

WHEN RECORDED, RETURN TO:

City of Peoria  
9875 N. 85<sup>th</sup> Ave.  
Peoria AZ 85345  
Attn: City Clerk

**DEVELOPMENT AND DISPOSITION AGREEMENT**  
**(NEWTOWN Land Lot)**  
**(8490 W. Washington St)**

THIS DEVELOPMENT AND DISPOSITION AGREEMENT is entered into between the CITY OF Peoria, an Arizona municipal corporation ("**CITY**"), and NEWTOWN COMMUNITY DEVELOPMENT CORPORATION, an Arizona non-profit corporation ("Newtown"), as of this \_\_\_ day of \_\_\_\_, 2026 (the "Effective Date").

**RECITALS**

A. The City is authorized to enter into Development and Disposition Agreements pursuant to A.R.S. § 9-500.05. This Agreement is a development agreement within the meaning of A.R.S. § 9-500.05 and shall be construed as such.

B. The City owns the vacant lot legally described in *Exhibit "A"* attached hereto and made a part hereof (the "Project Property"), also known as 8490 W. Washington St, Peoria, Arizona.

C. Newtown is a subrecipient of the City's Federal funding for affordable housing projects, has executed an American Rescue Plan Act ("ARPA") funding agreement with the City, and has demonstrated the capacity and desire to implement federally funded affordable housing programs.

D. Pursuant to the terms and conditions hereafter set forth, City grants Newtown exclusive development rights over the Project Property and Newtown agrees to develop the Project Property in accordance with this Agreement.

NOW, THEREFORE, in consideration of the premises, the promises contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## **ARTICLE I DEFINITIONS**

The following terms shall have the meanings set forth below whenever used in this Agreement, except where the context clearly indicates otherwise:

**1.1 “Affordable Housing”** means residential units that are affordable to households with income at or below eighty percent (80%) of area median income (“AMI”) as adjusted for household size, and as determined in accordance with the requirements of the HOME Investment Partnership Program (“HOME”) administered by the U.S. Department of Housing and Urban Development (“HUD”).

**1.2 “Certificate of Occupancy”** means either (a) a certificate of occupancy (final, temporary, shell, conditional or otherwise) for any buildings or other improvements constructed as part of the Project issued by the Planning and Community Development Department and City Public Works Department of the City of Peoria, or (b) a certificate of completion in the form of *Exhibit "F"* hereto issued by the City of Peoria Neighborhood & Human Services Department certifying that a building or other improvement constructed on the Project Property has been substantially completed.

**1.3 “City”** means the City of Peoria, an Arizona municipal corporation, and any successor public body or entity.

**1.4 “Development Plan”** means the proposed plan for development of the Project Property submitted by Newtown to the City, as set forth in its Letter of Intent and subsequent project materials, as modified by the planning and development review process, and consistent with the terms of the City’s ARPA funding agreement with Newtown, and subject to any applicable requirements for future federal funding, including HOME and CHDO program requirements..

**1.7 “Eligible Household”** means an income qualified household pursuant to federal law, which is creditworthy and ready and able to purchase the Affordable Housing product built on the Property.

**1.8 “Improvements”** means all public and private improvements which may be constructed from time to time on any parcel comprising the Project Property, including, without limitation, all structures, buildings, roads, driveways, parking areas, walls, landscaping and other improvements of any type or kind, or any other alteration of the natural terrain to be built by Newtown or the City, as the case may be, pursuant to the terms of this Agreement.

**1.9 “Mandatory Charges”** means a fee or charge which the Peoria City Attorney has determined that the City is required to charge Newtown pursuant to any Applicable Law, agreement, contract, bond indenture, or other legal obligation, and for which Newtown is not exempt pursuant to A.R.S 9-500.18. Mandatory Charges may be modified by City from time to time upon written Notice to Newtown. Such modifications shall only apply prospectively to project elements for which an application is filed with the City after the effective date of the modified charges.

**1.10 “Newtown”** means Newtown Community Development Corporation, an Arizona non-profit corporation.

**1.11 “Preference”** means that if an Affordable Housing unit is available for purchase by two equally creditworthy Eligible Households, if one of the households (1) currently resides in Peoria and that household (2) currently receives a rental subsidy from the City of Peoria or from a nonprofit agency affiliated with the City of Peoria, then the Peoria Eligible Household shall be preferred assuming that the preference is in accordance with fair housing law and policy. Otherwise, all Affordable Housing units shall be offered to creditworthy Eligible Households on a "first-come, first served" basis. There will be an affirmative marketing campaign to actively recruit eligible households.

**1.12 “Project”** means the construction of up to four Affordable Housing Units, on the Project Property in accordance with the Development Plan.

**1.13 “Project Property”** means the real property which is legally described in *Exhibit “A”*.

**1.14 “Schedule of Performance”** means the schedule of performance attached hereto as *Exhibit “D”* and incorporated herein by this reference.

## ARTICLE II DEVELOPMENT PLAN

**2.1 Duration of Development Agreement** The term of this Agreement shall commence on the Effective Date and continue through the completion and sale of the Improvements constituting part of the Project, unless sooner cancelled as provided in Sections 7.1 through 7.4 and 8.1.

**2.2 General Cooperation.** City agrees to use its reasonable best efforts to assist Newtown and its affiliates in the development of the Project, including any assistance with other governmental agencies as appropriate. To further the commitment of City and Newtown to cooperate in the implementation of this Agreement, City shall designate and appoint a representative to act as liaison between the City and its various departments, and Newtown shall designate and appoint a representative to act on its behalf under this Agreement. The initial representative for the City ("**City Representative**") shall be Jaime Gonzalez, and the initial representative for Newtown ("**Newtown Representative**") shall be Stephanie Brewer. Both the City Representative and the Newtown Representative shall be available at reasonable times to discuss and review the performance of the City and Newtown under this Agreement and the development of the Property. A party may change its Representative at any time by giving notice to the other party as provided in Section 9.1.

