

WHEN RECORDED, RETURN TO:
City of Yuma
Neighborhood Services Division
One City Plaza
Yuma, Arizona 85364
Attn: Assistant Director of Neighborhood Services

**DECLARATION OF AFFIRMATIVE LAND USE RESTRICTIVE COVENANTS
FOR HOME/HOME-ARP LOAN**

THIS DECLARATION OF AFFIRMATIVE LAND USE RESTRICTIVE COVENANTS FOR HOME-ARP and HOME LOAN ("Declaration") dated this ____ day of _____, 2025 Arizona Housing Development Corporation, whose address is 420 South Madison Avenue, Yuma, AZ 85364 (the "Owner"), and the City of Yuma, Arizona, an Arizona municipality, whose address is One City Plaza, Yuma, Arizona 85364 (the "City").

RECITALS

WHEREAS, pursuant to the HOME Investment Partnerships Act ("HOME"), established under Title II of the Cranston-Gonzales National Affordable Housing Act of 1990, the City received HOME funds for certain eligible activities;

WHEREAS, pursuant to the HOME American Rescue Plan (HOME-ARP), established under Section 3205 of the American Rescue Plan Act of 2021 for the HOME Investment Partnerships Program (HOME), the City received HOME-ARP funds for certain eligible activities;

WHEREAS, the City and the Owner have entered into a Development Loan Agreement, dated as of the ____ day of _____, 2025, which establishes certain terms of participation by both of the parties thereto (the "Agreement");

WHEREAS, Arizona Housing Development Corporation is the owner of a certain affordable, multifamily rental housing project located at 430 S. Magnolia Avenue, Yuma, AZ 85364 in the City of Yuma, County of Yuma, and State of Arizona, the legal description of which is more particularly set forth in **Attachment 2** hereto (the "Property"); and

WHEREAS, it is necessary for the Owner and the City to enter into an agreement regarding certain deed restrictions as a condition for the receipt of the HOME-ARP and HOME funds;

AGREEMENT

NOW, THEREFORE, the parties, for and in consideration of the receipt of the HOME-ARP and HOME funds, and such other covenants and conditions herein contained, do hereby agree for themselves, their heirs, executors, administrators, successors, and assigns, as follows:

1. Antidiscrimination Restrictions. The Owner will not illegally or unconstitutionally discriminate against or segregate any person or group of persons on account of race, color, national origin, religion, sex, familial status, or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor will the Owner establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property.

2. Affordability Restrictions.

- 2.1. The Owner covenants and agrees that for a period of time commencing from the date this Declaration is executed by the Owner and expiring 20 years from the date of the completion of the project stated in the Certificate of Completion (as defined in Attachment 13 of the Agreement) is recorded (the “Period of Affordability”), the Owner and such of its successors and assigns as the City approves in writing, will use the HOME-ARP and HOME Units (as defined in **Section 2.1 – 2.2** of the Agreement) solely to provide affordable housing to Qualified Population and Low-Income individuals and families (as defined in **Section 7** of the Agreement) and otherwise comply with the requirements of the HOME-ARP and HOME Programs and the provisions of this **Section 2**.
- 2.2. In addition, the Owner covenants and agrees that for a period of time commencing from the date the Period of Affordability terminates and expiring upon the later of (a) 20 years from the date the HOME-ARP and HOME Program Period of Affordability terminates or (b) final payment on the Loan (the “Extended Period of Affordability”), the Owner and such of its successors and assigns as the City approves in writing will use the HOME Units solely to provide affordable housing to Very Low Income Families and otherwise comply with the tenant income restrictions, rent restrictions and the other provisions of this **Section 2**.
- 2.3. HOME-ARP Units – Rent Limit for Qualified Populations.
 - 2.3.1. Six (6) Floating HOME-ARP Units will be occupied by Qualified Population individuals and families. The term “Qualified Populations” refers to individuals or families that are (1) Homeless, as defined in 24 CFR 91.5; (2) At risk of homelessness, as defined in 24 CFR 91.5; (3) Fleeing, or attempting to flee, domestic violence, sexual assault, stalking, or human trafficking, as defined by HUD; and (4) part of Other populations where providing supportive services or assistance would prevent a family’s homelessness or would service those with the greatest risk of housing instability. The HOME-ARP Units are designated as fixed units pursuant to 24 C.F.R. 92.252(j).
 - 2.3.2. The rent charged for the HOME-ARP Units must meet the following requirement:
 - a. The rent may not exceed 30% of the annual income of a family whose income equals 50% of the Yuma median income, with adjustments for smaller and larger families.
 - b. If the unit receives federal or state project-based rental subsidy and the very low-income family pays as a contribution toward rent not more than 30 percent of the family's adjusted income, then the maximum rent (i.e., tenant contribution plus project-based rental subsidy) is the rent allowable under the federal or state project-based rental subsidy program.

