

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

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

WITH A COPY TO:

PD Millenium Partners LP
100 Pacifica, Suite 203
Irvine, CA 92618
Attention: President

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

MAINTENANCE EASEMENT AGREEMENT

This MAINTENANCE EASEMENT AGREEMENT (this "Agreement") is made as of _____ 2025, by and between, PD MILLENIUM PARTNERS LP, a California limited partnership, (the "Partnership"), and the CITY OF PALM DESERT, a municipal corporation (the "City"), individually a "Party" and collectively referred to herein as the "Parties".

RECITALS

A. The Partnership owns an approximately 6.02-acre parcel of real property located on the north side of Gerald Ford Drive between Portola Road and Cook Street in Palm Desert, California, as more particularly described in Exhibit A attached hereto ("Phase I Parcel"), on which the Partnership intends to construct and own one hundred twenty (120) units of affordable rental housing commonly known as Palm Villas I ("Phase I Project").

B. The City owns an approximately 4.47-acre parcel of real property located on the north side of Gerald Ford Drive between Portola Road and Cook Street in Palm Desert, California in the City of Palm Desert, California (the "Phase II Parcel"). The Phase II Parcel is adjacent to the Phase I Parcel and is intended to be Phase II of the Palm Villa development with one hundred nineteen (119) units of affordable rental housing.

C. The City owns approximately 26.14-acre parcel of real property located on the Dina Shore Drive in Palm Desert, California in the City of Palm Desert, California, as more particularly described in Exhibit B attached hereto (the "Parcel 9"). Parcel 9 adjoins the Phase I Parcel and the Phase II Parcel.

D. As part of the Phase I Project, the Partnership intends to construct an eight (8) foot high wall along the north boundary line of the Phase I Parcel adjacent to Parcel 9 (the "Phase I Wall").

E. The Parties anticipate that the development of the Phase II Parcel will also necessitate the development of a boundary wall between the Phase II Parcel and Parcel 9.

F. In Connection with the Phase I Project, the Partnership desires to secure a non-exclusive, appurtenant easement for access over Parcel 9 along the Phase I Wall to remove any sand build-up against the wall and to maintain and repair the exterior of the Phase 1 Wall in connection with such access.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the Parties agree as follows:

Section 1. Grant of Easement. The City hereby grants the Partnership and its contractors, employees, and agents (the "Permitted Parties"), for the benefit of the Phase I Parcel a non-exclusive easement thirty (30) feet in width for access by the Permitted Parties over and across the Parcel 9, as more particularly described in Exhibit C attached hereto for the purpose of removing sand build-up against Parcel I Wall and to maintain and repair the exterior of the Phase I Wall in connection with such access (the "Easement"). The Developer specifically acknowledges and agrees that the City is granting the Easement to the Developer on an "as is with all faults" basis and subject to all title matters of record and all title matters visible upon inspection.

Section 2. Term. Each covenant, easement, restriction, and undertaking of the Easement contained in this Agreement will be perpetual, unless sooner terminated as a result of the demolition of the housing development on the Phase I Parcel and Phase II Parcel, which are not replaced by another residential development.

Section 3. Nature of Easement. The Easement granted in this Agreement are appurtenant to and for the benefit of the Phase I Parcel. The Easement may not be transferred, assigned, or encumbered except as an appurtenance to the Phase I Parcel.

Section 4. Covenants Running with the Land. The City and the Partnership expressly intend that the covenants contained in this Agreement with respect to the Easement described in this Agreement will be equitable servitudes and covenants running with and benefiting and burdening the Phase I Parcel and Parcel 9.

Section 5. Use of Easement. The Partnership's use of the Easement will be for the purpose of removing sand build-up against Phase I Wall and to maintain and repair the exterior of the Phase I Wall in connection with such access. Prior to commencing the activities on the Easement, the Partnership shall provide its sand removal and maintenance plans to the City for the City's review and reasonable approval.

Section 6. Insurance and Indemnification Requirements. he Partnership shall maintain insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Easements.

(a) Required Coverage. The Partnership must maintain and keep in force, at the Partnership's sole cost and expense, the following insurance:

(1) Worker's Compensation insurance, as required by the State of California and consistent with statutory limits, and Employers' Liability coverage, with limits not less than One Million Dollars (\$1,000,000) each accident for bodily injury or disease.

(2) Commercial General Liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) aggregate combined single limit for Bodily Injury and Property Damage including coverages for Contractual Liability, Personal Injury, Broadform Property Damage, Products and Completed Operations. Products and Completed Operations coverage must be obtained no later than completion of construction of the Development.