**2.3 Restrictions on Use of Project Property.** Newtown shall use the Project Property solely to develop Affordable Housing. All Affordable Housing Units shall be sold exclusively to income-eligible households at or below 80% of Area Median Income (AMI). One hundred percent (100%) of the Affordable Housing Units will be purchased by Eligible Households and sold through Newtown’s Community Land Trust (CLT) to ensure long-term affordability. Eligible Households purchase the Affordable Housing Units only and enter into a 99-year renewable ground lease. The ground lease requires owner-occupancy for Eligible Households and contains resale restrictions. The Affordable Housing Unit can only be sold (transferred) to another Eligible Household; and there are shared appreciation provisions to assist in ensuring affordable sales prices for future buyers. The Project Property cannot be removed from the CLT without the mutual consent of the City of Peoria City Council and the Board of Directors for

Newtown.

**2.3.1 Period of Affordability.** As stipulated in Section 2.3, the Project Property will be maintained in the CLT. To comply with Federal Funding utilized in the acquisition and construction of the Project, Newtown will ensure a minimum twenty (20) year period of affordability. Newtown shall encumber the Project Property with restrictive covenants or other appropriate documents reasonably acceptable to and approved in advance by City (CC&Rs), which at a minimum restrict ownership of the Affordable Housing Units (whether resulting from the initial sale or any subsequent resale) to Eligible Households for a period not less than twenty (20) years from the date of the initial sale of the Affordable Housing Unit. The CC&Rs shall be recorded on the Project Property immediately after the Project Property is conveyed to Newtown.

**2.3.2. Monitoring of Sales Transactions.** During the term of this Agreement, staff from City's Neighborhood & Human Services Department (or the designated successor(s) thereof) shall monitor all sales transactions for compliance with income eligibility and programmatic requirements. Prior to consummation of any sale of the Affordable Housing Units, Newtown shall provide City with information regarding buyer's income and any other information necessary for the City to verify compliance with this Section 2.3. Unless City rejects such buyer within twenty (20) days after receipt of the foregoing information, the sale of the Affordable Housing Unit to that buyer shall be deemed to comply with Section 2.3 of this Agreement.

**2.3.3 Schedule of Performance.** The planning of the Project and development of the Project Property shall be achieved pursuant to the Schedule of Performance attached hereto as *Exhibit "D"*. Newtown and City agree to use their best efforts to ensure that development of the Project Property occurs in accordance with the Schedule of Performance.

**2.4 Approvals.** The City hereby agrees that, in connection with all approval requests relating to the construction of any Improvements that only customary plan or review requirements will be imposed on Newtown, consistent with City's normal process, and that no extraordinary plan or review requirements will be imposed.

**2.5 Development Plan.** Newtown shall at its sole cost and expense in accordance with this Agreement, develop the Project Property in conformance with the Development Plan and the Schedule of Performance, which must at a minimum comply with the Restrictions on Use set forth in Section 2.3 hereof. Development of the Project Property shall be consistent with and governed by the provisions, requirements, and restrictions of the applicable zoning and land use laws and ordinances, including any Planned Area Development approved for all or any portion of the Project Property. The Development Plan sets forth the current plan for development of the Project Property, and reflects Newtown's general intent regarding development of the Project Property. City reserves the right to review and approve any changes to the Development Plan, as well as the specific locations and design features of the Improvements to be constructed on the Project Property, separate and apart from any review or approval required as part of any re-zoning or other land use modifications or approvals Newtown may request.

### ARTICLE III CONVEYANCE OF PROPERTY

**3.1 Conveyance.** The City shall retain fee title to the Project Property until Newtown obtains the civil improvement plan approval and submits a formal request for conveyance as hereinafter provided. When Newtown desires to acquire the Project Property, and so long as Newtown is not in breach under this Agreement, Newtown shall deliver a written notice to the City, specifying the date by which the closing of the conveyance transaction is desired. Unless

otherwise provided under this Agreement, the close of escrow and transfer of title shall take place no later than the date requested in the written notice delivered by Newtown, but in no event shall the close of escrow occur, and transfer of title take place sooner than the first business day following thirty (30) days after the Peoria City Council has approved by ordinance the sale of the Project Property at a regularly scheduled City Council meeting. Upon the execution of this Agreement, the City and Newtown shall open an escrow with Great-American Title Agency, Inc. (7720 N. 16<sup>th</sup> St., Ste 450, Phoenix, AZ 85020, Commercial Escrow Officer) or any other title company chosen by the parties ("Escrow Agent"). The Escrow Agent shall issue a preliminary title report concerning the Project Property within ten (10) days of opening escrow, hold all documents, receive all monies, and perform such other acts as are normal and customary for a commercial escrow agent in similar transactions.

**Form of Deed; Form of Deed of Trust; and CC&Rs.** City shall convey fee simple title to the Project Property to Newtown by special warranty deed, in substantially the form attached hereto as *Exhibit "E"*, subject to all liens and encumbrances of record. Prior to the close of escrow, City shall use its best efforts to remove any matters of record that are reasonably objected to by Newtown, so that marketable title to the Project Property may be delivered at the close of escrow. However, the Project Property is being conveyed in its "AS IS" condition and without any representation or warranty except as otherwise expressly set forth in this Agreement. Newtown shall sign the deed of trust in substantially the form attached hereto as *Exhibit "H"* (the "Deed of Trust"). Immediately after recordation of the special warranty deed, the Deed of Trust shall be recorded, followed immediately thereafter by the recording of the CC&Rs referenced in Section 2.3.1 above.

**3.2 Agreement to Sell, Purchase Price and Other Considerations.** Subject to all terms, covenants and conditions of this Agreement, the City will sell to Newtown and Newtown will purchase from the City and pay the City \$10.00 (Ten Dollars) (the "Purchase Price") for each parcel of the Project Property. Newtown will pay the Purchase Price in cash, certified check or other financial arrangement at the closing of each such conveyance.

**3.3 Prorations.** All real property taxes and assessments shall be prorated between the City and Newtown as of the date of closing of the conveyance of the Project Property to Newtown, based upon the latest available information.

**3.4 Escrow Fees.** Newtown shall pay the cost of a standard coverage title insurance policy and any required endorsements. The City and Newtown shall each bear their own costs, including attorney's fees, in connection with the negotiations, due diligence, investigation and conduct of the transaction. Newtown shall pay all of Escrow Agent's customary escrow fees and recording fees.

