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First American Title Insurance Company  
National Commercial Services  
18500 Von Karman Avenue, Suite 600  
Irvine, CA 92612

WHEN RECORDED MAIL DOCUMENT TO:  
City of Palm Desert  
73-510 Fred Waring Drive  
Palm Desert, CA 92660-2578  
Attention: Housing Division

**DOC # 2023-0069373**  
03/09/2023 04:03 PM Fees: \$0.00  
Page 1 of 38  
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Peter Aldana  
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**File No.: NCS-1073487-SA1**

## HOUSING AGREEMENT

Pursuant to Senate Bill 2 - Building Homes and Jobs Act (GC Code Section 27388.1), effective January 1, 2018, a fee of seventy-five dollars (\$75.00) shall be paid at the time of recording of every real estate instrument, paper, or notice required or permitted by law to be recorded, except those expressly exempted from payment of recording fee, per each single transaction per parcel of real property. The fee imposed by this section shall not exceed two hundred twenty-five dollars (\$225.00).

- This document is a transfer that is subject to the imposition of documentary transfer tax
- Recorded [concurrently] in connection with a transfer of real property subject to the imposition of Documentary Transfer Tax per GC 27388.1 (a) (2).
- Recorded [concurrently] in connection with a transfer of real property that is residential dwelling to an owner-occupier per GC 27388.1 (a) (2).
- Maximum fee of \$225 has been reached per GC 27388.1 (a) (1).
- Not related to real property GC 27388.1 (a) (1).

THIS PAGE ADDED TO PROVIDE EXEMPTION INFORMATION FOR THE BUILDING HOMES AND JOBS ACT FEE  
(SB-2; AFFORDABLE HOUSING FEE) (\$3.00 Additional recording fee applies)

**ORIGINAL**

RECORDING REQUESTED BY, AND  
WHEN RECORDED RETURN TO:

City of Palm Desert  
73-510 Fred Waring Drive  
Palm Desert, CA 92260-2578  
Attn: Housing Division

*SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY*

**This Document is recorded for the benefit of the City of Palm Desert and is exempt from recording fees pursuant to Sections 6103, 27383 and 27388.1 of the California Government Code.**

**HOUSING AGREEMENT**

**by and between**

**the CITY OF PALM DESERT,  
a municipal corporation**

**and**

**GERALD FORD APARTMENTS, LP, a California limited partnership**

**DATED AS OF MARCH 7, 2023**

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National Commercial Services  
18500 Von Karman Avenue, Suite 600  
Irvine, CA 92612

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## HOUSING AGREEMENT

THIS HOUSING AGREEMENT (the “**Agreement**”) is dated as of March 7, 2023 and is by and between the CITY OF PALM DESERT, a municipal corporation (the “**City**”), and GERALD FORD APARTMENTS, LP, a California limited partnership (the “**Owner**”). City and Owner are sometimes referred to herein individually as a “**Party**” and collectively as “**Parties**”.

### RECITALS

A. The Owner is the owner of certain real property located within the City, which property is described in “**Exhibit A**” attached hereto and made a part hereof (the “**Property**”).

B. City has granted approval of a general plan amendment from Resort/Hotel Commercial to Medium Density/High Density Overlay, a change of zone from R1M (single-family/mobile home residential district) to PR-19 for the Property, and a precise plan/conditional use permit, including a height exception to allow a 26-foot high roof element, and a tentative tract map for apartment purposes to construct one hundred fifty (150) rental apartment units with respect to the Property.

C. As a result of the actions of the City described in Recital B above, City has approved an increase in the permitted maximum density from 13.6 dwelling units per acre to a maximum of 19.7 dwelling units per acre and did so on the condition that the Owner enter into this Agreement with respect to the Property and upon which a one hundred fifty (150) unit apartment complex (the “**Apartment Community**”) shall be constructed.

D. As a condition of said approval, City has required, and the Owner has agreed, that a specified number of rental units to be constructed on the Apartment Site shall be set aside and continuously made available for rent at affordable rental rates to persons and families of low and very low income, and to facilitate the same, the Owner is willing to enter into certain restrictions upon the operation of the Apartment Community which will bind the Owner, and its successors and assigns, for the entire term of this Agreement.

E. The purpose of this Agreement is to create such conditions, covenants, restrictions, liens, servitudes, and charges in favor of the City upon and subject to which the Apartment Community shall be occupied, leased and rented. The provisions of this Agreement shall run with title to each and every portion of the Property and shall inure and pass with each and every portion thereof and shall apply to and bind any successors-in-interest of Owner.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Owner hereby agree as follows:

ARTICLE 1. DEFINITIONS AND INTERPRETATION.

1.1 Definitions.

Capitalized terms used herein shall have the following meanings unless the context in which they are used clearly requires otherwise.

“**Affordable Units**” shall mean any of the one hundred forty-nine (149) units in the Apartment Community continuously available to and occupied by, or held vacant for occupancy only by one hundred nineteen (119) Low Income Households and thirty (30) Very Low Income Households and rented at an Affordable Rent. The Affordable Units will include the number of bedrooms shown on the following table:

<b>Bedroom Size</b>	<b>Very Low Income Household Units</b>	<b>Low Income Household Units</b>
Two (2) Bedrooms	18	93
Three (3) Bedrooms	12	26

“**Affordable Rent**” shall mean rent for an Affordable Unit, including a Reasonable Utility Allowance, as determined in accordance with the applicable provisions of Code Section 42 and in a manner consistent with the maximum rents published by the California Tax Credit Allocation Committee (“TCAC”), applicable to low income housing funded with Low Income Housing Tax Credits.

“**Code**” shall mean the Internal Revenue Code of 1986, as amended, and regulations promulgated pursuant thereto.

“**Low Income Household**” shall mean persons and families who meet the income qualification limits as set forth in California Health and Safety Code Section 50079.5 and Title 25 of the California Code of Regulations, Section 6910, et. seq. as such statute and regulation are amended from time to time.

“**Reasonable Utility Allowance**” shall mean a utility allowance for utilities paid by a tenant (not including telephone, internet, or cable service) determined by the California Utility Allowance Calculator.

“**Required Covenant Period**” shall mean the period commencing on the date all units in the Apartment Community have been completed as evidenced by the City’s issuance of a final Certificate of Occupancy for the Apartment Community and ending as of the fifty-fifth (55th) anniversary thereof.

“**Very Low Income Household**” shall mean persons and families who meet the income qualification limits as set forth in California Health and Safety Code Section 50105 and Title 25 of the California Code of Regulations, Section 6926, et. seq. as such statute and regulations are amended from time to time.



1.2 Rules of Construction.

1.2.1 The singular form of any word used herein, including the terms defined herein shall include the plural and vice versa. The use herein of a word of any gender shall include correlative words of all genders.

1.2.2 Unless otherwise specified, references to articles, sections, and other subdivisions of this Agreement are to the designated articles, sections, and other subdivisions of this Agreement as originally executed. The words “**hereof**,” “**herein**,” “**hereunder**,” and words of similar import shall refer to this Agreement as a whole.

1.2.3 All of the terms and provisions hereof shall be construed to effectuate the purposes set forth in this Agreement and to sustain the validity hereof.