(b) General Requirements.

(1) The required insurance must be provided under an occurrence form, and the Developer must maintain such coverage continuously throughout the Term. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit must be three (3) times the occurrence limits specified above.

(2) Commercial General Liability insurance must be endorsed to name as additional insureds the City and its elected officials, officers, directors, representatives, consultants, employees, and agents. The endorsement must include liability arising out of work or operations performed by or on behalf of the Partnership including materials, parts, or equipment furnished in connection with such work or operations. For commercial general liability, the policy must be endorsed with a form at least as broad as ISO form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used.

(3) The Partnership's insurance must be primary to any other insurance (including self-insurance) available to the City (including elected officials, officers, directors, representatives, consultants, employees, and agents) with respect to any claim arising out of this Agreement. Any insurance maintained by the City shall be in excess of the Partnership's insurance and shall not contribute with it.

(4) No policy shall be canceled, limited, or allowed to expire without renewal until after thirty (30) days written notice has been given to the City by first class mail.

(5) Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

Section 8. Remedies. If there is a material breach of any provision of this Agreement, a non-breaching Party may serve written notice of the breach of the breaching Party. If the breach is not cured within thirty (30) days following receipt of the notice of breach (or such longer period as is reasonably necessary to remedy such breach, provided that the breaching Party shall continuously and diligently pursue such remedy at all times until such breach is cured), the non-breaching Party may take any and all action as permitted by law.

Section 9. No Public Dedication. Nothing herein shall be deemed to be a gift or dedication of any portion of the Easements to the general public or for any public purposes whatsoever. It is the intention of the Parties that this Agreement is strictly limited to and for the purposes herein expressed.

Section 10. Indemnification. The Partnership hereby agrees to release, indemnify and defend the City, its councilmembers, its officers, its employees from and against and all claims, liabilities, losses, damages, costs and expenses arising from or as the result of the death of, or any accident, injury, loss or damage to, any person or property that occurs within the Easements. Notwithstanding the foregoing, the City will not be entitled to such indemnification for any damage to the extent caused by its own negligence or by its willful misconduct.

Section 11. Notices. Formal notices, demands and communications between the Parties shall be sufficiently given if, and shall not be deemed given unless, dispatched by certified mail, return receipt requested, or express delivery service with a delivery receipt, to the principal offices of the Party as follows:

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

Partnership: PD Millenium Partners LP
100 Pacifica, Suite 203
Irvine, CA 92618
Attn: President

Notices shall be deemed received as of the date delivered or delivery was refused as shown on the return receipt. The foregoing address may be changed by notice given as provided in this Agreement. Each Party shall promptly notify each of the other Party of any change in its address as last disclosed.

Section 12. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, and all of which taken together constitute this Agreement.

Section 13. Legal Action. If any legal action is brought to interpret or enforce the terms of this Agreement, the prevailing Party shall be entitled to recover against the Party not prevailing, all reasonable costs, including attorneys' fees, incurred in the action.

Section 14. Entire Agreement. This Agreement contains the entire agreement between the Owners relating to the rights granted and the obligation hereunder assumed. Any oral representations or modification concerning this Agreement shall be of no force and effect excepting a subsequent modification in writing signed by the Parties.

Section 15. Exhibits. Any and all Exhibits referred to in this Agreement are incorporated in this Agreement by this reference.

Section 16. Successors an Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto and their permitted successors and assigns.

Section 17. Amendments. This Agreement may be amended or modified only by a written instrument executed by the Parties.

Section 18 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California.

WHEREFORE, the Parties have executed this Agreement as of the date first written above.

CITY:

CITY OF PALM DESERT,
a municipal corporation

By:

Jan C. Harnik, Mayor

ATTEST

By:

Anthony Mejia, City Clerk

PARTNERSHIP:

PD MILLENNIUM PARTNERS LP,
a California limited partnership

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

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

By: Danavon L. Horn, President

EXHIBIT A

LEGAL DESCRIPTION OF PHASE I

THE LAND IN THE CITY OF PALM DESERT, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

DRAFT

EXHIBIT B

LEGAL DESCRIPTION OF PHASE II

THE LAND IN THE CITY OF PALM DESERT, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

DRAFT

EXHIBIT C
DESCRIPTION OF EASEMENT

DRAFT

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 RIVERSIDE

On _____ before me, _____ 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, and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) 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.

_____ Place Notary Seal Above

Signature of Notary Public

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 RIVERSIDE

On _____ before me, _____ 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, and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) 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.

_____ Place Notary Seal Above

Signature of Notary Public