## **ARTICLE IV OBLIGATIONS**

**4.1** Newtown agrees to:

**4.1.1** Utilize normal and customary practices and procedures for the development of the Project and provide a level of service that is consistent with the level of service for similar programs administered by it in the community.

**4.1.2** Maintain records pertaining to this Agreement and the Project Property for five (5) years in accordance with:

- 24 CFR Part 92 (HOME Program);
- 24 CFR Part 570 Subpart J (Community Development Block Grant Program); and
- any recordkeeping requirements applicable to American Rescue Plan Act (“ARPA”) funds.

Records must be sufficient to demonstrate compliance with all program requirements and must be made available to the City, HUD, or other funding oversight entities upon request..

**4.1.3** Comply with the requirements and standards of Office of Management and Budget (“OMB”) in accordance with 2 CFR § 200 and the HUD implementing regulations in accordance therewith as such may be amended or revised. Such compliance will be subject to monitoring from time to time by the City or by the Department of Housing and Urban Development.

**4.1.4** The record-keeping and reporting requirements set forth in Section 4.1.4 apply to all households that purchase an Affordable Housing Unit during the applicable federal affordability period when the unit is subject to HOME and/or CDBG requirements. Newtown shall maintain income qualification and required demographic records for each such purchaser for the duration of the federal affordability period and for six (6) years thereafter, in accordance with federal record retention requirements. These federal record-keeping obligations are time-limited and do not extend beyond the applicable federal affordability and retention periods, notwithstanding the perpetual affordability restrictions established under the Community Land Trust model.

**4.1.5** Provide City with written reports of its activities quarterly, or as otherwise requested by the City and a final report when this Agreement terminates, setting forth the demographic information stated in Section 4.1.4 (above), as well as the activities, program accomplishments, new program information and current statistics on expenditures and activities. City and the United States Government and/or their representatives shall have access for purposes of monitoring, auditing, and examining performance to Project documents and papers, and the right to examine financial records.

**4.1.6** Give all notices and comply with all laws, ordinances, rules, building codes, regulations and lawful orders of any public authority bearing on the performance of activities pursuant to this Agreement. If Newtown observes that any of the Agreement documents are in conflict with any laws, statutes, building codes and/or regulations, it shall promptly notify City, in writing, and any necessary changes shall be accomplished by appropriate written modification as deemed necessary by City.

**4.1.7** As funding for the Project may come from one or more Federal funding sources, including the Housing and Community Development Act of 1974, as amended, 24 CFR Part 570 (Community Development Block Grant Program, “CDBG”); the HOME Investment Partnerships Program, 24 CFR Part 92; and the American Rescue Plan Act (“ARPA”), ensure expenditure of the funds comply with the applicable program requirements and all pertinent regulations issued by agencies of the federal government. Newtown further agrees to comply fully with all federal, state, and local laws and court orders applicable to its operations, whether or not specifically referred to in this Agreement.

**4.1.8** Newtown and its subcontractors shall abide by all regulations pursuant to the Immigration and Naturalization Reform Act of 1986, specifically as it relates to employment

and client services, and such other provisions as may be applicable, including A.R.S. § 23-214(A). Should Newtown perform any work knowing it to be contrary to applicable laws, ordinances, rules building codes and/or regulations, it shall assume full responsibility therefore, and shall bear all costs incurred due to its negligence. The certification for such compliance is attached as *Exhibit "G"* to this Agreement.

**4.1.9** Newtown shall acknowledge the contributions of the City of Peoria ARPA, HOME, and CDBG Program in all published literature, brochures, programs, fliers, etc., during the term of the Agreement.

**4.1.10** Newtown agrees to comply with Section 319 of Public Law 101-121, (31 U.S.C. § 1352). The certification for such compliance is attached as *Exhibit "B"* to this Agreement. Newtown agrees to comply with all requirements applicable to use of ARPA, HOME, and CDBG funds, including those referenced in the additional certifications set forth in *Exhibit "C"* hereto.

**4.1.11** Newtown agrees that City of Peoria residents who currently receive a housing subsidy from the City shall be given Preference in the process used to select Eligible Households for Affordable Housing Units within the Project, as defined in paragraph 1.11.

**4.2** City agrees to:

**4.2.1** Provide technical assistance to Newtown in satisfying its obligation to comply with applicable federal guidelines governing the use of ARPA, HOME, and CDBG funds. If applicable, complete all environmental review requirements as described in 24 CFR Part 58.

**4.2.2** As a portion of the funds used by the City to fund the Project were received pursuant to one or more of the following programs: 24 CFR Part 570 (CDBG), 24 CFR Part 92 (HOME), and ARPA, ensure expenditure of these funds comply with the applicable program requirements and all pertinent regulations issued by agencies of the federal government comply with all applicable laws, rules, and regulations adopted by HUD or other federal agencies and applicable to the acceptance, use, and disposition of these funds.

**4.2.3** Waive all fees and charges except for Mandatory Charges.

**ARTICLE V  
NON-DISCRIMINATION**

**5.1** Newtown shall not discriminate against any employee or applicant for employment because of gender identity, sexual orientation, race, color, gender, religion, national origin, familial status, age, disability or status as a U.S. military veteran.

**5.2** Newtown shall take affirmative action in employment to ensure that employees are treated during employment, without regard to their gender identity, sexual orientation, race, color, gender, religion, national origin, familial status, age, disability and status as a U.S. military veteran. The scope of non-discrimination shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation and selection for training.

**5.3** Newtown agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of nondiscrimination as described in this Agreement.

**5.4** Newtown shall not discriminate against any applicant for service because of gender identity, sexual orientation, race, color, gender, religion, national origin, familial status, age, disability or status as a U.S. military veteran. Newtown shall, in all solicitations or advertisements, state that all qualified applicants will receive consideration for employment of service without regard to gender identity, sexual orientation, race, color, gender, religion, national origin, familial status, age, disability and status as a U.S. military veteran.

## **ARTICLE VI INDEMNIFICATION**

**6.1 Liability and Indemnification.** Newtown shall indemnify, defend, hold, protect and save harmless the City and any and all of its officers and employees from and against any and all actions, suits, proceedings, claims, demands, loss(es), liens, costs, expenses and liability(ies) of any kind and nature, whatsoever, for injury to or death of persons, or damage to property (including property owned by City) brought, made, filed against, imposed upon or sustained by the City, its officers, or employees in and arising from or attributable to or caused directly or indirectly by the negligence, wrongful acts, omissions or from operations conducted by the Newtown, its officers, agents or employees, or by any person or persons acting on behalf of Newtown and with Newtown's knowledge and consent, expressed or implied. This Section 6.1 shall survive the termination of this agreement.