1.2.4 Headings or titles of the several articles and sections hereof and the table of contents appended to copies hereof shall be solely for convenience of reference and shall not affect the meaning, construction, or effect of the provisions hereof.

ARTICLE 2. ONGOING APARTMENT COMMUNITY OBLIGATIONS.

2.1 Apartment Community and Affordable Units.

The Owner shall develop and construct the Apartment Community in conformity with City Council Resolution No. 05-104 and Resolution No. 05-105, City Council Ordinance No. 1102, and Planning Commission Resolution 2813. Thereafter, during the Required Covenant Period, the Owner agrees that not less than one hundred forty-nine (149) units in the Apartment Community shall be Affordable Units under this Agreement, meaning that such units shall be continually available to and occupied by, or held vacant for occupancy only by Low Income Households and Very Low Income Households. Upon completion of construction, all of the units in the Apartment Community shall be similarly constructed and all of the Affordable Units shall be generally constructed at the same time. At the time of initial construction, the Affordable Units shall be of comparable quality to similar apartment projects within the City which contain income restricted units. The Owner agrees that, to the extent commercially reasonable, Affordable Units will not be underutilized. No persons shall be permitted to occupy any Affordable Unit in excess of the applicable limit of maximum occupancy set by the City’s Municipal Code and the laws of the State of California.

## 2.2 Residential Rental Property.

The Owner covenants to operate the Apartment Community as residential rental property. During the Required Covenant Period, the Affordable Units will be held and used for the purpose of providing residential living, and the Owner shall own, manage and operate, or cause the management and operation of, the Apartment Community to provide such affordable rental housing. All of the units in the Apartment Community with the exception of one (1) manager unit will be available for rental on a continuous basis to members of the general public and the Owner will not give preference to any particular class or group in renting the units in the Apartment Community, except as required under this Agreement or other use or regulatory agreement recorded in connection with the Project bond financing or related tax credits. The Owner shall not convert any Affordable Unit(s) to condominiums or cooperative ownership or sell condominium or cooperative conversion rights to any Affordable Unit(s) during the term of this Agreement.

## 2.3 Low Income Households and Very Low Income Households.

2.3.1 Income Qualification; Initial Certification. Subject to the applicable provisions hereof, throughout the Required Covenant Period, the Affordable Units restricted by this Agreement will be exclusively occupied by, or available for occupancy only by Low Income Households and Very Low Income Households on a continuous basis. Prior to the rental or lease of an Affordable Unit and in accordance with Section 2.6 hereof, the Owner will obtain and maintain on file a Household Income Certification (“**Income Certification**”) substantially in the form attached hereto as **Exhibit “B”** and incorporated herein by this reference for each Low Income Household and Very Low Income Household, and shall provide copies of same to the City at such times as the City may, from time to time, reasonably require. In addition, the Owner will provide such further information as may reasonably be required in the future by the City. The Income Certification shall be dated immediately prior to the applicable household’s initial occupancy of an Affordable Unit. The Owner shall make a good faith effort to verify that the income provided by an applicant in an Income Certification is accurate by taking any one or more of the following steps as part of the verification process for all household members over the age of eighteen (18) as appropriate:

- (i) Obtain two (2) pay stubs for the two (2) most recent pay periods;
- (ii) Obtain a true copy of an income tax return for the most recent tax year in which a return was filed;
- (iii) Obtain an income verification form from the household member’s current employer;
- (iv) Obtain an income verification form from the Social Security Administration and/or the State Department of Social Services, or its equivalent, if the household member receives assistance from either of those agencies;
- (v) If the household member is unemployed and has no tax return, obtain another form of independent verification; or

(vi) Obtain such other documentation as may be reasonably acceptable pursuant to Title 25 of the California Code of Regulations, as amended from time to time, to verify income.

2.3.2 Certificate of Continuing Program Compliance; Annual Report. Throughout the Required Covenant Period, the Owner will prepare and submit to the City, at such periodic frequency as the City might reasonably require, but not more than once annually, a Certificate of Continuing Compliance in substantially the form attached hereto as Exhibit "C" and incorporated herein by this reference, and executed by the Owner. The Owner will also prepare and submit to the City on or before each anniversary date of the commencement of the Required Covenant Period, and for the preceding calendar year, a report in form and substance reasonably satisfactory to the City summarizing the vacancy rate of the Apartment Community, including the number of Affordable Units held vacant for occupancy by Low Income Households and Very Low Income Households for such calendar year.

2.4 Affordable Rent. Throughout the Required Covenant Period, an Affordable Rent shall be charged to the Low Income Household and Very Low Income Household occupants of Affordable Units, as more specifically described above.

2.5 Rent Increases. Rents for Affordable Units may be increased not more than once per year and twelve (12) months must have elapsed since the date of the tenant's initial occupancy or the last rent increase. The rents charged following such an increase, or upon a vacancy and new occupancy by a Low Income Household or Very Low Income Household shall not exceed an Affordable Rent. The Owner shall, consistent with applicable law, give proper written notice to tenants of all rent increases, and upon written request, provide the City with reasonable detail concerning the amount of and rationale for such rent increases.

2.6 Income Recertification of Affordable Units. Annually, on the anniversary date of occupancy of an Affordable Unit by a Low Income Household or Very Low Income Household, the Owner shall obtain and maintain on file an annual income certification, in form and substance reasonably satisfactory to the City, from each household occupying an Affordable Unit, based upon the current income of each household member over the age of eighteen (18). The Owner shall make a good faith effort to verify that the income provided by the household is accurate in accordance with Section 2.3.1, above.

2.6.1 A rental unit occupied by a household that qualifies as a Low Income Household or Very Low Income Household, as applicable, at the time the household first occupies an Affordable Unit shall be deemed to continue to be so occupied until a recertification of such household's income demonstrates that such household no longer qualifies as a Low Income Household or Very Low Income Household. At such time as a household ceases to qualify as a Low Income Household or Very Low Income Household based on income recertification, the Owner shall designate the next available unit (one that is not occupied by a tenant) with the same number of bedrooms as the occupied Affordable Unit and it shall be rented or leased to a Low Income Household or Very Low Income Household, as appropriate, so that the number of Affordable Units occupied by or reserved for occupancy by Low Income Households or Very Low Income Households will remain constant. For purposes of this Agreement, such designated unit will be considered an Affordable Unit if it is held vacant and available solely for occupancy by a Low Income Household or Very Low Income Household, as appropriate, and, upon occupancy,

the income eligibility of the household as a Low Income Household or Very Low Income Household is verified and the unit is rented at an Affordable Rent.

2.7 Lease or Occupancy Agreement. Prior to the rental or lease of an Affordable Unit to a Low Income Household or Very Low Income Household, the Owner shall require the tenant to execute a written lease or occupancy agreement. The Owner shall maintain on file throughout the Required Covenant Period and for a four (4) year period thereafter, the executed lease or occupancy agreement of each tenant occupying an Affordable Unit. The form of lease or occupancy agreement used by the Owner for the lease or rental of Affordable Units shall be that which is reasonable and customary in residential leasing. In addition, each lease or occupancy agreement for an Affordable Unit shall (i) provide that the tenants of such Affordable Unit shall be subject to annual recertification of income and subject to rental increases in accordance with Sections 2.5 and 2.6 of this Agreement, and (ii) contain a provision to the effect that the Owner has relied on the income certification and supporting information supplied by the tenant in determining qualification for occupancy of the Affordable Unit, and that any material misstatement in such certification (whether or not intentional) may be cause for immediate termination of such lease or occupancy agreement.

