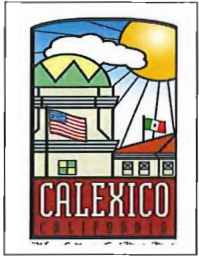


**AGENDA
ITEM**


18



CITY COUNCIL AGENDA STAFF REPORT

DATE: June 15, 2022

TO: Mayor and City Council

APPROVED BY: Chief Diego Favila, Interim City Manager 

PREPARED BY: Carlos Campos, City Attorney
Seth Merewitz, BBK, Special Counsel

SUBJECT: Transfer of RDA (City) Lien from Victoria Manor to Villa Sur Motel

=====

Recommendation

City Council to authorize the Interim City Manager and City Attorney to take all steps necessary to transfer the existing Redevelopment Department Agency (Now City of Calexico) lien from the Victoria Manor site (APN 058-223-001 thru 058-223-007) to the Villa Sur Motel (APN 058-483001).

Background/ Discussion:

The Housing Authority of the City of Calexico is requesting approval of the transfer of the Redevelopment Department Agency, now City of Calexico, lien from property known as Victoria Manor (also known as Grant & Eady)(APN 058-223-001 thru 058-223-007) to property known as Villa Sur Motel (APN 058-483-001).

The Housing Authority of the City of Calexico owns property within the City at the intersection of, and commonly known as Grant and Eady (the property). There exists a lien on the property in the form of a promissory note and deed of trust dated October 19, 2010 in the amount of \$200,000.00 to secure a loan from the former Redevelopment Agency.

The Housing Authority of the City of Calexico has made a request to the City as the successor to the former Redevelopment Agency to release and reconvey the deed of trust for the Grant and Eady property and to accept a substitute deed of trust encumbering other comparable property owned by the Housing Authority of the City of Calexico, namely, the Villa Sur Motel.

We have received from the Housing Authority an appraisal of the Villa Sur Motel and preliminary title report on file with the City Clerk.

AGENDA ITEM 18

The City staff has calculated the amount currently owed with interest and has not made any changes to the date of maturity, interest rate or any other terms of the existing arrangement between the two agencies.

Environmental Review:

Transfer of a financial interest is exempt from the California Environmental Act (CEQA) pursuant to Title 14 Section 15061(b)(3) of the California Code of Regulations.

Fiscal Impact:

There is no impact to the City's General Fund due to this action.

Coordinated With:

City Attorney.

Attachment(s):

1. Amended and Restated Promissory Note Secured by Deed of Trust.
2. Amended and Restated Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing.
3. Substitution of Trustee and Full Reconveyance.

**AMENDED AND RESTATED PROMISSORY NOTE
SECURED BY DEED OF TRUST**

Principal Sum
\$413,504.58

June 16, 2022
Calexico, California

HOUSING AUTHORITY OF THE CITY OF CALEXICO (the “**Maker**”) promises to pay the CITY OF CALEXICO, a California municipal corporation (the “**Holder**”), the principal sum of FOUR HUNDRED THIRTEEN THOUSAND FIVE HUNDRED FOUR AND 58/100 DOLLARS (\$413,504.58) (the “**Loan**”). Repayment of the Loan shall be on the terms set forth below.

1. Background. Holder is the successor in interest of the COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF CALEXICO, a public body corporate and politic (“**Original Holder**”) and Maker entered into a Promissory Note Secured by Deed of Trust dated October 19, 2010 (the “**Original Note**”) which was secured by a deed of trust Deed of Trust dated October 19, 2010, executed by Maker, as Trustor, and recorded on February 23, 2011 as Instrument No. 2011-004795, Official Records of the County of Imperial, State of California, (“**Grant/Eady DOT**”) encumbering certain real property referred to as the Grant/Eady property as further described therein. Maker has requested and Holder has agreed to release the Grant/Eady DOT conditioned on the delivery of this Amended and Restated Note.

2. Secured Obligation. The Grant/Eady DOT shall be released and reconveyed pursuant to that certain Substitution of Trustee and Full Reconveyance substantially in the form of Exhibit A, attached hereto. This Amended and Restated Promissory Note and all of Maker’s payments and obligations hereunder are and shall be secured by a second-priority deed of trust over certain real property located in Imperial County at 304 East 4th, Calexico, CA 92331, known as Assessor’s Parcel No. 058-483-001 (“**Villa Sur DOT**”). The Villa Sur DOT is attached hereto as Exhibit B.