## **ARTICLE VII DEFAULT; REMEDIES; TERMINATION**

**7.1 Events Constituting Default.** A party hereunder shall be deemed to be in default under this Agreement if such party breaches any obligation required to be performed by the respective party hereunder within any time period required for such performance, including, without limitation, any failure to comply with the Schedule of Performance attached hereto as *Exhibit "D"*, and such breach continues for a period of thirty (30) days after written notice thereof given by the non-defaulting party specifying in reasonable detail the nature of such breach.

**7.2 Newtown's Remedies.** If City is in breach under this Agreement and fails to cure any such breach within the time period required therefore as set forth in Section 7.1 above, then Newtown shall have the right to terminate this Agreement upon written notice delivered to the City, and may, in addition, pursue any and all other rights and remedies provided by law.

**7.3 City's Remedies; Right to Foreclose.** If Newtown is in breach under this Agreement by failing to develop the Project Property in accordance with the Schedule of Performance attached hereto as *Exhibit "D"*, or failing to comply with the sale requirements set forth in Article II, and Newtown thereafter fails to cure any such breach within the time period described in Section 7.1 above, then the City shall have the right to terminate this Agreement immediately upon written notice to Newtown and, if it so elects, within one hundred-eighty (180) days after notice of termination, to foreclose upon the Deed of Trust.

**7.4 Development Rights in the Event of Termination.** Upon the termination of this Agreement as provided herein, Newtown shall have no further rights to develop the Project Property.

**ARTICLE VIII  
CONFLICT OF INTEREST; REPRESENTATIVES  
NOT INDIVIDUALLY LIABLE**

**8.1 Conflict of Interest.** Pursuant to Arizona law, rules and regulations, including A.R.S. § 38-511, no member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested.

**8.2 No Personal Liability.** No member, official or employee of the City shall be personally liable to Newtown, or any successor or assignee, (a) in the event of any default or breach by the City, (b) for any amount which may become due to Newtown or its successor or assign, or (c) pursuant to any obligation of the City under the terms of this Agreement.

**ARTICLE IX  
GENERAL PROVISIONS**

**9.1 Notices.** All notices, demands and other communications to be given pursuant to this Agreement shall be in writing, and shall be deemed to have been given upon personal delivery or three business days after deposit in the United States mail, registered or certified mail, return receipt requested and postage prepaid, addressed as follows:

To Newtown:                   Stephanie Brewer  
  Executive Director  
  Newtown Community Development Corporation  
  511 W. University Drive #4  
  Tempe, AZ 85281

To the City:                    Jaime Gonzalez  
  City of Peoria  
  9875 N. 85th Avenue  
  Peoria, Arizona 85345

With a copy to:                City Attorney  
  City of Peoria  
  9875 N. 85<sup>th</sup> Avenue  
  Peoria, Arizona 85345

Either party may designate any other address for this purpose by written notice to the other party in the manner described herein. As used in this Agreement, "*business day*" shall mean a day other than a Saturday, Sunday or a day observed as a legal holiday by the United States government, the City or the State of Arizona.

**9.2 Dispute Resolution.** In the event that there is a dispute hereunder which the parties cannot resolve between themselves, the parties agree that there shall be a forty-five (45) day moratorium on litigation during which time the parties agree to attempt to settle the dispute by nonbinding mediation before commencement of litigation. The mediation shall be held under the commercial mediation rules of the American Arbitration Association. The matter in dispute shall be submitted to a mediator mutually selected by Newtown and the City. In the event that the parties cannot agree upon the selection of a mediator within seven (7) days, then within three (3) days thereafter, the City and Newtown shall request the presiding judge of the Superior Court in and for the County of Maricopa, State of Arizona, to appoint an independent mediator. The mediator selected shall have at least five (5) years' experience in mediating or arbitrating disputes relating to residential property development. The cost of any such mediation shall be divided equally between the City and Newtown. The results of the mediation shall be nonbinding on the parties, and any party shall be free to initiate litigation subsequent to the moratorium.

**9.3 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

**9.4 Successors and Assigns.** This Agreement shall run with the Project Property and all of the covenants and conditions set forth herein shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Upon prior written notice to City, Newtown may assign its interest in this Agreement, in whole or in part, to any entity that it controls or is under common control with Newtown. Neither Newtown nor any permitted assignee of Newtown may otherwise assign its interest in this Agreement without prior written consent of City, which consent may be reasonably withheld by City.

**9.5 Waiver.** No waiver by either party of any breach of any of the terms, covenants or conditions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same for any other term, covenant or condition herein contained.

**9.6 Attorneys' Fees.** In the event of any actual litigation between the parties in connection with this Agreement, the party prevailing in such action shall be entitled to recover from the other party all of its costs and fees, including reasonable attorneys' fees, which shall be determined by the court and not by the jury.

**9.7 Severability.** In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in full force and effect to the fullest extent permitted by law.

**9.8 Schedules and Exhibits.** All schedules and exhibits attached hereto are incorporated herein by this reference as though fully set forth herein.

**9.9 Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and all prior and contemporaneous agreements, representations, negotiations and understandings of the parties hereto, oral or written, are hereby superseded and merged herein.

**9.10 Recordation of Agreement.** This Agreement shall be recorded in the Official Records of Maricopa County, Arizona, within ten (10) days after its approval and execution by the City.

**9.11 No Partnership or Joint Venture.** Under no circumstances shall the parties hereto be considered partners or joint venturers.

