ 19,125	\$ 3,000	\$ 3,750	\$ 3,375			\$	29,250	
2029/2030		\$ 3,750	\$ 3,375	\$ -			\$	7,125	
2030/2031			\$ 3,375	\$ -	\$ -		\$	3,375	
				\$ -	\$ -		\$	-	
				\$ -	\$ -		\$	-	
					\$ -		\$	-	
						Total	\$	117,000	
Overall Potential Payout Schedule									
Fiscal Year	High Wage High Value Job Incentive	Downtown Living Incentive	Public Transportation Job Incentive	Parramore Headquarters Incentive	Total				
2025/2026	\$ 22,125	\$ -	\$ -		\$ 22,125				
2026/2027	\$ 25,875	\$ -	\$ -		\$ 25,875				
2027/2028	\$ 29,250	\$ -	\$ -		\$ 29,250				
2028/2029	\$ 29,250	\$ -	\$ -		\$ 29,250				
2029/2030	\$ 7,125	\$ -	\$ -		\$ 7,125				
2030/2031	\$ 3,375	\$ -	\$ -		\$ 3,375				
	\$ -	\$ -	\$ -		\$ -				
	\$ -	\$ -	\$ -		\$ -				
	\$ -	\$ -	\$ -		\$ -				
	\$0.00	\$0.00	\$0.00	\$0.00	\$117,000.00				

**EXHIBIT “C”**  
**ANNUAL REPORT**

<b>Date:</b>	
<b>Report Period Start Date:</b>	
<b>Report Period End Date:</b>	
<b>Number of New Jobs Created:</b>	
<b>Average Annual Wage of New Jobs (excluding Benefits):</b>	
<b>Location of New Jobs:</b>	
<b>Number of Maintained Jobs previously reported:</b>	
<b>Average Annual Wage of Jobs previously reported: (excluding Benefits):</b>	
<b>Total Number of Jobs in the Area:</b>	
<b>Average Annual Wage of All Jobs in the Area:</b>	

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

### Fiscal Impact Statement

Indicate the **Total Fiscal Impact** of the action requested, including personnel, operating, and capital costs. Indicate costs for the current fiscal year and annualized costs. Include all related costs necessary to place the asset in service.

**Description:** ECS Florida, LLC (Engineering Consulting Services) is a geotechnical, construction materials, environmental and facilities engineering firm. The company headquarters is currently located in Chantilly, Virginia, with offices along the east coast, including Orlando, in the Midwest and the West Coast. ESC is looking to expand its Orlando, Florida office into a regional headquarters. ECS Florida will create 27 high-wage, high-value jobs over three years and relocate 51 existing jobs to Downtown Orlando that are more than 150% of the average annual private-sector wage in Orange County. ECS's capital investment for the build out is estimated to be \$1,000,000 in 2025. The maximum funding amount that ECS is eligible for is \$117,000 through the High Wage/ High Value Job Creation Program.

### Expenses

Will the action be funded from the Department's current year budget? ☒ Yes ☐ No

If No, please identify how this action will be funded, including any proposed Budget Resolution Committee (BRC) action(s). (enter text here)

	<b>Current Fiscal Year Cost Estimate</b>	<b>Estimated Annualized Cost Thereafter</b>
Personnel	\$0	\$0
Operating/Capital	\$117,000	\$0
<b>Total Amount</b>	\$117,000	\$0

Comments (optional): (enter text here)

### Revenues

What is the source of any revenue and the estimated amount? (enter text here) Amount \$

Is this recurring revenue? ☐ Yes ☐ No

Comments (optional): Please see description above

### Funding

Expenses/Revenues will be recorded to:

	<b>Source #1</b>	<b>Source #2</b>	<b>Source #3</b>
Fund	1250 F	<u>(enter text here)</u>	<u>(enter text here)</u>
Department /Division	EDV/CRA	<u>(enter text here)</u>	<u>(enter text here)</u>
Cost Center/Project/Grant	CRA0003 P	<u>(enter text here)</u>	<u>(enter text here)</u>
Total Amount	\$117,000	\$0	\$0

## AMENDMENT THREE TO CONTRACT

**THIS AMENDMENT** (“Amendment”) to Contract, effective as of the \_\_\_\_ day of \_\_\_\_\_, 2025, is made by and between the **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF ORLANDO** (“CRA”), an entity created pursuant to Part III of Chapter 163, Florida Statutes, and **UNIVERSAL PROTECTION SERVICE LLC d/b/a Allied Universal Security Services**, hereinafter referred to as the "Contractor".