2.7.1 The Owner shall refrain from restricting the rental or lease of Affordable Units on the basis of race, color, religion, sex, marital status, disability, ancestry or national origin of any person.

2.7.2 The covenants established herein shall, without regard to technical classification and designation, be binding for the benefit and in favor of the City, and its successors and assigns, and shall burden and run with the Property.

2.7.3 The City is deemed to be the beneficiary of the terms and provisions of the covenants herein, both for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, for whose benefit these covenants running with the land have been provided.

2.8 Security Deposits. The Owner may require security deposits on Affordable Units in amounts which are consistent with applicable law.

2.9 Additional Information; Books and Records. The Owner shall provide any additional information concerning the Affordable Units reasonably requested by the City. The Owner will maintain complete and accurate records pertaining to the Affordable Units throughout the Required Covenant Period and for a four (4) year period thereafter. The City shall have the right upon written notice of no less than two (2) business days to the Owner, at any time during normal business hours of 9:00 am to 5:00 pm, to examine of all books, records or other documents maintained by the Owner or by any of the Owner's agents which pertain to any Affordable Unit, including all executed leases or occupancy agreements and all Income Certifications, and obtain copies of any requested executed leases, occupancy agreements and Income Certifications within ten (10) business days following such examination and the City's written request.

2.10 Specific Performance. The Owner hereby agrees that specific enforcement of the Owner's agreement to comply with the allowable rent and occupancy restrictions and covenants contained

herein is one of the reasons and consideration for the City having granted the approvals described in the recitals hereof and that, in the event of the Owner's breach of such requirements, potential monetary damages to the City, as well as to existing and prospective Low Income Households and Very Low Income Households, would be difficult, if not impossible, to evaluate and quantify. Therefore, in addition to any other relief to which the City may be entitled as a consequence of the breach hereof, the Owner agrees to the imposition of the remedy of specific performance against it in the case of any event of default by the Owner in complying with any provision of this Agreement beyond any applicable notice and cure period.

2.11 Audit. The City shall have the right to perform a compliance audit of the Apartment Community to determine compliance with the provisions of this Agreement. Such audit shall not be undertaken more often than once each calendar year. All costs and expenses associated with the audit shall be paid by the Owner. Notwithstanding the foregoing, an audit by the City will not be required if owner is not in default hereunder or if the Owner promptly provides to the City Manager a copy of the annual audit it is required to submit to the California Tax Credit Allocation Committee and such audit is reasonably acceptable to the City in form and substance.

2.12 Management. The Owner and/or the management agent (if not the Owner) shall operate the Apartment Community in a manner that will provide decent, safe and sanitary residential facilities to the occupants thereof, and will comply with provisions of this Agreement. Upon the written request of the City, the Owner shall cooperate with the City in the periodic review (but not more than once each calendar year) of the management practices of the Affordable Units. The purpose of each periodic review will be to enable the City to determine if the Affordable Units are being operated and managed in accordance with the requirements and standards of this Agreement. Results of such City review shall be provided to the Owner, and the City shall have the authority to require the Owner to make modifications that are reasonably necessary to ensure the objectives of this Agreement are met.

2.13 Binding for Term. It is intended by the Parties that except as otherwise expressly provided herein the provisions of this Agreement shall apply to the Apartment Community throughout the entire term hereof, as established in Section 3.1 below.

### ARTICLE 3. TERM AND RECORDATION.

3.1 Term of Agreement. This Agreement shall remain in full force and effect for the Required Covenant Period, unless the Owner and the City agree, in writing, to terminate this Agreement prior to the expiration of the Required Covenant Period. Unless terminated earlier pursuant to the prior sentence of this Section 3.1, or Section 3.3 below, the Parties intend that the provisions and effect of this Agreement and specifically of Article 2 hereof, shall remain in full force and effect for the entire Required Covenant Period.

3.2 Agreement to Record. The Owner represents, warrants, and covenants that this Agreement will be recorded in the real property records of Riverside County.

3.3 Suspension of Restrictions. Notwithstanding the generality of the foregoing provisions of this Article 3 or any other provisions hereof, this Agreement and all of the terms and restrictions contained herein shall be suspended for any period of involuntary noncompliance as a result of

unforeseen events such as fire or act of God which leaves a material portion of the Apartment Community uninhabitable and the proceeds of insurance available to the Owner as a result thereof are insufficient to reconstruct the Apartment Community, or a change in a federal or state law or an action by the federal government, the State or a court of competent jurisdiction, after the date of recordation hereof, that prevents the City from enforcing the provisions of this Agreement, or a condemnation or a similar event.

**ARTICLE 4. DEFAULT; REMEDIES.**

**4.1 An Event of Default.** Each of the following shall constitute an “Event of Default” by the Owner under this Agreement:

4.1.1 Failure by the Owner to duly perform, comply with and observe any of the conditions, terms, or covenants of any agreement with the City concerning the Apartment Community, or of this Agreement, if such failure remains uncured sixty (60) days after written notice of such failure from the City to the Owner in the manner provided herein or, with respect to a default that cannot be cured within sixty (60) days, if the Owner fails to commence such cure within such sixty (60) day period or thereafter fails to diligently and continuously proceed with such cure to completion. However, if a different period or notice requirement is specified under any other section of this Agreement, then the specific provision shall control.

4.1.2 Any representation or warranty contained in this Agreement or in any application, financial statement, certificate, or report submitted by the Owner to the City proves to have been incorrect in any material respect when made.

4.1.3 A court having jurisdiction shall have made or rendered a decree or order: (i) adjudging the Owner to be bankrupt or insolvent; (ii) approving as properly filed a petition seeking reorganization of the Owner or seeking any arrangement on behalf of the Owner under the bankruptcy laws or any other applicable debtor’s relief law or statute of the United States or of any state or other jurisdiction; (iii) appointing a receiver, trustee, liquidator, or assignee of the Owner in bankruptcy or insolvency or for any of its properties; or (iv) directing the winding up or liquidation of the Owner, providing, however, that any such decree or order described in any of the foregoing subsections shall have continued unstayed or undischarged for a period of ninety (90) days.

4.1.4 The Owner shall have assigned its assets for the benefit of its creditors or suffered a sequestration or attachment or execution on any substantial part of its property, unless the property so assigned, sequestered, attached, or executed upon shall have been returned or released within ninety (90) days after such event (unless a lesser time period is permitted for cure hereunder) or prior to sale pursuant to such sequestration, attachment, or execution. If the Owner is diligently working to obtain a return or release of the property and the City’s interests hereunder are not imminently threatened in its reasonable business judgment, then the City shall not declare a default under this subsection.

4.1.5 The Owner shall have voluntarily suspended its business or dissolved.

4.1.6 The seizure or appropriation of all or, in the reasonable opinion of the City, a substantial part of the Apartment Community, except for condemnation initiated by the City or any governmental agency or authority.