- c. If a household receives Tenant-Based Rental Assistance (TBRA), the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rental subsidy allowable under that rental assistance program)
- d. The rent limits for HOME-ARP units for qualifying households include the rent plus the utility allowance established pursuant to CPD-21-10 *Requirements for the Use of Funds in the HOME-ARP Program* Notice, Section VI.B.13.d.

2.4. Two (2) Floating HOME-ARP Units – Rent Limit for Low-Income Households under HOME-ARP.

2.4.1 For HOME-ARP units occupied by “low-income households,” the rent must comply with the limitations in 24 CFR Part 92.252(a). The maximum rents are the lesser of:

- a. The fair market rent (FMR) for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111; or
- b. A rent that does not exceed 30% of the adjusted income of a family whose annual income equals 65% of the Yuma median income, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME-ARP rent limits provided by HUD will include occupancy per unit and adjusted income assumptions.
- c. Notwithstanding the foregoing, when a household receives a form of federal tenant-based rental assistance (e.g., housing choice vouchers), the rent is the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rent subsidy allowable under the rental assistance program).
- d. The rent limits for low-income households apply to the rent plus the utility allowance established pursuant to CPD-21-10 *Requirements for the Use of Funds in the HOME-ARP Program* Notice, Section VI.B.13.d.

2.5 HOME Units.

2.5.1 Designated HOME Units will be occupied by very low-Income individuals and households whose annual income, at the time of initial occupancy, does not exceed 60% of the median family income for Yuma, as determined by HUD, with adjustments for family size. The HOME Units are designated as floating units pursuant to 24 CFR 92.252(j).

2.5.2 The rent charged for the HOME Units will not exceed the lesser of:

- a. High HOME Rent, or
- b. Fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR § 888.111, less the monthly allowance for utilities and services (excluding telephone) to be paid by the tenant.
- c. Or the City of Yuma published rents.

- 2.6 For purposes of this Declaration, the terms “family” and “families” have the same meaning given those terms in 24 CFR § 5.403. For the purposes of this Declaration, a family’s income will be determined in accordance with 24 CFR § 5.609.
- 2.7 The HOME-ARP and HOME Units may not be refused for leasing to a holder of a certificate or voucher under 24 CFR Part 982 or to the holder of a comparable document evidencing participation in a SECTION 8 tenant-based assistance program because of the status of the prospective tenant as a holder of such certificate or voucher, or comparable SECTION 8 tenant-based assistance document.
- 2.8 Enforcement of the provisions of this Declaration will not result in any claim against the Project, the Loan, or the rents or other income from the Property.

3. Covenants Run with the Land; Successor Bound Thereby.

- 3.1 Upon execution and delivery by the Owner, the Owner will cause this Declaration and all amendments and exhibits hereto to be recorded and filed in the official records of the county recorder’s office in which the Property is located, and pay all fees and charges incurred in conjunction with the recording of this Declaration and all addenda or amendments thereto. Upon recording, the Owner will immediately transmit or cause to be sent directly to the City an executed original of the recorded Declaration showing the date of recording and the Recorder’s Number.

THE OWNER INTENDS, DECLARES AND COVENANTS, ON BEHALF OF ITSELF AND ALL FUTURE OWNERS AND OPERATORS OF THE PROPERTY THAT, DURING THE TERM OF THIS DECLARATION, ALL OF THE COVENANTS AND RESTRICTIONS SET FORTH IN THIS DECLARATION REGULATING AND RESTRICTING THE USE, OCCUPANCY AND TRANSFER OF THE PROPERTY (I) WILL BE AND ARE COVENANTS RUNNING WITH THE PROPERTY, ENCUMBERING THE PROPERTY, AND ARE BINDING UPON THE OWNER’S SUCCESSORS IN TITLE AND ALL SUBSEQUENT OWNERS AND OPERATORS OF THE PROPERTY, (II) ARE NOT MERELY PERSONAL COVENANTS OF THE OWNER, AND (III) WILL BIND THE OWNER AND ITS RESPECTIVE SUCCESSORS AND ASSIGNS DURING THE TERM OF THIS DECLARATION. THE OWNER HEREBY AGREES THAT ANY AND ALL REQUIREMENTS OF THE LAWS OF THE STATE OF ARIZONA TO BE SATISFIED IN ORDER FOR THE PROVISIONS OF THIS DECLARATION TO CONSTITUTE DEED RESTRICTIONS AND COVENANTS RUNNING WITH THE LAND WILL BE DEEMED TO BE SATISFIED IN FULL, AND THAT ANY REQUIREMENTS FOR PRIVACY OF ESTATE OR TITLE ARE INTENDED TO BE SATISFIED HEREBY, OR IN THE ALTERNATIVE, THAT AN EQUITABLE SERVITUDE HAS BEEN CREATED TO ENSURE THAT THESE RESTRICTIONS WILL RUN WITH THE LAND. FOR THE TERM OF THIS DECLARATION, EACH AND EVERY CONTRACT, DEED OR OTHER INSTRUMENT HEREAFTER EXECUTED CONVEYING THE PROPERTY OR ANY PORTION THEREOF WILL EXPRESSLY PROVIDE THAT SUCH CONVEYANCE IS SUBJECT TO THIS DECLARATION; PROVIDED, HOWEVER, THAT THE COVENANTS CONTAINED HEREIN WILL SURVIVE AND BE EFFECTIVE REGARDLESS OF WHETHER SUCH CONTRACT, DEED, OR OTHER INSTRUMENT HEREAFTER EXECUTED CONVEYING THE PROPERTY OR ANY PORTION THEREOF PROVIDES THAT SUCH CONVEYANCE IS SUBJECT TO THIS DECLARATION.