**9.12 Arizona Law Provisions.**

- 9.12.1 In the performance of this agreement, contractor shall abide by and conform to all applicable laws of the United States, State of Arizona and City of Peoria including but not limited to federal and state executive orders (Federal E.O. 11246/AZ E.O. 2009-09) providing for equal employment and procurement opportunities.
- 9.12.2 Under the provisions of A.R.S. § 41-4401, Contractor hereby warrants to the City that Contractor and each of its subcontractors will comply with, and are contractually obligated to comply with, all Federal immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A) (hereinafter, “Immigration Warranty”).
- 9.12.3 A breach of the Immigration Warranty shall constitute a material breach of this agreement and shall subject Contractor to penalties up to and including termination of this agreement at the sole discretion of the City.
- 9.12.4 The City retains the legal right to inspect the papers of any contractor or subcontractor employee that works on the contract to ensure the contractor or subcontractor is complying with the Immigration Warranty. Contractor agrees to assist with any inspections that are performed.
- 9.12.5 The provisions of this Paragraph must be included in any contract Contractor enters into with any Subcontractors who provide services under this agreement or any subcontract.
- 9.12.6 Pursuant to the provisions of ARS §35-394, Contractor certifies that it will not use, during the term of the Agreement, i) the forced labor of ethnic Uyghurs in the People’s Republic of China, ii) any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China, or iii) any contractors, subcontractors, or suppliers that use forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China.
- 9.12.7 To the extent applicable, Contractor certifies to City that it is not currently engaged in and agrees for the duration of the contract not to engage in a boycott of Israel as defined in the provisions of ARS § 35-393.

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

"CITY"

ATTEST:

THE CITY OF PEORIA, an Arizona  
municipal corporation

\_\_\_\_\_  
Agnes Goodwine, City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
Mike Faust, City Manager

\_\_\_\_\_  
Emily Jurmu, City Attorney

STATE OF ARIZONA        )  
                                      )ss  
COUNTY OF MARICOPA    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
March \_\_\_\_, 2026, by Mike Faust, the City Manager of the city of Peoria.

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

"NEWTOWN"

Newtown Community Development Corporation, an Arizona non-profit corporation

By \_\_\_\_\_  
Stephanie Brewer, Executive Director

STATE OF ARIZONA        )  
  )ss  
COUNTY OF MARICOPA    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
March \_\_\_\_, 2026, by Stephanie Brewer, the Executive Director of Newtown Community  
Development Corporation.

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

## **LIST OF EXHIBITS**

- Exhibit "A" - Legal Description of Project Property*
- Exhibit "B" - Certification: SECTION 319 OF PUBLIC LAW 101-121*
- Exhibit "C" - Additional Federal Certifications*
- Exhibit "D" - Schedule of Performance*
- Exhibit "E" - Form of Special Warranty Deed*
- Exhibit "F" - Certificate of Completion*
- Exhibit "G" - Immigration and Regulations Certifications*
- Exhibit "H" - Deed of Trust*

***Exhibit "A"***  
***Legal Description of Project Property***

8490 West Washington Street, Peoria, AZ 85345  
(APNs: 142-41-001 and 142-41-002)

Lots 13, 14 and 15, Block 15, AMENDED PLAT OF THAT PART OF THE TOWNSITE OF PEORIA,  
according to the plat recorded in Book 3 of Maps, page 62, in the office of the County Recorder of  
Maricopa County, Arizona.

*Exhibit "B"*

**CERTIFICATION**  
**SECTION 319 OF PUBLIC LAW 101-121**

**THE UNDERSIGNED CERTIFIES, to the best of his or her knowledge and belief, that:**

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

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

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

*Exhibit "C"*

**ADDITIONAL FEDERAL CERTIFICATIONS**

In accordance with applicable federal statutes and regulations, including but not limited to the Housing and Community Development Act of 1974, as amended; the HOME Investment Partnerships Act and implementing regulations at 24 CFR Part 92; and the Coronavirus State and Local Fiscal Recovery Funds program authorized under the American Rescue Plan Act, Newtown certifies that:

1. It possesses legal authority to enter into a written agreement with the City and;
  
2. FEDERAL funds will be conducted and administered in compliance with:  
  
Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 42 U.S.C. § 2000d et seq.);  
and  
  
Titles I and II (as applicable to the City) of the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), and all regulations issued pursuant thereto.
  
3. The Fair Housing Act (42 U.S.C. § 3601-20);
  - a. It will affirmatively further fair housing;
  - b. It has developed its final statement/proposal of projected use of funds so as to give maximum feasible priority to activities which benefit low- and moderate-income families.
  - c. It has developed or is following a City of Peoria's Community Development Plan, for the period specified in its proposal, that identifies community development and housing needs and specifies both short and long-term community development objectives that have been developed in accordance with the primary objective and requirements of the Act;
  
4. It is in compliance with the City of Peoria's current Consolidated Plan/Action Plan which has been approved by HUD pursuant to 24 CFR § 570.306 and Part 91, and that any housing activities will be consistent with the Consolidated Plan;
  
5. It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. §§ 4601 - 4655) as required under 24 CFR § 570.606(b) and federal implementing regulations; and it is following a residential anti-displacement and relocation assistance plan as required under section 104(d) of the Act and in § 570.606(c); and it will comply with the relocation requirements of § 570.606(d) governing optional relocation assistance under 42 U.S.C. § 4605 section 105(a) (11) of the Act;

6. To the best of its knowledge and belief:
  - a. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any Agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contracts, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;
  - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions; and
  - c. It will require that language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly;
  
7. It will or will continue to provide a drug-free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession; or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - b. Establishing an ongoing drug-free awareness program to inform employees about:
    - (i) The dangers of drug abuse in the workplace;
    - (ii) The grantee's policy of maintaining a drug-free workplace;

- (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
    - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- 8. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by Paragraph 7:
  - a. Notifying the employee in the statement required by Paragraph 7 that, as a condition of employment under the grant, the employee will:
    - (i) Abide by the terms of the statement; and
    - (ii) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- 9. Notifying the Agency in writing, within ten calendar days after receiving notice from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- 10. Taking one of the following actions, within 30 calendar days of receiving notice, with respect to any employee who is convicted:
  - a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 701, *et seq.*); or
  - b. Requiring such employee to participate satisfactory in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.
- 11. It will make a good-faith effort to maintain a drug-free workplace by implementing the requirements outlined in Paragraphs 8 through 11 above, including publishing the drug-free workplace statement, establishing an awareness program, providing employees with a copy of the statement, notifying the agency of any convictions, and taking appropriate personnel or rehabilitation actions.