4.1.7 There should occur any default declared by any lender under any loan document or deed of trust relating to any loan made in connection with the Apartment Community, which loan is secured by a deed of trust or other instrument affecting the Apartment Community, and such default remains uncured following the expiration of any applicable cure period.

4.2 City's Option to Lease. Upon the occurrence of an Event of Default, and to cause the Apartment Community to meet the requirements of this Agreement, the Owner hereby grants to the City the option to lease up to all of the units as necessary to achieve compliance with the provisions of Article 2 of this Agreement and for the purpose of subleasing such units in accordance with the requirements of this Agreement. The amount of rental to be paid by the City for such rental units following the exercise of the City's option shall be equal to the applicable Affordable Rent. Any rental paid under any such sublease shall be paid to the City without obligation to pay any such rent to the Owner during the pendency of the Owner's default.

4.3 City Remedies. The City shall have the right to mandamus or other suit, action or proceeding at law or in equity to require the Owner to perform its obligations and covenants under this Agreement or to enjoin acts or things which may be unlawful or in violation of the provisions hereof, provided that in any such case the City has first provided the required notice of any alleged default and the Owner has had the requisite opportunity to cure pursuant to Section 4.1.1, above. The City may not seek monetary damages against the Owner with respect to any failure of the Owner to perform its obligations and covenants under this Agreement.

4.4 Action at Law; No Remedy Exclusive. The City may take whatever action at law or in equity as may be necessary to enforce performance and observance of any obligation, agreement or covenant of the Owner under this Agreement. No remedy herein conferred upon or reserved by the City is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of such right or power, but any such right or power may be exercised from time to time and as often as the City may deem expedient. In order to entitle the City to exercise any remedy reserved to it in this Agreement, it shall not be necessary to give any notice, other than such notice as may be herein otherwise expressly required or required by law to be given.

## ARTICLE 5. GENERAL PROVISIONS.

5.1 Limitations on Recourse. Notwithstanding anything to the contrary contained in this Agreement, except in the event of fraud, waste, or illegal acts, or with regard to any indemnity obligations imposed upon the Owner under the terms of this Agreement, (i) no partner (other than the general partner), member, officer or director, as applicable, of the Owner (each, an "**Owner Affiliate**") shall have any direct, indirect or derivative personal liability for the obligations of the Owner under this Agreement, and (ii) the City shall not exercise any rights or institute any action

against any Owner Affiliate directly, indirectly or derivatively for the payment of any sum of money that is or may become payable hereunder.

5.2 Maintenance, Repair, Alterations. The Owner shall maintain and preserve the Apartment Community in good condition and repair and in a prudent and businesslike manner. The Owner shall comply with all laws, ordinances, rules, regulations, covenants, conditions, restrictions, and orders of any governmental authority now or hereafter affecting the conduct or operation of the Apartment Community or any part thereof or requiring any alteration or improvement to be made thereon. The Owner shall not commit, suffer, or permit any act to be done in, upon, or to the Apartment Community or any part thereof in violation of any such laws, ordinances, rules, regulations, or orders. The Owner hereby agrees that the City may conduct from time to time through representatives, upon reasonable notice of no less than twenty-four (24) hours, on-site inspections and observation of: (i) the maintenance and repair of the Apartment Community, including a review of all maintenance and repair programs and practices and all reports and records pertaining thereto, including records of expenditures relating thereto; and (ii) such other facilities, practices, and records of the Owner relating to the Affordable Units as the City reasonably deems to be necessary or appropriate in order to monitor the Owner's compliance with the provisions of this Agreement.

5.3 Notices. All notices (other than telephone notices), certificates or other communications (other than telephone communications) required or permitted hereunder shall be sufficiently given and should be deemed given when personally delivered, when sent by facsimile (if confirmed by sending a copy of such transmission by mail the same calendar day), or forty-eight (48) hours following mailing by registered or certified mail, postage prepaid, or forty-eight (48) hours following transmission of such notice by express mail, Federal Express or similar commercial carrier, addressed as follows:

If to the City:  
City of Palm Desert  
73-510 Fred Waring Drive  
Palm Desert, CA 92260-2578  
Attn: Housing Division  
Phone: (760) 346-0611  
Fax: (760) 341-6372

If to the Owner:

Gerald Ford Apartments, LP  
c/o Western National Investments 8 Executive Circle



Irvine, California 92614  
Attention: Chief Financial Officer  
Facsimile: (949) 862-6494

With a Copy to:

Rutan & Tucker, LLP  
18575 Jamboree Road, 9th Floor  
Irvine, California 92612  
Attention: Randall M. Babbush  
Facsimile: (714) 546-9035

5.4 Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by any of the Parties, or by any third persons, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the City and the Owner or the Owner's agents, employees or contractors, and the Owner shall at all times be deemed an independent contractor and shall be wholly responsible for the manner in which it or its agents, or both, perform the services required of it by the terms of this Agreement for the operation of the Apartment Community. The Owner has and hereby retains the right to exercise full control of employment, direction, compensation and discharge of all persons assisting in the performance of services hereunder. In regards to the on-site operation of the Apartment Community, the Owner shall be solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding and all other laws and regulations governing such matters. The Owner agrees to be solely responsible for its own acts and those of its agents and employees.

5.5 No Claims. Nothing contained in this Agreement shall create or justify any claim against the City by any person the Owner may have employed or with whom the Owner may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the operation of the Affordable Units.

5.6 Conflict of Interests. No member, official or employee of the City shall make any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested. No officer or employee of the Owner shall acquire any interest in conflict with or inimical to the interests of the City.

5.7 Non-Liability of City Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to the Owner, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Owner or successor in connection with this Agreement or on any obligation of the City under the terms of this Agreement.

5.8 Unavoidable Delay; Extension of Time of Performance. In addition to specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where it is due to an "Unavoidable Delay." "Unavoidable Delay" means a delay due to the elements (including unseasonable weather), fire, earthquakes or other acts of God, strikes, pandemics, labor disputes, lockouts, shortages of construction materials experienced generally in the construction industry in the local area, acts of the public enemy, riots, insurrections or

governmental regulation of the sale or transportation of materials, supply or labor; provided, however, that to the extent a delay is caused by any other reason that the Owner reasonably believes is beyond its control, the Owner may request, on a case-by-case basis, that the City excuse any such delay as an Unavoidable Delay and the City shall make its determination as to whether such delay constitutes an Unavoidable Delay using its reasonable judgment.

5.9 Indemnity. The Owner shall indemnify, defend and hold harmless the City and all officials, employees and agents of City (with counsel reasonably satisfactory to the City) against any costs, liabilities, damages or judgments arising from claims or litigation of any nature whatsoever brought by third parties and directly or indirectly arising from the Owner's ownership or operation of the Apartment Community, or the Owner's performance of its obligations under this Agreement, and in the event of settlement, compromise or judgment hold the City free and harmless therefrom. Notwithstanding the foregoing, the indemnity provisions contained in this Section 5.9 shall not apply with respect to any costs, liabilities, damages or judgments arising directly or indirectly from the City's rental of units within the Apartment Community as described in Section 4.2 hereof or otherwise from the gross negligence or willful misconduct of the City. The provisions of this Section 5.9 shall survive the term of this Agreement.