3. Loan Agreement. This Amended and Restated Note evidences the obligation of Maker to Holder under certain Loan Agreement by and between Maker and Original Holder dated October 19, 2010 (“**Loan Agreement**”). Except as modified herein, the terms and conditions of the Loan Agreement and the obligations of Maker thereunder are hereby ratified and renewed.

4. Term. Unless sooner due or paid as provided herein, the Loan and this Amended and Restated Note shall be due and payable in full nine years from the date of execution of this Note (“**Term**”).

5. Interest. The outstanding principal balance of the Loan shall accrue simple interest at the rate of six and one-quarter percent (6.25%) per annum, commencing on June 15, 2022, with the exception of payment in default set forth in Section 8.

6. Payments. No payments shall be due on this Amended and Restated Note, but interest shall continue to accrue on the unpaid principal until the outstanding balance plus accrued

interest is paid in full. All principal and accrued interest on the Loan shall be due in full on the earliest to occur of (i) the date of any Transfer not authorized by the City; (ii) the date of any Default; or (iii) the expiration of the Term. The Borrower shall have the right to prepay the Loan at any time without penalty.

7. Acceleration. All obligations evidenced by this Amended and Restated Note irrespective of the maturity dates expressed herein, at the option of the Holder thereof and without demand or notice, shall immediately become due and payable, if at any time during the Term of this Note:

- a. Title to all or any part of the real property described herein and in the Deed of Trust securing this Amended and Restated Note is sold, conveyed, encumbered, alienated or transferred, except if consented to by Holder in writing; or
- b. An equitable interest in all or any part of the real property described herein and in the Deed of Trust securing this Amended and Restated Note is sold, conveyed, encumbered, alienated or transferred, except if consented to by Holder in writing.

8. Default. In the event of a Default, interest on this Amended and Restated Note shall begin to accrue, and continuing until such time as this Amended and Restated Note is repaid in full or the Default is cured, at the default rate of the lesser of ten percent (10%), compounded annually, or the highest rate permitted by law.

9. Attorney's Fees. If any lawsuit is commenced to enforce any of the terms of this Amended and Restated Note, the prevailing Party will have the right to recover its reasonable attorney's fees and costs of suit from the other Party.

10. Holder's Rights. Failure of the Holder to assert any right under this Amended and Restated Note shall not be deemed a waiver of such right.

11. Prepayment. The Maker shall have the right to prepay this Amended and Restated Note at any time without penalty.

12. Dissolution of Organization. In the event that Maker terminates or ceases to function within the Term of this Amended and Restated Note, then, in that event, the remaining balance and all accrued interest shall be immediately due and payable.

13. California Law. This Amended and Restated Note and the legality, validity, and performance of the terms hereof shall be governed by, enforced, determined, and construed in accordance with the laws of the State of California.

14. Waivers. The Maker waives presentment, demand for payment, notice of dishonor, notice of protest, protest and other notices or demands in connection with the delivery, acceptance, performance, default, endorsement, or guaranty of this Amended and Restated Note, and to the extent authorized by law, any and all homestead or other exemption rights which would apply to the debt evidenced by this Amended and Restated Note.

15. Transfer.

- a. For purposes of this Amended and Restated Note, "Transfer" shall mean any sale, assignment, or transfer, whether voluntary or involuntary, of (i) any rights and/or duties under this Amended and Restated Note, and/or (ii) any interest in the Villa Sur Property, including (but not limited to) a fee simple interest, a joint tenancy interest, a life estate, a partnership interest, a leasehold interest, a security interest, or an interest evidenced by a land contract by which possession of the Villa Sur Property is transferred and Maker retains title. The term "Transfer" shall include any transfer of ownership or management of the Villa Sur Property, or transfer of control by the Maker.
- b. No Transfer shall be permitted without the prior written consent of the Holder, which the Holder may withhold in its sole discretion. The Loan shall automatically accelerate and be due in full upon any unauthorized transfer.
- c. Maker anticipates syndicating the low-income housing tax credits that will be generated by the Development, which syndication will require transfer of limited partnership interests in the Maker. The Holder hereby approves the sale or subsequent transfers of limited partnership interests in the Maker, provided that the general partner of the limited partnership is Maker or a wholly-controlled affiliate of Maker. The Holder also approves the transfer of the Development by the Maker to the Maker's General Partners or any of their affiliates. In the event that the general partner of Maker is removed by the limited partner of Maker for cause following default under the Maker's partnership agreement, the Holder hereby approves the transfer of the general partner interest to a 501(c)(3) tax-exempt nonprofit corporation selected by the limited partner and approved by the Holder which approval shall not be withheld unreasonably.