4. Amendment. No amendment to this Declaration may be made without the prior written approval of the Owner and the City. The Owner hereby expressly agrees to enter into all amendments hereto which, in the opinion of counsel for the City, are reasonably necessary or desirable for maintaining compliance with the HOME Investment Partnerships Act.
5. Notices. All notices, requests, demands and consents to be made hereunder to the parties hereto must be in writing and must be delivered by hand or sent by registered mail or certified mail, postage prepaid, return receipt requested, through the United States Postal Service to the following addresses:

To City: City of Yuma
 Planning and Neighborhood Services Department
 One City Plaza
 Yuma, Arizona 85364
 Attn: Neighborhood Services Assistant Director

To Trustor: Arizona Housing Development
 Corporation/ Magnolia Gardens
 420 S. Madison Avenue
 Yuma, AZ 85364
 Attn: Fernando Quiroz

With a copy to: Arizona Housing Development
 Corporation/ Magnolia Gardens
 420 S. Madison Avenue
 Yuma, AZ 85364
 Attn: Luz Acosta

The Owner and the City may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications must be sent.

6. Governing Law. This Declaration will be governed by the laws of the State of Arizona and, where applicable, the laws of the United States of America.
7. Release. Upon the expiration of the term hereof, the City agrees to promptly execute and deliver to Owner, a release of this Declaration duly executed and in recordable form for filing in the County Recorder's Office.

[Signature page follows]

IN WITNESS WHEREOF, the foregoing instrument was executed by the parties hereto effective as of the date first above written.

OWNER:

Arizona Housing Development Corporation, an
Arizona nonprofit corporation

By: _____
Fernando Quiroz
President

State of Arizona)
) ss.
County of Yuma)

The foregoing Declaration consisting of 7 pages was acknowledged before me this the __ day of _____ 2025, by Fernando Quiroz, President, on behalf of Arizona Housing Development Corporation.

Notary Public

My Commission will expire:

City:

City of Yuma, Arizona, a municipal corporation

John D. Simonton, City Administrator

By: _____

Attest:

City Clerk
Approved as to form:

City Attorney
State of Arizona)
) ss.
County of Yuma)

This Declaration, consisting of 7 pages plus an attached Exhibit A, and signed by John D. Simonton, City Administrator, was acknowledged before me this date on behalf of the City of Yuma.

Notary Public

My Commission Expires:

Notice required by A.R.S. § 41-313: The foregoing notarial certificate relates to the Declaration made as of the ____ day of _____ 2025, executed by Arizona Housing Development Corporation, an Arizona nonprofit corporation, and the City of Yuma, Arizona (the "Notarized Document"). The Notarized Document contains a total of 7 pages, inclusive of all schedules, exhibits, attachments and this notarial certificate.

EXHIBIT A

Legal Description

A LOT TIE OF LOT 4, LOT 9, AND NORTH HALF OF LOTS 5 AND 8, BLOCK 27 OF TOWNSEND TRACT AS RECORDED IN BOOK 1 OF PLATS, PAGE 14, AND MODIFIED PER ROBLES LOT TIE AS RECORDED IN BOOK 16 OF PLATS, PAGE 66, YUMA COUNTY RECORDS. LOCATED IN A PORTION OF THE NORTHEAST CORNER OF THE SOUTHWEST CORNER OF SECTION 20, TOWNSHIP 8 SOUTH, RANGE 23 WEST GILA AND SALT RIVER BASE AND MERIDAN; CITY OF YUMA, YUMA COUNTY, ARIZONA