### W I T N E S S E T H:

**WHEREAS**, the parties entered into a contract effective March 10, 2023 (“Contract”) pursuant to which the Contractor provides downtown ambassador services to the CRA in the Downtown Orlando Community Redevelopment Area (“Area”); and

**WHEREAS**, the parties agreed to amendments to the Contract effective May 15, 2024 (“Amendment 1”) and March 19, 2025 (“Amendment 2”); and

**WHEREAS**, the CRA and Contractor desire to enter into this Amendment to the Contract to extend and revise the Contractor’s scope of services, and revise certain other terms of the Contract, as more particularly set forth below; and

**WHEREAS**, the CRA was created as a public body corporate and agency of the City of Orlando (“City”) for the purpose of, among others, carrying out the community redevelopment purposes of Ch. 163, Part III, Florida Statutes; and

**WHEREAS**, under the CRA’s policy and procedure, codified as section 1240.1 of the City’s policies and procedures manual, the Chief Procurement Officer has been authorized by the CRA to serve as the CRA’s principal procurement agent;

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

#### **I. TERM**

The Term of the Contract is hereby renewed from September 9, 2025 through September 8, 2026.

#### **II. SCOPE**

The Contractor shall perform the revised scope of services, reducing the anticipated hours per month allocated to Hospitality Ambassadors; reducing the attendant supervisory/managerial allocation in due proportion; reducing the vehicle, equipment, and porta-potty maintenance allocations to reflect the reduced coverage; and adding an allocation for the janitorial supervisor position (“Revised Services”) as defined in Contractor’s quotes



for such services ("Quotes") attached hereto as Exhibit "A" and incorporated herein by this reference. The hourly allocations shown on the Quote for revised services to reflect the reduced available budget are estimates of the parties, and the actual hours that such Revised Services shall be provided by Contractor and the deployment schedule for such hours shall be determined in writing (an email shall suffice) by mutual agreement of the parties at least two (2) weeks in advance of the provision of such services. Except as otherwise specified herein, the Contractor shall perform the Revised Services in accordance with the Quotes and the Contract, and shall furnish all materials, tools, equipment, manpower, and consumables to provide the Revised Services.

### **III. COMPENSATION FOR REVISED SERVICES**

Revised Services shall be provided at the hourly rates set forth on the applicable Quote and billed to the CRA monthly in arrears based upon actual hours worked together with the additional fixed Monthly Equipment Charges and other monthly charges shown on the Quotes. Monthly payments shall be due and payable only following receipt of an accurate invoice from Contractor. Notwithstanding the preceding, Contractor shall not provide services or invoice CRA for any of the Revised Services in excess of the Annual Total or Total Annual Charge shown on the applicable quote without the written approval of the City's Chief Procurement Officer or his designee.

### **IV. ADDITIONAL TERMS**

Contractor's performance of the Revised Scope shall be subject to the following additional terms, which shall supersede any contrary terms in the Contract or any prior Amendments:

- (a) At no time shall the holiday or overtime rate for any position exceed 1.5 times the standard bill rate for that position. At no time shall the said 1.5x billing rate be applied to hours performed on an unapproved holiday or on a holiday for which CRA has not approved staff scheduling as provided below.
- (b) As part of the determination of any staff schedules hereunder, the CRA by and through its designated representative may, in its sole discretion, determine that all staff, or certain categories of staff, shall not be scheduled to provide services on one or more recognized holidays.
- (c) Section VIII(A) of the Contract is deleted.
- (d) Contractor's direct billback for bicycle cost shall include the cost of bicycle maintenance, which component of cost shall not exceed Contractor's actual

documented expenditures for maintenance of bicycles involved in performing the Revised Services.