5.10 Rights and Remedies Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either Party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default by the other Party. No waiver of any default or breach by the Owner hereunder shall be implied from any omission by the City to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver, and such waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by the City to or of any act by the Owner requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act. The exercise of any right, power, or remedy shall in no event constitute a cure or a waiver of any default under this Agreement, nor shall it invalidate any act done pursuant to notice of default, or prejudice the City in the exercise of any right, power, or remedy hereunder or under any agreements ancillary or related hereto.

5.11 Applicable Law. This Agreement shall be interpreted under and pursuant to the laws of the State of California.

5.12 Severability. If any term, provision, covenant or condition of this Agreement is held in a final disposition by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

5.13 Legal Actions. In the event any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach thereof, the Party prevailing in any such action shall be entitled to recover against the Party not prevailing all reasonable

attorneys' fees and costs incurred in such action (including all legal fees incurred in any appeal or in any action to enforce any resulting judgment), as awarded by a court of competent jurisdiction.

5.14 Binding Upon Successors. This Agreement shall be binding upon and inure to the benefit of the permitted heirs, administrators, executors, successors in interest and assigns of each of the Parties. Any reference in this Agreement to a specifically named Party shall be deemed to apply to any successor, heir, administrator, executor or assign of such Party who has acquired an interest in compliance with the terms hereof or under law.

5.15 Time of the Essence. In all matters under this Agreement, time is of the essence.

5.16 Approval by the City. Any approvals required under this Agreement shall be made by the City Manager or his or her designee, and shall not be unreasonably withheld, conditioned, delayed or made, except where it is specifically provided herein that another standard applies, in which case the specified standard shall apply.

5.17 Complete Understanding of the Parties. This Agreement and the attached Exhibits constitute the entire understanding and agreement of the Parties with respect to the matters described herein.

5.18 Covenants to Run With the Land. The Owner hereby subjects the Apartment Community to the covenants, reservations, and restrictions set forth in this Agreement. The City and the Owner hereby declare their express intent that the covenants, reservations, and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors in title to the Apartment Community; provided, however, that on the termination of this Agreement said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Apartment Community or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. No breach of any of the provisions of this Agreement shall defeat or render invalid the lien of a mortgage or deed of trust made in good faith and for value encumbering the Property or any interest of the Owner therein.

5.19 Burden and Benefit. The City and the Owner hereby declare their understanding and intent that: (i) the burden of the covenants, reservations, restrictions, and agreements set forth herein touch and concern the Property and the Apartment Community, in that Owner's legal interest in the Apartment Community is rendered less valuable thereby, (ii) the covenants, reservations, restrictions, and agreements set forth herein directly benefit the Property and the Apartment Community (a) by enhancing and increasing the enjoyment and use of the Apartment Community by certain Low Income Households and Very Low Income Households, the intended beneficiaries of such covenants, reservations, restrictions, and agreements, (b) by making possible the obtaining of advantageous financing for the Property and the Apartment Community, and (c) by furthering the public purposes advanced by the City, (iii) the covenants, reservations, restrictions and agreements set forth herein shall run with the Property and shall be binding for the benefit of and enforceable by the City and its successors and assigns for the entire term of this Agreement, and (iv) the covenants, reservations, restrictions and agreements set forth herein and the encumbrance

of the Agreement shall not be subordinate or subordinated to any deed of trust recorded against the Property without the prior written consent of the City Manager, which consent may be granted or withheld in the exercise of his sole and absolute discretion.

5.20 Counterparts. This 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.

5.21 Amendments. This Agreement may be amended only by the written agreement of the City and the Owner.

*[Remainder of this page intentionally left blank]  
[Signatures appear on next page]*

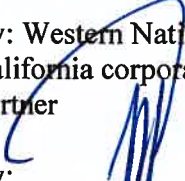
WHEREFORE, the undersigned has executed this Agreement as of the date first-above written.

**OWNER:**

**GERALD FORD APARTMENTS, LP,**  
a California limited partnership

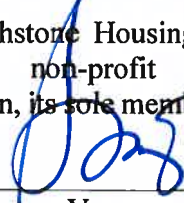
By: WNG Palm Desert LP, a California  
limited partnership, its administrative  
general partner

By: Western National Investments, a  
California corporation, its general  
Partner

By:   
Name: Jeffrey R. Scott  
Title: Chief Financial Officer

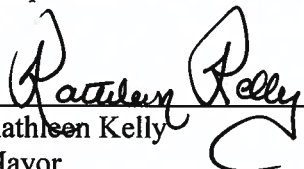
By: Hearthstone CA Properties IV, LLC, a  
California limited liability company, its  
managing general partner

By: Hearthstone Housing Foundation, a  
California non-profit public benefit  
corporation, its sole member and manager


By:   
Name: Socorro Vasquez  
Title: Executive Director

**CITY:**

**CITY OF PALM DESERT,**  
a municipal corporation

By:   
Name: Kathleen Kelly  
Title: Mayor

**ATTEST:**

  
Anthony J. Mejia, City Clerk

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

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

State of California )  
County of Orange )

On February 24, 2023, before me, Sally Packer-Laundrie,  
(insert name and title of the officer)

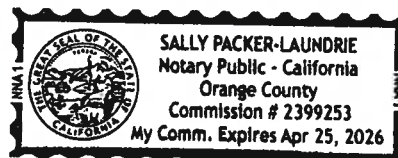
Notary Public, personally appeared Jeffrey R. Scott,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their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

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

WITNESS my hand and official seal.

Signature

(Seal)



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

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

State of California )  
County of orange )

On February 27, 2023, before me, Cathy Vuong,  
(insert name and title of the officer)

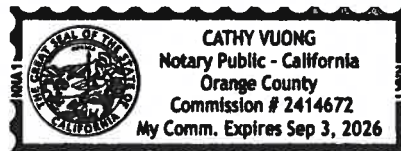
Notary Public, personally appeared Socorro Vasquez,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their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

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

WITNESS my hand and official seal.

Signature Cathy Vuong

(Seal)



**CALIFORNIA ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

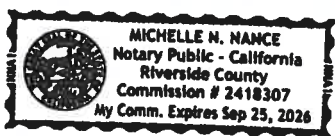
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }  
County of Riverside }

On March 2, 2023 before me, Michelle N. Nance, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Kathleen Kelly  
Name(s) of Signer(s)

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



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

WITNESS my hand and official seal.