12. It further certifies compliance with all applicable federal statutes, regulations, and cross-cutting requirements, including but not limited to 2 CFR Part 200 (Uniform Guidance); Section 3 of the Housing and Urban Development Act of 1968 (24 CFR Part 75); Davis-Bacon and Related Acts, where applicable; NEPA and HUD environmental review requirements (24 CFR Part 58); conflict-of-interest provisions; and all program-specific requirements governing the use of CDBG, HOME, HOME-CHDO, and ARPA funds, as amended.
  
15. It attests that the agency, in all of its operations and activities, does not promote “gender ideology” as referenced in Executive Order 14168; complies with all applicable federal anti-discrimination laws, including Title VI; does not support elective abortions consistent with Executive Order 14182; is not governed by any Executive Orders revoked by Executive Order 14154; complies with PRWORA and all applicable immigration-related eligibility and verification requirements, including use of the SAVE program or another approved system; does not facilitate illegal immigration or impede federal enforcement; and complies with A.R.S. §§ 1-501 through 1-504. This attestation applies agency-wide and is not limited to grant-funded activities.

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Signature

---

Date

---

Name

---

Title

***Exhibit “D”***  
***Schedule of Performance***

- |    |  |                    |
|----|--|--------------------|
| 1. | Submit for Preliminary Site Plan Review              | June 30, 2026      |
| 2. | Submit for Development Plan Review/ Review of PAD    | September 30, 2026 |
| 3. | Submit Complete Application for Construction Permits | December 01, 2026  |
| 4. | Complete Construction of Project                     | June 30, 2028      |

*Exhibit "E"*  
*Example of Special Warranty Deed*

**SPECIAL WARRANTY DEED**

The CITY OF PEORIA, an Arizona Municipal Corporation, as grantor, hereby conveys to Newtown Community Development Corporation, an Arizona non-profit corporation, as grantee, pursuant and subject to the terms, conditions and reservations contained in that certain Development and Disposition Agreement dated \_\_\_\_\_, 2026, fee simple title to the following described real property:

See Exhibit A attached hereto and incorporated herein

SUBJECT TO current real property taxes and other assessments; patent reservations; and all easements, rights of way, covenants, conditions, restrictions and other matters as may appear of record or which an accurate survey or inspection would reveal.

AND Grantor hereby binds itself and its successors to warrant and defend the title against all of the acts of Grantor and no other, subject to the matters above set forth.

IN **WITNESS WHEREOF**, Grantor has caused this Special Warranty Deed to be executed on this \_\_\_ day of \_\_\_\_\_, 2026.

CITY OF PEORIA,  
an Arizona municipal corporation

By: \_\_\_\_\_  
Mike Faust, City Manager

ATTEST:

\_\_\_\_\_  
Agnes Goodwine, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Emily Jurmu, City Attorney

STATE OF ARIZONA )  
 ) ss.  
COUNTY OF MARICOPA )

On this \_\_\_ day of \_\_\_\_\_, 2026, before me, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged him/herself to be \_\_\_\_\_ of the CITY OF PEORIA, an Arizona municipal corporation:

- \_\_\_ whom I know personally;
- \_\_\_ whose identity I verified on the basis of his/her

\_\_\_\_\_

and s/he, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY SEAL: Notary Public

*Exhibit "F"*

Certificate of Completion

When recorded, return to

City of Peoria  
9875 North 85<sup>th</sup> Avenue  
Peoria, Arizona 85345  
Attention: City Clerk

CERTIFICATE OF COMPLETION

In accordance with the terms of the Development and Disposition Agreement dated \_\_\_\_\_, 2026, by and between the CITY OF Peoria (CITY) and Newtown Community Development Corporation, and recorded \_\_\_\_\_ at Recorders No. \_\_\_\_\_, this Certificate of Completion is issued for the building located on the following described parcel of land:

Construction of improvements was initiated on or about \_\_\_\_\_, and was completed on or about \_\_\_\_\_, as evidenced by the Letter of Compliance attached as **Exhibit A**.

Dated: \_\_\_\_\_

Respectfully,

\_\_\_\_\_  
Community Assistance Superintendent  
City of Peoria, Arizona

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA    )

The foregoing Certificate of Completion, consisting of two (2) pages, was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2026 by \_\_\_\_\_ the Community Development Manager of the City of Peoria, an Arizona municipal corporation, and that in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

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

My Commission Expires:

\_\_\_\_\_

*Exhibit "G"*

**IMMIGRATION LAW AND REGULATIONS CERTIFICATION**

The President's Executive Order 13465 of June 6, 2008 and Arizona Revised Statutes (A.R.S.) Section 41-4401, require the City of Peoria to ensure that each government entity, contractor and subcontractor it conducts business with complies with federal immigration laws and regulations that relate to their employees and A.R.S. Section 23-214, Subsection A. All governmental entities, vendors, contractors and subcontractors MUST certify use of the *E-Verify* system established by the Department of Homeland Security.

All applicants must certify compliance with items 1 and 2 below.

1. The government entity, organization or company shown below is in compliance with the Immigration Reform and Control Act of 1986 in relation to all employees performing work in the United States and does not knowingly employ persons in violation of the United States Immigration laws. The government entity, organization or company shown below will obtain this certification from all subcontractors who will participate in the performance of this contract and maintain subcontractor certifications for inspection by the County if such inspection is requested; and
2. By the date of the delivery of the product and/or performance of services, the government entity, organization or company shown below will have implemented or will be in the process of implementing the *E-Verify* program for all newly hired employees in the United States who will perform work on behalf of the Maricopa County.

**I certify that the government entity, organization or company shown below is in compliance with4 items 1 and 2 above and that I am authorized to sign on its behalf.**

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

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

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

Telephone Number: \_\_\_\_\_

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

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

***Exhibit "H"***  
**DEED OF TRUST**

Recorded at the Request of:  
Stephanie Brewer  
Newtown CDC

When recorded, mail to:  
Newtown CDC  
2106 E Apache Blvd, #112  
Tempe, Arizona 85281  
Escrow #

**NO TITLE LIABILITY**

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**DEED OF TRUST AND ASSIGNMENT OF RENTS**

THIS DEED OF TRUST, made on this \_\_\_\_ day of \_\_\_\_\_ between, \_\_\_\_\_, \_\_\_\_\_ as TRUSTOR,  
**Whose address is:** \_\_\_\_\_

And **NEWTOWN COMMUNITY DEVELOPMENT CORPORATION, an Arizona non-profit corporation**  
whose mailing address is: **2106 E Apache Blvd #112, Tempe, AZ 85281**, herein called TRUSTEE; and

**NEWTOWN COMMUNITY DEVELOPMENT CORPORATION, an Arizona non-profit Corporation** herein called  
BENEFICIARY, whose address is: **2106 E Apache Blvd #112, Tempe, Arizona 85281**

That property located in Maricopa County, State of Arizona, described as follows:

THIS DEED OF TRUST, made on the above date between the Trustor, Trustee and Beneficiary above named.