- (e) At the time of execution of this Amendment, federal law as applicable to the CRA precludes the operation of any programs promoting diversity, equity, and inclusion initiatives that violate any applicable federal anti-discrimination laws. Sections 57.21 and 57.26 of the Orlando City Code subordinate the City's and CRA's MBE/WBE goals under Chapter 57, Articles II and III, of the Orlando City Code to any state or federal law that may restrict or prohibit their operation. Consequently, and notwithstanding any contrary provision of the Contract or any scope(s) of work incorporated herein, including but not limited to Attachment "J" to RFP22-0386, Contractor shall be under no obligation to provide that any portion of any dollar amount of the Contract shall be performed by MBEs or WBEs; nor shall Contractor be obligated to involve any MBEs or WBEs in the execution of this Contract or penalized for failing to do so; insofar as the applicable law under Sections 57.21 and 57.26 precludes such conduct. Subject to any changes in applicable law regarding MBE and WBE participation, the CRA hereby waives any breach, default, or other non-compliance by Contractor with those portions of the Orlando City Code or the Contract regarding MBE/WBE participation, to the extent those provisions are suspended pursuant to federal law and City/DDB policy. Nothing in this section shall relieve Contractor of compliance with any anti-discrimination law or ordinance of general applicability; nor shall it preclude Contractor from proposing the participation of a disadvantaged business enterprise in its scope of work; nor shall it preclude Contractor from giving effect to any internal policy or program regarding the participation of disadvantaged business enterprises in projects with which it may be involved.

#### **V. HUMAN TRAFFICKING AFFIDAVIT**

This Contract is subject to the terms, conditions, provisions and requirements of Section 787.06 of the Florida Statutes and Contractor hereby represents, warrants, and certifies that Contractor does not use coercion for labor or services as defined in Section 787.06, Florida Statutes and that Contractor has provided the Human Trafficking Affidavit attached hereto as **Attachment 1**.

#### **VI. SCRUTINIZED COMPANY PROHIBITION**

Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List,

created pursuant to Section 215.4725 of the Florida Statutes, and is not engaged in a boycott of Israel. In addition, if this Contract is for a contract for goods or services of one million dollars or more, Contractor certifies that it is not on the Scrutinized Companies with Activities in the Iran Terrorism Sectors List, created pursuant to Section 215.473 of the Florida Statutes and is not engaged in business operations in Cuba or Syria. Contractor shall be required to recertify the aforementioned certifications at each renewal of the Contract, if applicable. The City may terminate the Contract pursuant to Section 287.135(3)(a) of the Florida Statutes if Contractor is found to have submitted a false certification pursuant to this sub-section, is placed on any of these lists by the State of Florida, or engages in business operations in Cuba or Syria.

In all other respects, and except as specifically modified and amended herein, the Contract shall continue in full force and effect as written and the parties hereto agree to be bound thereby.

\*\*\*\*\*

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first written above.

COMMUNITY REDEVELOPMENT AGENCY  
OF THE CITY OF ORLANDO, FLORIDA

APPROVED AS TO FORM AND LEGALITY  
for the use and reliance of the CRA, only

By: \_\_\_\_\_  
Chief Procurement Officer, City of Orlando

Date: \_\_\_\_\_, 2025

DAVID BILLINGSLEY, CPSM, C.P.M.  
Name, Typed or Printed

Date: \_\_\_\_\_, 2025

\_\_\_\_\_  
ASSISTANT CITY ATTORNEY  
ORLANDO, FLORIDA

\*\*\*\*\*

CONTRACTOR

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

\_\_\_\_\_  
Name & Title, Typed or Printed

CORPORATE SEAL

\_\_\_\_\_  
Name of Company, Corp., etc.