Signature M Nance  
Signature of Notary Public

Place Notary Seal and/or Stamp Above

**OPTIONAL**

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Corporate Officer – Title(s): \_\_\_\_\_
- Partner –  Limited  General
- Individual  Attorney in Fact
- Trustee  Guardian or Conservator
- Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Corporate Officer – Title(s): \_\_\_\_\_
- Partner –  Limited  General
- Individual  Attorney in Fact
- Trustee  Guardian or Conservator
- Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

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

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF THE PROPERTY**

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

**PARCEL A**

PARCEL 1 AS DEPICTED ON EXHIBIT "B" ATTACHED TO THAT CERTAIN PARCEL MAP WAIVER FOR LOT LINE ADJUSTMENT NO. 17-49 RECORDED AUGUST 24, 2017 AS INSTRUMENT NO. 2017-0353036 AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF LOT 14, AND A PORTION OF LOT 13 OF TRACT MAP NO. 33837-1, IN THE CITY OF PALM DESERT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN ON THE MAP FILED IN BOOK 402, PAGES 4 THROUGH 8, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS A WHOLE AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE ALONG THE SOUTHWESTERLY LINE OF SAID LOT 13, DESCRIBED AS HAVING A BEARING AND DISTANCE OF NORTH 18°22'25" WEST 343.90 FEET ON SAID TRACT MAP;

THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 18°22'25" WEST 100.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE LEAVING SAID SOUTHWESTERLY LINE NORTH 71°10'24" EAST 178.56 FEET;

THENCE NORTH 89°59'24" EAST 149.94 FEET TO THE GENERAL EASTERLY LINE OF SAID LOT 13;

THENCE ALONG SAID GENERAL EASTERLY LINE, AND THE NORTHEASTERLY AND NORTHWESTERLY LINES OF SAID LOT 13, THE FOLLOWING EIGHT (8) COURSES:

NORTH 00°00'00" EAST 171.95 FEET, NORTH 90°00'00" EAST 43.50 FEET, NORTH 00°00'00" EAST 113.00 FEET, NORTH 90°00'00" EAST 61.05 FEET, NORTH 00°00'00" EAST 55.95 FEET, NORTH 35°28'02" EAST 298.62 FEET, NORTH 54°31'58" WEST 358.33 FEET, AND SOUTH 35°28'02" WEST 210.39 FEET TO THE MOST NORTHERLY CORNER OF SAID LOT 14;

THENCE ALONG THE NORTHWESTERLY AND SOUTHWESTERLY LINES OF SAID LOT 14 AND SAID SOUTHWESTERLY LINE OF SAID LOT 13, THE FOLLOWING THREE (3) COURSES:

CONTINUING SOUTH 35°28'02" WEST 480.04 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 1055.00 FEET, A RADIAL LINE OF SAID CURVE TO SAID POINT BEARS NORTH 70°25'44" EAST;

THENCE SOUTHEASTERLY 22.05 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°11'51";

THENCE SOUTH 18°22'25" EAST 280.82 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL B

NONEXCLUSIVE DRAINAGE EASEMENTS AS SET FORTH IN THAT CERTAIN "DECLARATION OF COVENANTS REGARDING DRAINAGE OF SURFACE WATERS AND GRANT OF DRAINAGE EASEMENTS (SPANISH WALK)" RECORDED MAY 10, 2006 AS INSTRUMENT NO. 2006-0340313 OF OFFICIAL RECORDS.

APN(S): 694-520-019 as to a Portion of said land  
694-520-020 as to a Portion of said land

**EXHIBIT "B"**  
**HOUSEHOLD INCOME CERTIFICATION**  
**(Attached)**

## HOUSEHOLD INCOME CERTIFICATION

### TENANT INCOME CERTIFICATION

Initial Certification     1<sup>st</sup> Recertification     Other: \_\_\_\_\_

Effective Date: \_\_\_\_\_  
Move-in Date: \_\_\_\_\_  
(YYYY-MM-DD)

#### PART I - DEVELOPMENT DATA

Property Name: \_\_\_\_\_ County: \_\_\_\_\_ BIN #: \_\_\_\_\_  
Address: \_\_\_\_\_ Unit Number: \_\_\_\_\_ # Bedrooms: \_\_\_\_\_ Square Footage: \_\_\_\_\_

#### PART II. HOUSEHOLD COMPOSITION

Vacant

HH Mbr #	Last Name	First Name	Middle Initial	Relationship to Head of Household	Date of Birth (YYYY/MM/DD)	F/T Student (Y or N)	Last 4 digits of Social Security #
1				HEAD			
2							
3							
4							
5							
6							
7							

#### PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
<b>TOTALS</b>	\$ _____	\$ _____	\$ _____	\$ _____
Add totals from (A) through (D), above			<b>TOTAL INCOME (E):</b>	\$ _____

#### PART IV. INCOME FROM ASSETS

HH Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
<b>TOTALS:</b>			\$ _____	\$ _____
Enter Column (H) Total If over \$5000		\$ _____ X	Passbook Rate 2.00%	= (J) Imputed Income \$ _____
Enter the greater of the total of column I, or J: imputed income			<b>TOTAL INCOME FROM ASSETS (K)</b>	\$ _____
<b>(L) Total Annual Household Income from all Sources [Add (E) + (K)]</b>				\$ _____

#### HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

## HOUSEHOLD INCOME CERTIFICATION

Signature	(Date)	Signature	(Date)
Signature	(Date)	Signature	(Date)

PART V. DETERMINATION OF INCOME ELIGIBILITY		RECERTIFICATION ONLY:	
TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (L) on page 1	\$	Unit Meets Income Restriction at: <input type="checkbox"/> 60% <input type="checkbox"/> 50%	Current Federal LIHTC Income Limit x 140%: \$
Current Federal LIHTC Income Limit per Family Size:	\$	<input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> Other _____%	Household Income exceeds 140% at recertification: <input type="checkbox"/> Yes <input type="checkbox"/> No
Household Income at Move-in:	\$	Household Size at Move-in:	

PART VI. RENT			
Tenant Paid Monthly Rent:	\$	Federal Rent Assistance:	\$ *Source: _____
Monthly Utility Allowance:	\$	Other non-optional charges:	\$ (*0-8)
Other Monthly Non-optional charges:	\$	Total Monthly Rent Assistance:	\$
<b>GROSS MONTHLY RENT FOR UNIT:</b> (Tenant paid rent plus Utility Allowance & other non-optional charges)	\$	*Source of Federal Assistance 1 **HUD Multi-Family Project Based Rental Assistance (PBRA) 2 Section 8 Moderate Rehabilitation 3 Public Housing Operating Subsidy 4 HOME Rental Assistance 5 HUD Housing Choice Voucher (HCV), tenant-based 6 HUD Project-Based Voucher (PBV) 7 USDA Section 521 Rental Assistance Program 8 Other Federal Rental Assistance 0 Missing	
Maximum Federal LIHTC Rent Limit for this unit:	\$	** (PBRA) Includes: Section 8 New Construction/Substantial Rehabilitation; Section 8 Loan Management, Section 8 Property Disposition; Section 202 Project Rental Assistance Contracts (PRAC)	
Unit Meets Federal Rent Restriction at:	<input type="checkbox"/> 60% <input type="checkbox"/> 50%		
Unit Meets Deeper Targeting Rent Restriction at:	<input type="checkbox"/> Other: _____%		

PART VII. STUDENT STATUS		
ARE ALL OCCUPANTS FULL TIME STUDENTS?	If yes, Enter student explanation* (also attach documentation)	*Student Explanation:
<input type="checkbox"/> yes <input type="checkbox"/> no	Enter 1-5	1 AFDC / TANF Assistance 2 Job Training Program 3 Single Parent/Dependent Child 4 Married/Joint Return 5 Former Foster Care

## HOUSEHOLD INCOME CERTIFICATION

<b>PART VIII. PROGRAM TYPE</b>				
Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.				
a. Tax Credit <input type="checkbox"/>	b. HOME <input type="checkbox"/>	c. Tax Exempt <input type="checkbox"/>	d. AHDP <input type="checkbox"/>	e. _____ <input type="checkbox"/> <small>(Name of Program)</small>
See Part V above.	<i>Income Status</i> <input type="checkbox"/> ≤ 50% AMGI <input type="checkbox"/> ≤ 60% AMGI <input type="checkbox"/> ≤ 80% AMGI <input type="checkbox"/> OI**	<i>Income Status</i> <input type="checkbox"/> 50% AMGI <input type="checkbox"/> 60% AMGI <input type="checkbox"/> 80% AMGI <input type="checkbox"/> OI**	<i>Income Status</i> <input type="checkbox"/> 50% AMGI <input type="checkbox"/> 80% AMGI <input type="checkbox"/> OI**	<i>Income Status</i> <input type="checkbox"/> _____ <input type="checkbox"/> OI**
** Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.				