16. Binding Obligation. This Amended and Restated Note shall be binding upon the Maker and the Maker's heirs, legal representatives, successors and assigns.

17. Notices. All notices given under this Amended and Restated Note to the Maker or Holder shall be made in writing and shall be deemed received when personally delivered, received by the United States Mail, certified, return receipt requested, addressed as follows:

To Maker
Housing Authority of the City of Calexico
608 Heber Avenue
Calexico, CA 92231
Attn: Executive Director _____

To Holder:
City of Calexico
608 Heber Avenue
Calexico, CA 92231
Attn: City Clerk

18. Amendment or Modification. The terms of this Amended and Restated Note may only be amended or modified by a written agreement executed by Holder and Maker.

19. Waiver. Failure of the City to insist on strict compliance, exercise the option to accelerate the debt in the event of the occurrence of any of the circumstances listed in the "Payment" or "Transfer" sections above, will not constitute waiver of the right to exercise this option in the event of the subsequent occurrence of any of the circumstances listed in the "Payment," or "Transfer" sections above.

20. Costs of Collection. If this Amended and Restated Note is not paid in full when it becomes due, Maker agrees to pay all costs and expenses of collection, including reasonable attorney fees and court costs.

IN WITNESS WHEREOF, THIS AMENDED AND RESTATED NOTE has been duly executed by Maker and Holder, as of the date set forth above.

MAKER:

HOUSING AUTHORITY OF THE CITY OF CALEXICO

By: _____

Name: _____

Its: _____

HOLDER:

CITY OF CALEXICO, a California municipal corporation

By: _____

Name: _____

Its: _____

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Calexico
608 Heber Avenue
Calexico, CA 92231
Attn: City Clerk

Space above line for Recorder's use only
Exempt from Recording Fees pursuant to Govt. Code § 27383

CITY OF CALEXICO

**AMENDED AND RESTATED DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

This Amended and Restated Deed of Trust is made as of June 16, 2022 among HOUSING AUTHORITY OF THE CITY OF CALEXICO (“**TRUSTOR**”), whose address is CHICAGO TITLE (“**TRUSTEE**”), whose address is 1413 Main St. El Centro, California 92243; and the CITY OF CALEXICO, a California municipal corporation (“**BENEFICIARY**”), whose address is 608 Heber Ave, Calexico, CA 92231.

Trustor irrevocably grants, conveys, transfers, and assigns to Trustee in trust, with power of sale and right of entry and possession, all of Trustor's estate, right, title, and interest in, to and under the following property (collectively, the “**Property**”): (a) the real property in Imperial County, California, described on Exhibit A attached hereto and incorporated herein by this reference, together with all existing and future easements and rights affording access to it (the “**Land**”), (b) together with all buildings, structures, and improvements now existing or hereafter constructed thereon (the “**Improvements**”), (c) together with all articles of personal property now or hereafter attached to, placed upon for an indefinite term, or used in connection with the Land and/or Improvements, together with all goods and other property that are, or at any time become, so related to the Property that an interest in them arises under real estate law, or they are otherwise adjudged to be a “**fixture**” under applicable law (each a “**Fixture**,” collectively “**Fixtures**”), (d) together with all other property and interests of any kind or character which may be reasonably necessary or desirable to promote the present and future beneficial use and enjoyment of such real property and improvements.

1. Secured Obligations. Trustor makes the grant, conveyance, transfer, and assignment herein for the purpose of securing the following obligations (the “**Secured Obligations**”): (a) payment of the sum of Four Hundred Thirteen Thousand Five Hundred Four and 58/100 Dollars (\$413,504.58) with interest thereon according to the terms of a promissory note (the “**Note**”) of even date herewith, executed by Trustor in favor of Beneficiary or order and any extension or renewals thereof; (b) payment of such further sums as the then record owner of the Property may borrow from Beneficiary, when evidenced by a promissory note or notes reciting

that they are secured by this Deed of Trust; and (d) performance of each agreement and obligation of Trustor under that certain Amended and Restated Promissory Note Secured by Deed of Trust between Trustor and Beneficiary dated June 16, 2022 (the “**Loan Agreement**”). This Deed of Trust shall secure the Beneficiary against any default under the Loan Agreement for the term of the Loan Agreement.