WITNESSETH: That Trustor irrevocably grants, conveys, transfers and assigns to Trustee in Trust, with Power of Sale, the above described real property, together with leases, rents, issues, profits, or income thereof, (all of which are hereinafter called "property income") SUBJECT, HOWEVER, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such property income; AND SUBJECT TO existing taxes, assessments, liens encumbrances, covenants, conditions, restrictions, rights-of-way, and easements of record.

FOR THE PURPOSE OF SECURING:

- A. Performance of each agreement of Trustor herein contained.
- B. Payment of the indebtedness evidenced by promissory note or notes of even date herewith, and an extension or renewal thereof, in the principal sum of \$ **10.00** executed by Trustor in favor of Beneficiary or order.
- C. Payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.
- D. THIS DEED OF TRUST IS AND WILL ALWAYS BE INFERIOR IN LIEN AND SUBORDINATE TO THE FOLLOWING:**

- 1. FIRST DEED OF TRUST IN THE AMOUNT OF \_\_\_\_\_, IN FAVOR OF \_\_\_\_\_;**
- 2. SECOND DEED OF TRUST IN THE AMOUNT OF \_\_\_\_\_ IN FAVOR OF \_\_\_\_\_**

**E. This Deed of Trust is given as security for the performance of the Community Land Trust Ground Lease and other related documents by and between the Trustor and the Beneficiary herein named.**

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

(1) Trustor shall keep said property in good condition and repair; shall not remove or demolish any building thereon, shall complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and shall pay when due all claims for labor performed and materials furnished therefor; shall comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; shall not commit or permit waste thereof; shall not commit, suffer or permit any act upon said property in violation of law; shall cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

(2) Trustor shall keep all improvements now or hereafter erected on said property continuously insured against loss by fire or other hazards in an amount not less than the total obligation secured hereby. All policies shall be held by the Beneficiary and be in such companies as the Beneficiary may approve and have loss payable first to the Beneficiary as his interest may appear and then to the Trustor. The amount collected under any insurance policy may be applied upon any indebtedness hereby secured and in such order as the Beneficiary may determine or at option of the Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default hereunder nor cause discontinuance of any action that may have been or may thereafter be taken by Beneficiary or Trustee because of such default.

(3) Trustor shall appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of the Beneficiary or Trustee; and shall pay all costs and expenses of Beneficiary and Trustee, including cost of evidence of title and attorney's fees in a reasonable sum in such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this DEED OF TRUST.

(4) Trustor shall pay: at least ten days before delinquency all taxes and assessments affecting said property; when due, all encumbrances, charges and liens, with interest, on property or any part thereof, which appear to be prior or superior hereto; when due, all costs, fees and expenses of this Trust, including, without limiting the generality of the foregoing, the fees of Trustee for issuance of any DEED OF PARTIAL RELEASE and PARTIAL RECONVEYANCE or DEED OF RELEASE and FULL RECONVEYANCE and all lawful charges, costs and expenses in the event of reinstatement of, following default in, this DEED OF TRUST or the obligations secured hereby.

(5) Should Trustor fail to make any payment or to do any act as provided in this DEED OF TRUST, then the Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may; make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees. Trustor shall pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expending at the rates provided in the promissory note(s) secured by this DEED OF TRUST.

IT IS MUTUALLY AGREED:

(6) That any award of damages in connection with any condemnation or any such taking, or for injury to the property by reason of public use, or for damages for private trespass or injury thereto, is assigned and shall be paid to Beneficiary as further security for all obligations secured hereby (reserving unto the Trustor, however, the right to sue therefor and the ownership thereof subject to this DEED OF TRUST) and upon receipt of such monies Beneficiary may hold the same as such further security, or apply or release the same in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

(7) That time is of the essence of this DEED OF TRUST, and that by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(8) At any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this DEED OF TRUST and said note(s) for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, and upon payment of its fees, Trustee may (A) by DEED OF PARTIAL RELEASE AND PARTIAL RECONVEYANCE release and reconvey, without covenant or warranty, express or implied, any portion(s) of the property then held hereunder; the recitals in such DEED OF PARTIAL RELEASE and PARTIAL RECONVEYANCE of any matters shall be conclusive proof of the truthfulness thereof; the grantee in such DEED OF PARTIAL RELEASE and PARTIAL RECONVEYANCE may be described as "The Person or Persons Legally Entitled Thereto", (B) consent to the making of any map or plat thereof; (C) join in granting any easement thereon; or (D) join in any extension agreement or any agreement subordinating the lien or change hereof. Beneficiary shall execute his release upon such DEED if so requested by Trustee.

(9) Upon written request of Beneficiary stating that all sums secured hereby have been paid and upon surrender of this DEED OF TRUST and said note(s) to Trustee for cancellation and retention and upon payment of its fees, Trustee shall by DEED OF RELEASE and FULL RECONVEYANCE release and reconvey, without covenants or warranty, express or implied, the property then held hereunder. The recitals in such DEED OF RELEASE and FULL RECONVEYANCE of any matters shall be conclusive proof of the truthfulness thereof. The grantee in such DEED OF RELEASE and FULL RECONVEYANCE may be described as "The Person or Persons Legally Entitled Thereto."

(10) As additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority during the continuance of this Trust, to collect the Property income, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such Property Income as it becomes due and payable. Upon such default, Beneficiary may at any time without

notice, either in person by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, or the solvency of the Trustor, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such Property Income, including that past due and unpaid, and apply the same, less costs and expenses of operation and collection including reasonable attorney's fees, upon taking possession of said property. The collection of such Property Income and the application thereof as foresaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(11) That upon default by Trustor in the payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written notice thereof, setting forth the nature thereof, and of election to cause to be sold said property under this DEED OF TRUST. Beneficiary also shall deposit with Trustee this DEED OF TRUST, said note(s), and all documents evidencing expenditures secured hereby.