**SIGNATURE OF OWNER/REPRESENTATIVE**

Based on the representations herein and upon the proof and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

\_\_\_\_\_  
SIGNATURE OF OWNER/REPRESENTATIVE                      DATE

### PART IX. SUPPLEMENTAL INFORMATION FORM

The California Tax Credit Allocation Committee (CTCAC) requests the following information in order to comply with the Housing and Economic Recovery Act (HERA) of 2008, which requires all Low Income Housing Tax Credit (LIHTC) properties to collect and submit to the U.S. Department of Housing and Urban Development (HUD), certain demographic and economic information on tenants residing in LIHTC financed properties. Although the CTCAC would appreciate receiving this information, you may choose not to furnish it. You will not be discriminated against on the basis of this information, or on whether or not you choose to furnish it. If you do not wish to furnish this information, please check the box at the bottom of the page and initial.

Enter both Ethnicity and Race codes for each household member (see below for codes).

<b>TENANT DEMOGRAPHIC PROFILE</b>						
HH Mbr#	Last Name	First Name	Middle Initial	Race	Ethnicity	Disabled
1						
2						
3						
4						
5						
6						
7						

**The Following Race Codes should be used:**

- 1 – White – A person having origins in any of the original people of Europe, the
- 2 – Black/African American – A person having origins in any of the black racial groups of Africa. Terms such to this
- 3 – American Indian/Alaska Native – A person having origins in any of the original peoples of North and America), and who maintain tribal affiliation or community attachment.
- 4 – Asian – A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- 5 – Native Hawaiian/Other Pacific Islander – A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- 6 – Other
- 7 – Did not respond (Please initial below)

**Note:** Multiple racial categories may be indicated as such: 31 – American Indian/Alaska Native & White, 41 – Asian & White, etc.

**The following Ethnicity Codes should be used:**

- 1 – Hispanic – A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. Terms such as "Latino" or "Spanish Origin" apply to this category.

## HOUSEHOLD INCOME CERTIFICATION

2 – Not Hispanic – A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless

3 – Did not respond. (Please initial below)

**Disability Status:**

1 – Yes

If any member of the household is disabled according to Fair Housing Act definition for handicap (disability):

- A physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment or being regarded as having such and impairment. For a definition of “physical or mental impairment” and other terms used, please see 24 CFR 100.201, available at [http://www.fairhousing.com/index.cfm?method=page.display&pagename=regs\\_fht\\_100-201](http://www.fairhousing.com/index.cfm?method=page.display&pagename=regs_fht_100-201).
- “Handicap” does not include current, illegal use of or addiction to controlled substance.
- An individual shall not be considered to have a handicap solely because that individual is a transvestite.

2 – No

3 – Did not respond (Please initial below)

Resident/Applicant: I do not wish to furnish information regarding ethnicity, race and other household composition.

(Initials)							
(HH#)	1.	2.	3.	4.	5.	6.	7.

### INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

*This form is to be completed by the owner or an authorized representative.*

#### Part I - Development Data

Enter the type of tenant certification: Initial Certification (move-in), Recertification (annual recertification), or Other. If other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

- |                        |  |
|------------------------|--|
| <b>*Effective Date</b> | Enter the effective date of the certification. For move-in, this should be the move-in date. For annual income recertification's, this effective date should be no later than one year from the effective date of the previous (re)certification.  |
| <b>*Move-In Date</b>   | Enter the most recent date the household tax credit qualified. This could be the move-in date or in an acquisition rehab property, this is not the date the tenant moved into the unit, it is the most recent date the management company income qualified the unit for tax credit purposes. |
| <b>Property Name</b>   | Enter the name of the development.   |
| <b>County</b>          | Enter the county (or equivalent) in which the building is located.   |
| <b>TCAC#</b>           | Enter the project number assigned to the property by TCAC. Please include hyphens between the state abbreviation, four digit allocating year, and project specific number. For example: CA-2010-123  |
| <b>BIN #</b>           | Enter the building number assigned to the building (from IRS Form 8609).   |
| <b>Address</b>         | Enter the physical address of the building, including street number and name, city, state, and zip code.   |
| <b>Unit Number</b>     | Enter the unit number.   |
| <b># Bedrooms</b>      | Enter the number of bedrooms in the unit.  |
| <b>Square Footage</b>  | Enter the square footage for the entire unit.  |
| <b>Vacant Unit</b>     | Check if unit was vacant on December 31 of requesting year. For example, for the collection of 2011 data, this would refer to December 31, 2011.   |

#### Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

H Head of Household	S Spouse	U Unborn Child/Anticipated Adoption or Foster
A Adult Co-tenant	O Other Family Member	
C Child	F Foster child(ren)/adult(s)	
L Live-in Caretaker	N None of the above	



## HOUSEHOLD INCOME CERTIFICATION

**Date of Birth** Enter each household member's date of birth.

**Student Status** Enter "Yes" if the household member is a full-time student or "NO" if the household member is not a full-time student.

**Last Four Digits of Social Security Number** For each tenant 15 years of age or older, enter the last four digits of the social security number or the last four digits of the alien registration number. If the last four digits of SSN or alien registration is missing, enter 0000. For tenants under age 15, social security number not required, although please enter 0000.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

### Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List each respective household member number from Part II. Include anticipated income only if documentation exists verifying pending employment. If any adult states zero-income, please note "zero" in the columns of Part III.

**Column (A)** Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.

**Column (B)** Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.

**Column (C)** Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).

**Column (D)** Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.

**Row (E)** Add the totals from columns (A) through (D), above. Enter this amount.

### Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. If individual household member income is provided, list the respective household member number from Part II and complete a separate line for each member.

**Column (F)** List the type of asset (i.e., checking account, savings account, etc.)

**Column (G)** Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).

**Column (H)** Enter the cash value of the respective asset.

**Column (I)** Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).

**TOTALS** Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

**Row (K)** Enter the greater of the total in Column (I) or (J)

**Row (L)** Total Annual Household Income From all Sources Add (E) and (K) and enter the total

## HOUSEHOLD INCOME CERTIFICATION

### HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

#### Part V – Determination of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current LIHTC Income Limit per Family Size	Enter the Current Move-in Income Limit for the household size – specifically, the max income limit for the federal 50% or 60% set aside.
Household Income at move-in	For recertifications, only. Enter the household income from the move-in certification
Household Size at move-in	Enter the number of household members from the move-in certification.
Current Federal LIHTC Income Limit x 140%	For recertification only. Multiply the current LIHTC Maximum Move-in Income Limit by 140% and enter the total. 140% is based on the Federal Set-Aside of 20/50 or 40/60, as elected by the owner for the property, not deeper targeting elections of 30%, 40%, 45%, 50%, etc. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the LIHTC Income Limit per Family Size at Move-in date (above), then the available unit rule must be followed.
Units Meets Income Restriction at	Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.