2. **Maintenance and Repair.** Trustor shall (a) keep the Property in good condition and repair and not remove or demolish any building; (b) complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed; (c) pay when due all claims for labor performed and materials furnished; (d) comply with all laws affecting the Property or requiring any alterations or improvements to be made; (e) not commit or permit waste; and (f) cultivate, irrigate, fertilize, fumigate, prune, and do all other acts which from the character or use of the Property may be reasonably necessary.

3. **Insurance.** Trustor shall maintain hazard insurance against loss by fire, hazards included with the term “**extended coverage,**” and any other hazards for which Beneficiary requires insurance, and liability insurance as set forth in the Regulatory Agreements. The insurance carrier and the insurance policies and amounts of coverage shall comply with the terms of the Regulatory Agreements or shall otherwise be acceptable to Beneficiary, the policies shall name Beneficiary as a loss payee or an additional insured, as applicable, the policies shall include Beneficiary as an additional insured, as applicable.

4. **Defense of Security.** Trustor shall appear in and defend any action or proceeding purporting to affect the security or the rights or powers of Beneficiary or Trustee. Trustor shall pay all costs and expenses, including costs of evidence of title and attorneys’ fees, in any such action or proceeding in which Trustee or Beneficiary may appear, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

5. **Payment of Taxes and Liens.** Trustor shall pay (a) at least 10 days before delinquency, all non-abated taxes and assessments affecting the Property, including water stock assessments; (b) when due, all encumbrances, charges, and liens, with interest, on the Property, which are or appear to be prior or superior to this Deed of Trust; and (c) upon demand all reasonable and documented costs, fees, and expenses of this Deed of Trust. If Trustor fails to make any payment or to do any act provided for in this Deed of Trust after written notice of such failure by Beneficiary and a reasonable opportunity to cure, then Beneficiary or Trustee may, without obligation to do so, and with or without notice to or demand upon Trustor, and without releasing Trustor from any obligation under this Deed of Trust: (a) make or do the same in such manner and to such extent as either may deem necessary to protect the security, Beneficiary or Trustee being authorized to enter upon the Property for such purposes; (b) appear in or commence any action or proceeding purporting to affect the security, or the rights or powers of Beneficiary or Trustee; (c) pay, purchase, contest or settle any encumbrance, charge or lien which in the judgment of either appears to be senior to this Deed of Trust; and (d) in exercising any such powers, pay allowable expenses, including attorneys’ fees.

6. **Reimbursement of Costs.** Trustor shall pay upon demand all reasonable and documented sums expended by Beneficiary or Trustee provided for in this Deed of Trust or allowed by law, with interest from date of expenditure at the maximum rate provided in the Note.

7. **No Waiver.** By accepting payment of any sum after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums or declare a default for failure to pay.

8. **Reconveyance.** That 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 or notes to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals of such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as “**the person or persons legally entitled thereto.**”