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State and Zip

\_\_\_\_\_  
Area Code/Telephone Number

\_\_\_\_\_  
Email Address

STATE OF FLORIDA        }

COUNTY OF \_\_\_\_\_ }

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ (name of person) as \_\_\_\_\_ (type of authority, (e.g., officer, trustee, attorney in fact, etc.) for \_\_\_\_\_ (name of entity/party on behalf of whom instrument was executed).

\_\_\_\_\_  
Signature of Notary Public – State of Florida  
Print, Type, or Stamp Notary Name: \_\_\_\_\_

(Affix Notary Stamp or Seal Above)

\_\_\_\_ Personally Known or \_\_\_\_ Produced Identification

Type of Identification Produced \_\_\_\_\_

**EXHIBIT “A”**

**QUOTES FOR ADDITIONAL SERVICES**

**Attachment 1 – Human Trafficking Affidavit**

The undersigned, on behalf of Contractor, hereby attests as follows:

- A.** Contractor understands and affirms that Section 787.06(13), Florida Statutes, prohibits the City from executing, renewing, or extending a contract to entities that use coercion for labor or services, with such terms defined as follows:
- **“Coercion”** means: **(1)** using or threatening to use physical force against any person; **(2)** restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; **(3)** using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; **(4)** destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; **(5)** causing or threatening to cause financial harm to any person; **(6)** enticing or luring any person by fraud or deceit; or **(7)** providing a controlled substance as outlined in Schedule I or Schedule II of Section 893.03, Florida Statutes, to any person for the purpose of exploitation of that person.
  - **“Labor”** means work of economic or financial value.
  - **“Services”** means any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.
- B.** Contractor hereby attests, under penalty of perjury, that Contractor does not use coercion for labor or services as defined in Section 787.06(2), Florida Statutes.

I, the undersigned, am an officer or representative of the nongovernmental entity named below, and hereby represent that I: make the above attestation based upon personal knowledge; am over the age of 18 years and otherwise competent to make the above attestation; and am authorized to legally bind and make the above attestation on behalf of the Contractor. **Under penalties of perjury, I declare that I have read the forgoing document and that the facts stated in it are true.** Further Affiant sayeth naught.

**Authorized Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Contractor: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of ☐ physical presence or

☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_, as \_\_\_\_\_ on behalf of the company/corporation.

They ☐ are personally known to me or ☐ have produced \_\_\_\_\_ as identification.

Signature of Notary Public

\_\_\_\_\_  
Name of Notary

Typed, Printed or Stamped

My Commission Expires: \_\_\_\_\_



### Ambassador Increase (Option 1)

Position	Hours Per Month	Pay Wage		Bill Rate	Overtime/Holiday Rate	Annual Spend
Janitorial Supervisor	160	\$29.00		\$40.60	\$44.80	\$77,952.00
Sani-Guards	208.0	\$27.00		\$37.86	\$56.79	\$94,498.56
Porters	448.0	\$20.00		\$24.67	\$37.01	\$132,625.92
Porta Potty Maintenance	62.0	\$27.00		\$37.86	\$56.79	\$28,167.84
Hospitality Ambassadors	736.0	\$20.00		\$27.17	\$40.76	\$239,965.44
Outreach Ambassadors	336.0	\$24.00		\$32.68	\$49.02	\$131,778.66
Supervisor	128.0	\$26.00		\$35.43	\$53.28	\$54,558.72
Manager 1	173.0	\$33.00		\$43.41	\$43.41	\$90,129.12
Manager 2	173.0	\$33.00		\$43.41	\$43.41	\$90,129.12
Vehicle	1.0	N/A		\$2,200.00	N/A	\$26,400.00
Equipment Charge	1.0	N/A		\$800.00	N/A	\$9,600.00
<b>Total Security Hours Per Month</b>	<b>1546.0</b>					<b>\$975,805.39</b>
<b>Estimated Annual Holiday Cost</b>						<b>\$45,119.66</b>
Based on the following seven (7) recognized holidays: New Year's Day, President's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day, and Christmas Day						
<b>Estimated Subtotal</b>						<b>\$1,020,925.05</b>
<b>Sales Tax</b>	<b>0.0%</b>					<b>\$0.00</b>
<b>Estimated Total Annual Cost</b>						<b>\$1,020,925.05</b>
<b>Estimated Total Monthly Cost</b>						<b>\$85,077.09</b>
<b>Estimated Total Weekly Cost</b>						<b>\$19,633.17</b>
<b>Medical Benefits Based on Participation (Affordable Care Act Compliant Plans)</b>						<b>Included</b>
<b>Direct Bill Items</b>						
<b>Vehicle</b>			<b>1 proposed as requested</b>			<b>\$26,400.00</b>
\$2,200.00 per month, per vehicle, plus tax						
Includes Maintenance, Insurance, Decal Package, and Standard Strobe Light Bar						
<b>Monthly Equipment Charge (monthly)</b>						<b>\$800.00</b>
<b>Cell phone with Eponics (10)</b>						
<b>Bicycle cost will be direct billback as accrued</b>						