Trustee shall record and give notice of Trustee's sale in the manner required by law, and after the lapse of such time as may then be required by law, Trustee shall sell, in the manner required by law, said property at public auction at the time and place fixed by it in said notice of Trustee's sale to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone or continue the sale by giving notice of postponement or continuance by public declaration at the time and place last appointed for the sale. Trustee shall deliver to such purchaser its Deed conveying the property so sold, but without any covenant or warranty, expressed or implied. Any persons, including Trustor, Trustee or Beneficiary, may purchase at such sale.

After deducting all costs, fees, and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale and reasonable attorney's fees, Trustee shall apply the proceeds of sale to payment of: All sums then secured hereby and all other sums due under the terms hereof, with accrued interest; and the remainder, if any, to the person or persons legally entitled thereto, or as provided in A.R.S.33-812. To the extent permitted by law, an action may be maintained by Beneficiary to recover a deficiency judgement for any balance due hereunder. The purchaser at the Trustee's sale shall be entitled to immediate possession of the property against the Trustor and shall have a right to the summary proceedings to obtain a possession provided in Title 12, Chapter 8, Article 4, Arizona Revised Statutes, together with costs and reasonable attorney's fees.

In the alternative to foreclosure by Trustee's Sale, the Beneficiary may foreclose by Judicial proceedings, and in such event, the election to declare the unpaid balance immediately due and payable may be made in the complaint. In such Judicial proceedings Beneficiary shall be entitled to reasonable attorney's fees, costs of foreclosure report and all sums advanced with interest, as provided under paragraphs four (4) and five (5) herein.

(12) That Beneficiary may appoint a successor Trustee in the manner prescribed by law. A successor Trustee herein shall, without conveyance from the predecessor Trustee, succeed to all predecessors' title, estate, rights, powers and duties. Trustee may resign by mailing or delivering notice thereof to Beneficiary and Trustor.

(13) That this DEED OF TRUST applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term Beneficiary shall mean the owner and holder of the note(s) secured hereby, whether or not named as Beneficiary herein. In this DEED OF TRUST, whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

(14) Trustee accepts this trust when this DEED OF TRUST, duly executed and acknowledged, is made public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other DEED OF TRUST or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee. In the event Trustee is made a party in any legal or court proceeding as a result of litigation between the Trustor and Beneficiary or between a third party and either or both of Trustor and/or Beneficiary, the attorney's fees and costs of Trustee shall be paid by either Trustor or Beneficiary, whichever being the non prevailing party.

(15) Time is of the essence of this DEED OF TRUST and each and every provision hereof.

(16) Trustor and Beneficiary agree that the trust relationship created by this instrument is strictly limited to the creation and enforcement of a security interest in real property. Thus, all Trustee's duties, fiduciary or otherwise, are strictly limited to those imposed by this document and A.R.S. 33-801 through 33-821, inclusive, and no additional duties, burdens or responsibilities shall be placed on the Trustee.

(17) The Trustor requests that a copy of any Notice of Trustee's Sale hereunder be mailed to him at his address hereinbefore set forth. All notices required hereby shall be sent to the addresses indicated above unless such party shall have recorded a Request for Notice pursuant to A.R.S. 33-809A in the county recorder's office of the county where the property encumbered hereby is located, indicating a different address.

(18) This Deed of Trust, when recorded shall operate as a declaration of abandonment of any homestead previously recorded concerning the property described herein.

(19) Trustor agrees to comply with the conditions set forth in the promissory note executed by Trustor in favor of Beneficiary or order.

**Non-Uniform Covenants.** Trustor (Borrower) and Beneficiary (Newtown) further covenant and agree as follows:

Trustor (Borrower) acknowledges that the Property was purchased through the Beneficiary's (Newtown) Community Land Trust Program. Trustor (Borrower) further acknowledges that the program is designed to establish and preserve affordable housing and includes restrictions on the transfer and encumbrance of the property, and the Trustor's (Borrower's) current and future equity interest in the property. These restrictions limit the amount of equity available to the Trustor (Borrower) and all future owners upon transfer, mortgage, refinance or other transactions dealing with the property. The Trustor (Borrower) may transfer his interest in the Leased Premises and the Improvements only to an Income-Qualified Person or as otherwise explicitly permitted by the Community Land Trust Ground Lease. These restrictions are set forth in the Community Land Trust Ground Lease signed concurrently herewith, between Borrower and Newtown and a Memorandum of Ground Lease is recorded herewith.

SIGNATURE OF TRUSTORS:

\_\_\_\_\_

SIGNATURE OF BENEFICIARY:

**NEWTOWN COMMUNITY DEVELOPMENT CORPORATION**  
**An Arizona non-profit corporation**

\_\_\_\_\_

**Stephanie Brewer, Executive Director**

See attached notary acknowledgement next page

Performance Deed of Trust

STATE OF ARIZONA )

) ss.

County of MARICOPA )

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned officer, personally appeared Stephanie Brewer, known to me (or proved to me on the basis of satisfactory evidence) to be the person described in and whose name is subscribed to the foregoing document, who acknowledged before me that he is the Executive Director of Newtown Community Development Corporation, an Arizona non-profit corporation, and that he, in such capacity, being authorized so to do, signed the foregoing document, for the purposes therein stated, on behalf of the corporation, and that the document is the act of the corporation for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

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

My Commission Expires:

\_\_\_\_\_

STATE OF ARIZONA )

) ss.

County of MARICOPA )

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_, known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) described in and whose name is subscribed to the foregoing document.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

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

My Commission Expires:

\_\_\_\_\_

**EXHIBIT "A"**

PARCEL NO. 1

ANY AND ALL IMPROVEMENTS ONLY LOCATED ON, BUT SPECIFICALLY EXCLUDING:

PARCEL NO. 2

EXCEPT ANY AND ALL IMPROVEMENTS LOCATED ON THE ABOVE DESCRIBED PROPERTY