9. **Assignment of Rents.** Subject to the rights of senior lenders, Trustor hereby absolutely and unconditionally assigns to Beneficiary all of the rents, issues, profits, royalties, revenues, income, and other benefits (collectively, the “**Rents**”) derived from the Property, whether now due, past due or to become due, and hereby gives to and confers upon Beneficiary, either directly or through a receiver, the right, power, and authority, but not the obligation, to collect the Rents, and to sue, either in the name of Trustor or Beneficiary, for all such Rents and to apply the same to the indebtedness secured hereby in such order as Beneficiary may determine in its sole discretion. This assignment of Rents is intended to create and shall be construed to create an absolute assignment to Beneficiary of all of Trustor’s right, title, and interest in the Rents. So long as no default exists by Trustor in the payment of any indebtedness secured hereby, or in any other covenant contained herein, or in said note or notes or in any other document evidencing or securing such indebtedness, Trustor shall have the right to collect all Rents from the Property and to retain, use, and enjoy the same. Upon the occurrence of such a default beyond any applicable notice and cure periods, without the necessity of demand or other notice to Trustor or any other act to enforce Beneficiary’s interest pursuant to this assignment, Trustor shall have no interest whatsoever in the Rents that are received by Trustor after a default, and all such Rents shall be received and held by Trustor in constructive trust for Beneficiary and delivered promptly to Beneficiary, or to a court-appointed receiver for the Property, without the necessity for further notice to, or demand upon, Trustor. Upon the occurrence of such a default, beyond any applicable notice and cure periods, and at any time thereafter during the continuance thereof, Beneficiary may, at its option, send any tenant of the Property a notice to the effect that: (a) a default has occurred; (b) Beneficiary has elected to exercise its rights under this assignment; and (c) such tenant is thereby directed to thereafter make all payments of Rents to or for the benefit of Beneficiary or as Beneficiary shall direct. Any such tenant shall be entitled to rely upon any notice from Beneficiary and shall be protected with respect to any payment of Rents made pursuant to such notice, irrespective of whether a dispute exists between Trustor and Beneficiary with respect to the existence of a default or the rights of Beneficiary hereunder. Any such tenant shall not be required to investigate or determine the validity or accuracy of such notice or the validity or enforceability of this assignment. Trustor hereby agrees to indemnify, defend, and hold any such tenant harmless from and against any and all losses, claims, damages or liabilities arising from or related to any payment of Rents by such tenant made in reliance on and pursuant to such notice.

10. **Default and Foreclosure.** Upon default by Trustor in payment or performance of any Secured Obligation, subject to any applicable notice and cure period, Beneficiary may declare all sums secured immediately due and payable by delivery to Trustee of a declaration of default

and demand for sale and of a notice of default and of a notice of sale, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust, said note or notes, and all documents evidencing expenditures secured by this Deed of Trust. Upon default of any obligation secured by this Deed of Trust and acceleration of all sums due, Beneficiary may instruct Trustee to proceed with a sale of the Property under the power of sale granted in this Deed of Trust, noticed and held in accordance with California Civil Code Sections 2924, et seq., as such statutes may be amended from time to time. Trustor waives all rights it may have to require marshaling of assets or to require sales of assets in any particular order, including any rights under California Civil Code Sections 2899 and 3455.

11. Distribution of Foreclosure Proceeds. The proceeds generated by any Foreclosure (“Proceeds”) shall be distributed as follows: (i) First, senior liens and encumbrances (if any) on the Property shall be fully paid from the Proceeds; (ii) Second, City shall be fully paid any amounts owing under the Secured Obligations. As used herein, “Foreclosure” means any judicial or non-judicial foreclosure, trustee’s sale, deed-in-lieu transfer, short sale, or similar transaction.

12. Substitution of Trustee. Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where the Property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers, and duties. Said instrument must contain the name of the original Trustor, Trustee, and Beneficiary hereunder, the book and page where this Deed of Trust is recorded, and the name and address of the new Trustee.

13. Successors and Assigns. 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, including pledgees, of the secured note or notes, whether or not named as Beneficiary herein.

14. Trustee Acceptance. Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a 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.

15. Further Assurances. Trustor shall, at its own cost and expense, do, execute, acknowledge, and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers, and assurances as Trustee or Beneficiary shall from time to time reasonably require, for better assuring, conveying, assigning, transferring, and confirming unto Trustee the Property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which Trustor may be or may hereafter become bound to convey or assign to Trustee, or for carrying out the intention or facilitating the performance of the terms of this Deed of Trust, or for filing, registering, or recording this Deed of Trust. Trustor shall, on demand, execute and deliver, and hereby authorizes Trustee and Beneficiary, or either of them, to execute in the name of Trustor, to the extent it may lawfully do so, one or more financing statements,

chattel mortgages, or comparable security instruments, to evidence more effectively the lien hereof. Immediately upon the execution and delivery of this Deed of Trust, and thereafter from time to time, Trustor shall cause this Deed of Trust, and any security instruments creating a lien or evidencing the lien hereof upon any personal property and each instrument of further assurance, to be filed, registered, or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the title of Trustee to, the Property encumbered hereby.