Medical Insurance (full-time/benefit eligible)  
 Dental insurance (full-time/benefit eligible)  
 Vision Insurance (full-time, benefit eligible)  
 401(k) plan  
 Life and disability insurance  
 Vacation  
 Background check and 10 panel drug screen on all officers  
 Uniforms at no cost to you or the officer  
 Training, including OJT and refresher training  
 Direct Deposit

#### Items that will be direct billed as incurred:

Allied Universal recognizes seven (7) holidays: New Year's Day, President's Day, Memorial Day, July 4th, Labor Day, Thanksgiving, & Christmas Day (if applicable).  
 Overtime rate is 1.5 times the bill rate with less than 48 hour notice of additional coverage. Client must approve via email any overtime charges.



### Fiscal Impact Statement

Indicate the **Total Fiscal Impact** of the action requested, including personnel, operating, and capital costs. Indicate costs for the current fiscal year and annualized costs. Include all related costs necessary to place the asset in service.

**Description:** In 2023, the CRA entered into a contract with Universal Protection Service LLC d/b/a Allied Universal Security Services (Allied) to provide downtown ambassador services. These services include engaging the community to provide directions, offering safety escorts to and from any location in the downtown area, and outreach to the unsheltered. In addition to these ambassador services, Allied provides janitorial services with Sani-Guards who provide cleaning and patrol services, as well as Porters who supplement the Clean Team's services by providing roving cleaning services. By renewing this contract, the CRA would be able to continue providing ambassador and janitorial services within the boundaries of the Downtown Orlando Community Redevelopment Area (Area). These services support efforts to engage visitors and residents in the Area, while contributing to the beautification of our downtown streets. The estimated total annual cost for this renewal is \$1,020,925.05. The term of the renewal is one year.

### Expenses

Will the action be funded from the Department's current year budget? ☒ Yes ☐ No

If No, please identify how this action will be funded, including any proposed Budget Resolution Committee (BRC) action(s).

	<b>Current Fiscal Year Cost Estimate</b>	<b>Estimated Annualized Cost Thereafter</b>
Personnel	\$0	\$0
Operating/Capital	\$1,020,925.05	\$0
<b>Total Amount</b>	\$1,020,925.05	\$0

Comments (optional): (enter text here)

### Revenues

What is the source of any revenue and the estimated amount? N/A Amount \$0

Is this recurring revenue? ☐ Yes ☐ No

Comments (optional): (enter text here)

### Funding

Expenses/Revenues will be recorded to:

	<b>Source #1</b>	<b>Source #2</b>	<b>Source #3</b>
Fund	1250 F	(enter text here)	(enter text here)
Department /Division	EDV/CRA	(enter text here)	(enter text here)
Cost Center/Project/Grant	CRA0016_P	(enter text here)	(enter text here)
<b>Total Amount</b>	\$1,020,925.05	\$0	\$0