#### Part VI - Rent

Tenant Paid Monthly Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Federal Rent Assistance	Enter the amount of rent assistance received from a federal program, if any.
Non-Federal Rent Assistance	Enter the amount of non-federal rent assistance received, if any.
Total Monthly Rent Assistance	Enter the amount of total rent assistance received, if any.
Source of Federal Rent Assistance	If federal rent assistance is received, indicate the single program source.
Monthly Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other Monthly Non-Optional Charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Monthly Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges. The total may NOT include amounts other than Tenant Paid Rent, Utility Allowances and other non-optional charges. In accordance with the definition of Gross Rent in IRC §42(g)(2)(B), it may not include any rent assistance amount.
Maximum LIHTC Rent Limit for this unit	Enter the maximum allowable gross rent for the unit. This amount must be the maximum amount allowed by the Current Income Limit per Family Size – specifically, the max rent limit for the federal 50% or 60% set aside.
Unit Meets Federal Rent Restriction at	Indicate the appropriate rent restriction that the unit meets according to what is <u>required</u> by the federal set-aside(s) for the project.
Unit Meets Deeper Targeting Rent Restrictions at	If your agency requires a rent restriction lower than the federal limit, enter the percent required.

## HOUSEHOLD INCOME CERTIFICATION

### Part VII - Student Status

If all household members are full time\* students, check "yes". Full-time status is determined by the school the student attends. If at least one household member is not a full time student, check "no".

If "yes" is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

### Part VIII - Program Type

Mark the program(s) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

Tax Credit	See Part V above.
HOME	If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household's designation.
Tax Exempt	If the property participates in the Tax Exempt Bond program; mark the appropriate box indicating the household's designation.
AHDP	If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, select the appropriate box to indicate if the household is a VLI, LI or OI (at recertification) household.
Other	If the property participates in any other affordable housing program, complete the information as appropriate.

### SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

### PART IX. SUPPLEMENTAL INFORMATION

*Complete this portion of the form at move-in and at recertification's (only if household composition has changes from the previous year's certification).*

Tenant Demographic Profile	Complete for each member of the household, including minors. Use codes listed on supplemental form for Race, Ethnicity, and Disability Status.
Resident/Applicant Initials	All tenants who wish not to furnish supplemental information should initial this section. Parent/guardian may complete and initial for minor child(ren).

**EXHIBIT "C"**  
**CERTIFICATE OF CONTINUING COMPLIANCE**  
**(Attached)**

# CERTIFICATE OF CONTINUING COMPLIANCE

## CITY OF PALM DESERT

### OWNER'S CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

To: City of Palm Desert  
73-510 Fred Waring Drive  
Palm Desert, CA 92260  
ATTN: HOUSING DIVISION

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

Certification Dates: From: \_\_\_\_\_

To: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project No.: \_\_\_\_\_

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

City: \_\_\_\_\_ Zip: \_\_\_\_\_

Tax ID # of Ownership Entity: \_\_\_\_\_

The undersigned \_\_\_\_\_ on behalf of \_\_\_\_\_ (the "Owner"), hereby certifies that:

- No buildings have been placed in service.
- At least one building has been placed in service, but owner elects to begin credit period in the following year.

If either of the above applies, please check the appropriate box, and proceed to page 3 to sign and date this form.

All buildings ARE in service.

1. The Project meets the minimum requirements of (as outlined in the Agreement):

\_\_\_\_\_

\_\_\_\_\_

2. Has there been a change in any building in the Project?

No Change  Change

If "Change", list the applicable change in the project for the certification year on page 4.

3. The Owner has received an annual Household Income Certification from each low-income resident and documentation to support that certification, at their initial occupancy and annually.

Yes  No

4. Each low-income unit in the Project has been rent-restricted pursuant to Section \_\_\_\_\_ of the Agreement:

Yes  No

## CERTIFICATE OF CONTINUING COMPLIANCE

5. Has there been a finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, for this Project? A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C. 3616a(a)(1), or an adverse judgment from a federal court:
- No Finding                       Finding
- If "Finding", state the nature of the finding on page 4.
6. Each building in the Project is and has been suitable for occupancy, taking into account local health, safety and building codes (or other habitability standards), and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low-income unit in the project:
- Yes                                       No
- If "No," state the nature of violation on page 4 and attach a copy of the violation report and any documentation of correction.
7. Has there been a change in the eligible basis (as defined in \_\_\_\_\_ of the Agreement) of any building in the project since last certification submission?
- No Change                       Change
- If "Change," state nature of change on page 4 (e.g., a common area has become commercial space, a fee is now charged for a tenant facility formerly provided without charge, or the project owner has received federal subsidies with respect to the project which had not been disclosed).
8. All tenant facilities included, such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups and appliances were provided on a comparable basis without charge to all tenants in the buildings:
- Yes                                       No
9. If a low-income unit in the Project has been vacant during the year, reasonable attempts were, or are being, made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units were or will be rented to tenants not having a qualifying income:
- Yes                                       No
10. If the income of tenants of a low-income unit in any building increased above the limit, the next available unit of comparable or smaller size in that building was or will be rented to residents having a qualifying income:
- Yes                                       No
11. An extended low-income housing commitment, wherein an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s. Owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher:
- Yes                                       No                                       N/A
12. The owner has complied with and not evicted or terminated the tenancy of an existing tenant of any low-income unit other than for good cause:
- Yes                                       No

CERTIFICATE OF CONTINUING COMPLIANCE

13. Has there been a change in the ownership or management of the Project?

- No Change                       Change

If "Change," complete page 4 detailing the changes in ownership or management of the project.



**NOTE:** Failure to complete this form in its entirety will result in noncompliance with the program requirements. In addition, any individual other than an owner or general partner of the project is not permitted to sign this form.

The project is otherwise in compliance with Affordable Housing Agreement No. \_\_\_\_\_ and all other applicable laws, rules, and regulations. This Certification and any attachments are made **UNDER PENALTY OF PERJURY** of the Laws of the State of California.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



# CERTIFICATE OF CONTINUING COMPLIANCE

**PLEASE EXPLAIN ANY ITEMS THAT WERE ANSWERED "NO," "CHANGE" OR "FINDING ON QUESTIONS 1-15.**

Question #	Explanation (if applicable)
2	
5	
6	
7	
13	

**CHANGES IN OWNERSHIP OR MANAGEMENT**  
(To be completed ONLY if "CHANGE" marked for Question 15 above)

**TRANSFER OF OWNERSHIP:**

Date of Change:	
Taxpayer ID Number:	
Legal Owner Name:	
General Partnership:	
Status of Partnership (LLC, etc.):	

**CHANGE IN OWNER CONTACT:**

Date of Change:	
Owner Contact:	
Owner Contact Phone:	
Owner Contact Email:	

**CHANGE IN MANAGEMENT CONTACT**

Date of Change:	
Management Co. Name:	
Management Address:	
Management city, state, zip:	
Management Contact:	
Management Contact Phone:	
Management Contact Email:	