16. Condemnation and Insurance Proceeds. Immediately upon obtaining knowledge of the institution of any proceedings for the condemnation or other taking of all or any portion of the Property, or knowledge of any casualty damage to the Property, or damage in any other manner, Trustor shall immediately notify Beneficiary thereof. Trustor hereby authorizes and empowers Beneficiary as attorney-in-fact for Trustor to make proof of loss, to adjust and compromise any claim under the insurance policies covering the Property, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Beneficiary's expenses incurred in the collection of such proceeds; provided, however, that nothing contained in this Section shall require Beneficiary to incur any expense or take any action hereunder. Trustor hereby authorizes and empowers Beneficiary, at Beneficiary's option, as attorney-in-fact for Trustor, to commence, appear in, and prosecute, in Beneficiary's or Trustor's name, any action or proceeding relating to any condemnation or other taking of all or any part of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or any part thereof, or for conveyances in lieu of the Property, or any part thereof, shall be paid to Beneficiary. The foregoing powers of attorney are coupled with an interest and are irrevocable. Trustor hereby authorizes Beneficiary to apply such awards, payments, proceeds or damages relating to condemnation of the Property and insurance covering the Property, after the deduction of Beneficiary's expenses incurred in the collection of such amounts, subject to the requirements of applicable law and the provisions hereof, to restoration or repair of the Property or to payment of the sums secured by this Deed of Trust. Beneficiary shall be under no obligation to question the amount of any compensation, awards, proceeds, damages, claims, rights of action, and payments relating to condemnation or other taking of the Property or insured casualty affecting the Property, and may accept the same in the amount in which the same shall be paid. Trustor shall execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking or such insurance as Beneficiary may require. Notwithstanding the above, the Beneficiary shall release all insurance and condemnation proceeds to Trustor to be used to reconstruct the improvements on the Property provided that Beneficiary reasonably determines that such restoration, repair or rebuilding is economically feasible, provided, Beneficiary acknowledges and agrees that if any casualty affects the Property at any point after the execution of this Deed of Trust and prior to the construction of the Trustor's new Improvements, the Trustor shall not be obligated to reconstruct any improvements on the Property. If such insurance proceeds shall be insufficient for such purposes, Trustor shall make up the deficiency. If the Property is subject to a partial condemnation or taking, then the proceeds received therefrom shall be applied to restore the Property taken, provided the Beneficiary determines that such restoration is economically feasible and no default exists under the Loan Documents following the expiration of all applicable cure periods. If the Property is subject to a

total condemnation, or if Beneficiary determines that restoration of the Property is not feasible following a partial condemnation, or if a default exists then the proceeds from any condemnation award or claim for damages shall be used first to repay all sums under the Note, with the excess, if any, paid to Trustor, subject to the rights of the senior lender.

17. **Severability.** If any one or more of the provisions contained in this Deed of Trust shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Deed of Trust, but this Deed of Trust shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein or therein, but only to the extent of such invalidity.

18. **Estoppel Certificate.** Trustor shall, within thirty (30) days of a written request from Beneficiary, furnish Beneficiary with a written statement, duly acknowledged, setting forth the sums secured by this Deed of Trust and any right of set-off, counterclaim or other defense which exists against such sums and the obligations of this Deed of Trust.

19. **California Uniform Commercial Code Security Agreement; Fixture Filing.** Trustor hereby grants Beneficiary a security interest in all personal property of Trustor located on the Property and wherever located and used in any way in connection with or in any way relating to the Property, and whether now owned or hereafter in existence, acquired or created (including equipment, inventory, goods, documents, instruments, general intangibles, chattel paper, accounts, accounts receivable, deposit accounts, and contract rights), and all fixtures of Trustor now owned or hereafter in existence, acquired or created on, of or relating to the Property, and all substitutions, replacements, additions, accessions, and proceeds (including insurance proceeds) of all of the foregoing (collectively, the “**Personal Property**”). Beneficiary may file this Deed of Trust, or a reproduction hereof, in the real estate records or other appropriate index, as a financing statement for the Personal Property. Any reproduction of this Deed of Trust or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Trustor shall execute and deliver to Beneficiary, upon Beneficiary’s request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproductions of this Deed of Trust in such form as Beneficiary may require to perfect a security interest with respect to the Personal Property. Trustor shall pay all costs of filing such financing statements and any extensions, renewals, amendments, and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Beneficiary may reasonably require. Upon Trustor’s breach of any covenant or agreement of Trustor contained in this Deed of Trust, including the covenants to pay when due all sums secured by this Deed of Trust, Beneficiary shall have the remedies of a secured party under the California Uniform Commercial Code and, at Beneficiary’s option, may also invoke any remedies provided in this Deed of Trust as to the Personal Property. In exercising any of such remedies, Beneficiary may proceed against the Property and any of the Personal Property separately or together and in any order whatsoever, without in any way affecting the availability of Beneficiary’s remedies under the California Uniform Commercial Code or the remedies provided in the Deed of Trust. This Deed of Trust also covers goods which are or which are to become fixtures on the Property and constitutes and is filed as a fixture filing under the California Uniform Commercial Code.

20. **Due-On-Sale or Encumbrance.** Except as set forth in Section 3.4 of the Regulatory Agreements, if all or any part of the Property, or any interest therein, or any beneficial

interest in Trustor (if Trustor is not a natural person or persons but is a corporation, partnership, trust, limited liability company or other legal entity), is sold, transferred, mortgaged, assigned, pledged, or further encumbered, whether directly or indirectly, whether voluntarily or involuntarily, or by operational law, Beneficiary may, at Beneficiary's option, declare all of the sums secured by this Deed of Trust to be immediately due and payable, and Beneficiary may invoke any remedies permitted by this Deed of Trust.

[CONTINUED ON NEXT PAGE]

The undersigned Trustor requests that a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to Trustor at Trustor's address hereinbefore set forth, and to Trustor's limited partner at its address set forth in the Loan Agreement entered into by and between Trustor and Beneficiary referenced in Section 1, above.

TRUSTOR:

BORROWER:

HOUSING AUTHORITY OF THE CITY OF CALEXICO

By: _____

Name: _____

Its: _____

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The land referred to herein is situated in the State of California, County of Imperial, City of Calexico and described as follows:

Lots 5, 6 and 7, Block 8, of Banta's Subdivision of Block 28, in the City of Calexico, according to Map No. 28, on file in [Book 1, Page 22](#) of Official Maps, in the Office of the County Recorder of Imperial County.

APN: 058-483-001

(End of Legal Description)

ACKNOWLEDGEMENT

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

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 2022, 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(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____ (seal)

ACKNOWLEDGEMENT

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

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 2022, 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(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____ (seal)

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO AND
MAIL TAX STATEMENTS TO:**

City of Calexico
Attn: City Clerk
608 Heber Avenue
Calexico, CA 92231

Exempt from Recording Fees per Govt. Code §27383
Exempt from Documentary Transfer Tax per Calif. Rev. & Tax. Code §11922

APN 058-223-001-000; 058-223-002-000; 058-223-003-000; 058-223-004-000; 058-223-005-000; 058-223-006-000;058-223-007-000

SUBSTITUTION OF TRUSTEE AND FULL RECONVEYANCE

The Undersigned, CITY OF CALEXICO, a California municipal corporation, is the successor-in-interest to the COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF CALEXICO, a public body corporate and politic, and owner and holder of the promissory note secured by that certain Deed of Trust dated October 19, 2010, executed by HOUSING AUTHORITY OF THE CITY OF CALEXICO, as Trustor, and recorded on February 23, 2011 as Instrument No. 2011-004795, Official Records of the County of Imperial, State of California, encumbering certain real property described on Exhibit A, attached hereto, **HEREBY APPOINTS AND SUBSTITUTES ITSELF**, CITY OF CALEXICO, a California municipal corporation, as Trustee in place of the current trustee thereunder in accordance with the terms and provisions contained therein, whose address is 608 Heber Avenue, Calexico, CA 92231.

As such duly appointed and substituted Trustee thereunder, the undersigned **DOES HEREBY RECONVEY** to the person or persons legally entitled thereto, without warranty all the estate, title and interest acquired by the original Trustor and by the undersigned as the said substituted Beneficiary under said Deed of Trust. Wherever the text of this document so requires, the singular includes the plural.

Dated: _____

CITY OF CALEXICO, a California municipal
corporation

By: _____
Name: _____
Its: _____

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF IMPERIAL, AND IS DESCRIBED AS FOLLOWS:

LOTS 1 THRU 7 IN BLOCK 3, CASAS DEL SOL, IN THE CITY OF CALEXICO, COUNTY OF IMPERIAL, STATE OF CALIFORNIA, ACCORDING TO MAP ON FILE IN BOOK 12, PAGE 30 OF FINAL MAPS, IN THE OFFICE OF THE COUNTY RECORDER.

APN: 058-223-001 thru 058-223-007

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 SACRAMENTO

On this _____ day of _____, 2022, 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(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____ (Seal)